

**HUNTINGDONSHIRE DISTRICT COUNCIL**

**Title/Subject Matter:** REVIEW OF FRAUD PROSECUTION POLICY  
**Meeting/Date:** Corporate Governance Panel – Jan 2014 (NDJ)  
**Executive Portfolio:** BC  
**Report by:** Corporate Fraud Manager (NDJ)  
**Ward(s) affected:** All

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**Executive Summary:**

The Council currently has had in place for some years a *Fraud Prosecution Policy* for dealing with cases of reported fraud where the matters are so serious that some penalty/sanction is appropriate and in the public interest.

The existing Policy encompasses matters of fraud and theft committed against the Council and in the main relates to offences contrary to the Social Security Administration Act 1992. The recent Welfare Reform Acts, amendments to the Local Government Finance Act 1992 and the introduction of the Prevention of Social Housing Fraud Act 2013 have resulted in amendments to the existing schemes and the introduction of various financial and civil remedies.

This report introduces minor amendments to the *Fraud Prosecution Policy* to bring the Council in line with the new legislation and considers the full range of options available where fraud is identified.

**Recommendation(s):**

It is recommended that the Panel;

- Adopt the amended *Fraud Prosecution Policy* and authorise the Head of Customer Services, after consultation with the relevant Executive Member and the Head of Legal and Democratic Services, to make any minor changes that may be considered necessary in the future.

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## **1. WHAT IS THIS REPORT ABOUT?**

- 1.1 This report introduces changes to the existing *Fraud Prosecution Policy* to bring it in line with the most recent legislative changes.

## **2. BACKGROUND**

- 2.1 The Council has historically been effective at dealing with fraud where it occurs and bringing prosecutions and sanctions when appropriate in the most serious cases, both as a lead agency in joint matters or solely where the matters only affect HDC.
- 2.2 The Council only considers such action where the matters are serious, such as deliberate or high value frauds, or where offending is persistent.

## **3. ANALYSIS**

- 3.1 Between 2010 and 2013 the Council's Fraud Team has cautioned or fined 112 people and brought prosecutions against a further 101. During the same period over 1100 fraudulent acts were identified. These figures show that the Council uses penalties and prosecution sparingly and only when it is in the public interest to do so.
- 3.2 Analysis of re-offending shows that less than 10% of people receiving a sanction or being prosecuted are reported for any further acts of fraud. Publicity following prosecutions has shown that there is an increased public awareness of fraud where the Council is shown to be effective in dealing with people who commit fraud.

## **4. KEY IMPACTS/RISKS?**

- 4.1 HDC administers and pays out £millions every year in various benefits, discounts and grants. Central government figures estimate that local government is at risk of loss through fraud valued in excess of £2.2bn each year.
- 4.2 Central and local government strategies for dealing with fraud include the need for penalties and punishment where fraud is identified.

## **5. NEW LEGISLATION**

- 5.1 The Welfare Reform Act 2012 introduced a more severe penalty regime for those committing fraud, increasing the levels of financial penalties for cases dealt with out of court.
- 5.2 The introduction of the Council Tax Reduction Scheme to replace Council Tax Benefit from April 2013 included Regulations to allow local authorities to investigate fraud in this new 'benefit' and apply financial penalties and bring prosecutions.
- 5.3 Both of the changes to legislation outlined above also include a provision to allow local authorities to apply civil penalties where benefit claimants fail to report changes in circumstances, which result in overpayments of benefit, but no fraud has occurred. HDC has taken a decision not to apply such penalties as they would be both expensive to recover and excessive on people who may already be in financial difficulties.

- 5.4 The Prevention of Social Housing Fraud Act received Royal Assent in early 2013 and came into force, with regulations, in October 2013. This Act introduces powers for local authorities exclusively, to investigate fraud in this area and bring prosecutions and apply for costs awards through both civil and criminal routes.
- 5.5 The Local Government Finance Act 1992 included provisions for local authorities to apply civil penalties where a person knowingly provides false or incorrect information in relation to their council tax liability. In 2008 the penalty scheme was strengthened and now includes provision for penalties as alternatives to prosecution.
- 5.6 The revised *Fraud Prosecution Policy* reflects all of the changes referred to above.

## **6. LEGAL IMPLICATIONS**

- 6.1 The proposed adoption of a new *Fraud Prosecution Policy* will ensure that the Council is complying with recent legislative changes.

## **7. RESOURCE IMPLICATIONS**

*(Comments from the Assistant Director, Finance & Resources)*

- 7.1 Prosecutions and sanctions are currently agreed by the appropriate Head of Service. Each case is treated on its own merits and any financial risks identified at that time. All prosecutions will be resolved by the Councils Legal Team as part of its litigation function or external partners including CPS.

## **8 REASONS FOR THE RECOMMENDED DECISIONS**

- 8.1 The amended policy brings the Council in line with current legislation and will provide member consent regarding the way that fraud is dealt with, where it occurs.
- 8.2. Once the Council has adopted these changes allowing the Head of Customer Service to make any future minor changes, with the advice from the Head of Legal and Democratic Services and the agreement of the Portfolio Holder, will ensure that the policy is reviewed and revised when needed. Any significant changes will come before the panel for agreement.

## **9. LIST OF APPENDICES INCLUDED**

*Appendix 1 - Fraud Prosecution Policy (2014).*

### **BACKGROUND INFORMATION**

The Local Government Fraud Strategy- Fighting Fraud Locally Board 2011  
Tackling Fraud and Error in Government 2012- Report of the Fraud, Error and Debt Taskforce (Cabinet Office)

The Local Government Finance Act 1992

The Fraud Act 2006

The Welfare Reform Act 2012

Prevention of Social Housing Fraud Act 2013

The Council Tax Reduction Scheme (Detection of Fraud and Enforcement) Regulations 2013.

## **CONTACT OFFICER**

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