

**RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER**

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).  
 The form must be completed and passed to the Service Manager (Committee & Administrative Services) no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Service Manager (Committee & Administrative Services) has confirmed the decision has not been called in.

**1. Description of decision**

To approve the revised Anti-Fraud Strategy (incorporating the Fraud Investigation Service Anti-Fraud Strategy for tackling Council Tax Benefit/Support/Discounts, Tenancy and Blue Badge Fraud, Prosecutions and Sanctions Policy and Authorised Officer Powers – Code of Conduct) for adoption by the Council as part of its corporate governance arrangements.

**2. Date of decision**

21<sup>st</sup> December 2017

**3. Reasons for decision**

To ensure the Council has an effective and current strategy to minimise the risks to the organisation arising from attempts at fraud and has in place effective processes to identify and investigate fraud and to take robust but proportionate action to punish perpetrators.

**4. Alternatives considered and rejected**

Not Applicable

**5. How decision is to be funded**

Not Applicable

**6. Conflicts of interest**

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).

The Mayor has been consulted on this decision

Signed Dr Hodgson

Date 21/12/2017  
21/12/2017

Name of Decision Taker MAYOR DAVID HODGSON

**This is a public document. A copy of it must be given to the Service Manager (Committee & Administrative Services) as soon as it is completed.**

Date decision published: 22nd December 2017

Date decision can be implemented if not called in: 5th January 2018

(Decision to be made exempt from call in.....~~YES~~ or NO.....)

# Agenda Item 11

For publication

## Bedford Borough Council – Audit Committee

26 September 2017

### Report by the Assistant Chief Executive of Law and Governance

**Subject: DELIVERING GOOD GOVERNANCE – ANTI FRAUD STRATEGY**

#### **1. Executive Summary**

The Council has agreed an Anti-Fraud Strategy to ensure that there are appropriate organisational measures in place to minimise fraud. The Strategy is reviewed periodically to ensure that it remains current and conducive to ensuring that the Council is effective in minimising the risk of fraud, takes effective action to identify fraud and punishes those guilty of offences.

The Committee last reviewed the Strategy at its meeting in June 2015. This report invites the Committee to consider a revised Anti-Fraud Strategy taking into account changes to Officer titles and responsibilities resulting from the Leadership Structure approved by the General Purposes Committee on 3 May 2017.

#### **2. Recommendation**

**The Committee is requested to consider, seek clarification and, if satisfied, approve the revised Anti-Fraud Strategy (incorporating the Fraud Investigation Service Anti-Fraud Strategy for tackling Council Tax Benefit/Support/Discounts, Tenancy and Blue Badge Fraud, Prosecutions and Sanctions Policy and Authorised Officer Powers – Code of Conduct) attached at Appendix A for adoption by the Council as part of its corporate governance arrangements.**

### **3. Reason for Recommendation**

To ensure the Council has an effective and current strategy to minimise the risks to the organisation arising from attempts at fraud and has in place effective processes to identify and investigate fraud and to take robust but proportionate action to punish offenders.

### **4. Key Issues**

#### **4.1 Legal Issues**

The Council recognises its fiduciary responsibility to protect public funds and endeavours to implement secure systems and high standards of conduct. The Council will seek the strongest possible sanctions against those who seek to defraud the Council

In order to bring a successful prosecution for fraud the Council must ensure that investigations are conducted properly under the requirements of the Police and Criminal Evidence Act 1984 and the Criminal Proceedings Investigations Act 1996. In order to meet these legal requirements: (1) a dedicated team of specialist investigators is employed to investigate suspected Council Tax Support fraud that is considered to be the highest fraud risk to the Council; (2) all cases for prosecution are reviewed by the Council's Legal team before legal proceedings are commenced under the Social Security Administration Act 1992, and (3) the Internal Audit Unit examines all allegations of fraudulent, financial misconduct, corruption and other behaviour affecting the finances or integrity of the Council. Appropriate training is provided to all officers responsible for conducting investigations.

The Fraud Act 2006 provides a general basis for legal action that may be undertaken where the Council is the victim of fraud. In addition, under certain circumstances, action may be brought in respect of specific fraud offences arising under other regulations such as those governing Blue Badges.

The Prevention of Social Housing Fraud Act 2013 which came into force in October 2013 introduced specific offences for certain forms of tenancy fraud, such as unauthorised subletting, and gives local authorities specific powers to prosecute offenders.

#### **4.2 Policy Issues**

The Council is committed to the eradication of fraud, corruption and misappropriation and to the promotion of high standards of integrity and, in June 2015, approved an updated Anti-Fraud Strategy to outline the Council's arrangements to deter fraud and corruption. The Council is committed to being a model of public probity affording maximum protection to the funds administered.

For the purposes of this Strategy fraud is defined as the intentional distortion of records for gain; corruption as the offering or acceptance of inducements designed to influence official action; financial malpractice as theft of funds or assets from the Council or its clients and intentional, unauthorised breaches of financial regulations; misuse of official position as employees or their friends, relatives or acquaintances benefiting inappropriately from exercise of duty.

Fraud is detrimental to the economy, the Council and local taxpayers as the honest majority of local taxpayers may be required to pay more than would otherwise be necessary and the provision of essential local public services may be adversely affected. The Council has, therefore, responded to the need to combat fraud and manage risks by developing a zero-tolerance approach towards fraud with robust governance arrangements (including oversight by the Audit Committee) and adopting good practice in managing the risk of fraud by creating a strong counter-fraud culture and implementing counter-fraud policies and procedures, including training and supporting specialist staff to prevent and detect fraud.

Counter fraud measures are an integral part of good governance focusing on the systems and processes for the direction and control of the organisation and its activities through which it accounts to, engages with and leads the community. The Council participates in an annual local authority fraud survey and, as a result, receives an annual Fraud Briefing that provides an independent review of counter fraud activity and helps to ensure that sound governance and counter-fraud arrangements exist and that systems and processes are working as intended. It also provides independent intelligence on emerging fraud risks that may affect the Council.

#### 4.3 Resource Implications

There are no resource implications arising directly from this report. It is essential, however, that strong defences against fraud are maintained, particularly in response to the financial challenges facing local government and recognising that every pound lost through fraud cannot be used for essential services. The Council should, therefore, continue to provide adequate resources to minimise the risk of fraudulent activity occurring and quickly identify and stop any fraudulent behaviour.

Fraud risk is generally recognised to be higher during periods of lower economic performance due to increased incentive to commit fraud. The Council should, therefore, continue to recognise the heightened risk of fraud at the current time and minimise fraud opportunities by regularly assessing the potential for new areas of risk and the effectiveness of current arrangements. Robust action should be taken where appropriate and focus should be maintained on high-risk areas and monitoring the effectiveness of counter-fraud measures.

The risk of financial losses through Council Tax Support fraud is recognised to be the highest fraud risk for the Council and, consequently, this risk currently has dedicated staff resources allocated to preventing and detecting fraud through a team of three fraud investigators. .

#### 4.4 Risk Implications

There is a considerable risk to the Council of financial loss resulting from fraud. This risk is mitigated through the adoption of an Anti-Fraud Strategy, established systems of internal control and effective audit arrangements. Failure to ensure appropriate measures are in place to mitigate and investigate fraud could result in reputational damage to the Council.

A Fraud Risk Register has also been established and was endorsed by the Committee at its meeting on 10 January 2017 following a review of the of the key fraud risks facing the Council and the Council's counter-fraud arrangements. The Fraud Risk Register was prepared in the context of the Local Government Fraud Strategy published by the National Fraud Authority. This strategy sets out the key fraud risks facing local authorities and, following review, established that the most significant fraud risks faced by the Council are in line with the risks identified in this national strategy.

The introduction of the Single Fraud Investigation service will have a significant impact on the Council's responsibilities for investigating one of its major fraud risks. No changes are currently proposed to the Housing Benefit subsidy arrangements and, therefore, the Council will continue to bear 60% of the cost of any fraud detected. It will, therefore, be essential that the Council continues to maintain suitable controls and resources to properly verify entitlement to Housing Benefit.

#### 4.5 Environmental Implications

There are no environmental implications arising from this report

#### 4.6 Equality Analysis

In preparing this report, due consideration has been given to the Borough Council's Statutory Equality Duty as set out in Section 149(1) of the Equality Act 2010, to have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

A Level 1 equality analysis was completed. The equality analysis determined that the proposal is expected to have a positive effect on equality.

## **5. Details**

- 5.1 The Committee, at its meeting on 24 June 2015, considered and approved the Council's Anti-Fraud Strategy as part of the Council's Corporate Governance Arrangements. The Strategy incorporated the Housing and Council Tax Benefit Anti-Fraud Strategy, Prosecutions and Sanctions Policy and Authorised Officer Powers – Code of Conduct.
- 5.2 The Strategy is subject to a bi-annual review to ensure it remains effective and relevant. Since the strategy was last updated there have been no legislative changes and therefore no changes have been in this regard. However, the strategy has been updated to reflect the changes of responsibilities for Fraud Investigation resulting from the new Leadership Structure approved by the General Purposes Committee on 3 May 2017.
- 5.3 The revised Anti-Fraud Strategy is as attached at **Appendix A** for consideration by the Committee.

## **6. Summary of Consultations and Outcome**

The following Council Units or Officers and/or other organisations have been consulted in preparing this report:

Management Team  
Corporate Governance Working Group  
Portfolio Holder for Finance

No adverse comments have been received.

*Report Contact Officer:* *Babs Morris, Assistant Chief Executive of Law & Governance*  
*e-mail:* [barbara.morris@bedford.gov.uk](mailto:barbara.morris@bedford.gov.uk)

*Surinder Momi, Head of Internal Audit*  
*e-mail:* [surinder.momi@bedford.gov.uk](mailto:surinder.momi@bedford.gov.uk)

*File Reference:* *C.1(c) and C.3(d)*

*Previous Relevant Minutes:* *Minute 13 - 24 June 2015*

*Background Papers:* *None*

*Appendices:* *A: Draft Anti-Fraud Strategy - June 2017*





**BEDFORD**  
BOROUGH COUNCIL

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# **ANTI-FRAUD STRATEGY**

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**September 2017**

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## Anti-Fraud and Corruption Policy

### Introduction

This document sets out the Council's policy and strategy in relation to fraud and corruption. It has the full support of the Mayor, the Council's Members and the Council's Senior Management Team.

The Council is committed to the eradication of fraud, corruption and misappropriation and to the promotion of high standards of integrity. The desire is to be a model of public probity, affording maximum protection to the funds the Council administers.

To deliver the Council's corporate strategy, it must maximise the financial resources available to the Council. In order to do this fraud and misappropriation must be eliminated as far as possible through effectively promoting an anti-fraud culture.

Furthermore, the Council recognises its fiduciary responsibility to protect public funds and will endeavour to implement secure systems and high standards of conduct. It will seek the strongest possible sanctions against those who seek to defraud public funds. This includes the Council's Members, officers, contractors, partners and external individuals and organisations.

The strategy to deal with fraud, corruption and misappropriation is built upon six key concepts: Culture, Deterrence, Prevention, Detection, Investigation, Sanctions and Redress.

For the purposes of this policy:

- **Fraud** is defined as the intentional distortion of records for gain. This may be by false representation, failing to disclose information or by abuse of position;
- **Corruption** is defined as the offering or acceptance of inducements designed to influence official action;
- **Financial malpractice** as theft of funds or assets from the Council or its clients and intentional, unauthorised breaches of financial regulations; and
- **Misuse of official position** as employees or their friends, relatives or acquaintances benefiting inappropriately from exercise of duty.
- **Member** means the elected Mayor and elected councillors of Bedford Borough Council;
- **Officer** means a person employed by the Council either directly or through an employment agency.

The Council collects, processes, shares and stores personal data as part of the process of administering the services that it provides. The use of personal data is governed by the Data Protection Act 1998. In accordance with the Act the Council will share personal data between Council services and with external bodies for the purpose of preventing and detecting crime, including fraud, where the law allows. When requesting personal data from an individual the Council will seek to ensure that the person providing the data is informed that the data may be used for this purpose.

### 1. Culture

The strategy to reduce fraud is based on deterrence, prevention, detection, investigation, sanctions and redress within an over-riding anti-fraud culture. This culture will be promoted across all service areas and within the community as a whole. One pound lost to fraud means one pound less for public services. Fraud is not acceptable and will not be tolerated.

The Council will seek to promote an anti-fraud culture within the community by publicising the impact of fraud on the community. It will also seek to assist partners and the community to understand and reduce fraud threats through a programme of awareness training. Furthermore, it will seek to deter fraudsters through specific publicity and general campaigns.

The Council takes a holistic approach to anti-fraud measures. Fraud prevention and system security is an integral part of the development of new systems and ongoing operations. Managers will consider the fraud threats and take advice where appropriate when implementing any financial or operational system.

The holistic approach extends to the investigation of allegations and the prevention of fraud through system reviews. The Internal Audit team provide the Council's fraud investigation and system audit functions employing a multi-disciplinary approach to the deterrence, prevention, detection and investigation of fraudulent activity. In addition, the team are free to work with other agencies in the pursuance of the Council's anti-fraud aims.

## **2. Deterrence – The Corporate Framework**

The Council takes ultimate responsibility for the protection of its finances and those that are administered on behalf of the Government or the Community. In turn, those the Council employs as managers have a duty to protect their service area from losses due to fraud and irregularity and are responsible for implementing proper internal controls.

The corporate framework, which underpins the operation of the Council, has a number of facets that exist to protect the Council against losses from fraud and act as a deterrent. These include:

- An established Standards Committee and an adopted code of conduct for Members.
- Members formally disclosing their interests in the register of interests held by the Monitoring Officer, making any necessary disclosures of their interest at any meetings and, where appropriate as a result of their interest, leaving the meeting room while the matter is discussed.
- The Council's Constitution, including its financial procedure rules, contract procedure rules, standing orders and the scheme of delegation.
- Constitution arrangements which are disseminated to the public, partners, members and staff.
- An established Audit Committee which regularly reviews and approves the Anti-Fraud Strategy and Fraud Risk Register.
- Robust systems of internal control which are reviewed regularly by Internal Audit in accordance with an approved Audit Strategy and Annual Audit Plan.
- A Confidential Reporting Code ("whistle blowing" procedure).
- An Anti-Fraud Strategy incorporating an Anti-Fraud and Corruption Policy and a Prosecution Policy.

- An Anti-Money Laundering Policy.
- Policy based on the Bribery Act.
- Policy on the use of Covert Surveillance in accordance with the Regulation of Investigatory Powers Act (RIPA).
- Computer User Security Policy.
- Data Protection Policy.
- Customer Feedback Procedure – Compliments, Comments, Complaints.
- Relevant documents being made available to the public, partners, staff and members.
- Monitoring and testing of the operation of the ethical framework.
- The allocation of specific specialised staffing and other resources to investigate fraud in areas of identified high levels of risk from fraud.
- Participation in national anti-fraud initiatives and organisations like the CIPFA Better Governance Forum.
- Membership of the National Anti-Fraud Network.
- The promotion of awareness of anti fraud and corruption issues reinforced by training and publicity.
- Effective recruitment procedures, disciplinary procedures and standards of conduct for officers.
- Providing a free confidential telephone hotline and on-line form to enable the public to report suspicions of fraud.

The respective roles and responsibilities of stakeholders are detailed within this document. For clarity, the specific responsibilities are summarised at **Appendix A1**.

### **The Fraud Threats:**

The Council is responsible for the proper administration of its finances. This not only includes direct income and expenditure but also that which it administers on behalf of the Government, on behalf of its clients and that for which it is the responsible accountable body. Fraudsters could target all of these sources of income and expenditure and valuable assets.

The Council will not be afraid to tackle difficult or uncomfortable cases and will take a robust line and seek the maximum appropriate sanctions and redress in all areas of operation. The Council will be vigilant in all of these areas and will apply the same principles of deterrence, prevention, detection, investigation, sanctions and redress across all its services. This Strategy sets out how the Council will apply these principles in respect of the differing fraud threats that may arise from Members of the Council, staff, contractors and partners and the public and external organisations.

## **Members**

Council Members are expected to act in a manner which sets an example to the community whom they represent and to the staff of the Council who implement their policy objectives.

## **Prevention**

Members will comply with the Members Code of Conduct and any relevant ancillary codes, such as the guidance for Members dealing with Planning Matters, the guidance for Members dealing with Licensing Matters and guidance for Members on Property Transactions and Commercial Property Management. Comprehensive guidance has also been issued to Members on dealing with offers of gifts and hospitality. Fraud awareness training will be provided to Members and an open and honest dialogue will be encouraged between Members and Officers.

These matters and other guidance are specifically brought to the attention of Members in the induction course for new Members and are in the Council's Constitution or each Member's Handbook. Processes that are particularly vulnerable, such as planning, licensing, and disposals and tendering will be adequately protected through internal control mechanisms.

## **Detection**

Through Internal Audit reviews and the work of the Monitoring Officer the possibility of fraud will be considered in all vulnerable areas and appropriate tests are devised to detect fraud.

## **Investigation**

Allegations of fraud and corruption made against Members will be fully investigated in accordance with the arrangements made by the Council under the Localism Act 2011. Under these the Standards Committee has delegated to the Assistant Chief Executive for Law and Governance and Monitoring Officer responsibility following consultation with an Independent Person for the initial assessment of any complaints that Members have breached the Code of Conduct for Councillors.

The Council will fully assist the Standards Committee or other law enforcement agencies with any investigation concerning a Member.

Allegations about Members that are received by Internal Audit will be referred immediately to the Monitoring Officer. The Monitoring Officer may utilise the Internal Audit Unit or any other appropriate person for the purposes of any investigation.

## **Sanctions and Redress**

Under the Localism Act 2011 the Council has the statutory responsibility for promoting and maintaining high standards of conduct by Members and co-opted Members. The Council has delegated this function to the Standards Committee. The various sanctions which may be applied in respect of a Member who is found to be in breach of the Code of Conduct are set out in the Arrangements adopted by the Council for dealing with allegations of breaches of the Code of Conduct. The Council will also seek the strongest available sanctions against Members who commit fraud against the Council or who commit fraud against the public purse.

## **Staff**

Council officers are expected to conduct themselves in ways which are beyond reproach, above suspicion and fully accountable. No financial malpractice will be tolerated and those found guilty will be pursued, so that the most appropriate and severe sanctions are applied.

There is a special responsibility on Management Team (which includes the Monitoring Officer) and Chief Officers to lead their staff by example. The Council expects these officers to set the standard by their own behaviour.

It is the responsibility of directors and managers to be aware of the appropriate financial and other anti-fraud regulations and to be responsible for raising awareness of and ensuring conformance to them by the staff for whom they are responsible.

## Prevention

It is recognised that systems are potentially vulnerable from attack from within the organisation, particularly by those fraudsters who gain inside knowledge of control weaknesses through their official position. Prevention is better than cure and all managers must ensure that as far as possible their systems are adequately protected by sound internal controls. It is the responsibility of all managers to establish and maintain systems of internal control and to ensure that the Council's resources are properly applied and on the activities intended. This includes responsibility for the prevention and detection of fraud, corruption and financial malpractice.

Adequate and effective internal audit will be undertaken of the Council's systems and processes. The Internal Audit team provides a service to assist managers to implement proper controls and remedy control failures.

As part of Internal Audit's anti-fraud activity, a fraud risk assessment was undertaken of all Council services and a Fraud Risk Register has been established to focus resource on the top ten generic frauds risks and top ten service fraud risks of the Council.

The programme of Internal Audits of these fraud risk areas will ensure that the key counter-fraud controls/measures are being complied with and continue to remain effective. In addition targeted fraud awareness, training and investigation work will continue to be undertaken by the dedicated Fraud Investigation team.

Appropriate action will be taken to ensure that procedures relating to recruitment, staff conduct and disciplinary processes are robust and are followed. With regard to the vetting of new entrants, references will be taken in all cases and personal testimonials will not be accepted. Where qualifications are required for a particular post, candidates will be required to submit original certificates for checking. If a doubt arises as to the authenticity of a qualification, this will be verified with the examination board/professional body.

Where posts involve positions of trust, such as cash handling, legal or accountancy posts, reference checks with previous employers will incorporate specific questions as to the integrity of the applicants.

Where agency staff are being employed in positions where they have access to finance, personal data or other assets, their references will be checked direct with their previous employer. The Council will not rely on references supplied by staffing agencies.

Where the Disclosure and Barring Service (DBS) rules allow and there is a legal requirement, officers will undertake the appropriate DBS checks.

## Detection

All internal audit reviews will have regard to the possibility of fraud. Auditors and Investigators will receive reciprocal training to ensure that both have a full understanding of system controls and potential fraud areas. The Internal Audit service will undertake a series of proactive anti-fraud audits in high risk areas as identified in the Fraud Risk Register with a view to uncovering fraud and misappropriation.

The Council actively encourages staff to report colleagues who are suspected of committing fraud. All members of staff, the public and Members are encouraged to contact Internal Audit with any suspicion of fraud, corruption, financial malpractice or the misuse of official position.

In addition the Council operates a Confidential Reporting Code (Whistle Blowing Policy) to emphasise the protection offered by the Public Interest Disclosure Act 1998 to employees and third parties.

The Council will utilise all reasonable, appropriate and proportionate methods available to detect fraud. This includes data matching, open source research and intelligence led investigation. Surveillance may be undertaken in exceptional cases where it is considered reasonable and proportionate to do so. Covert surveillance may only be undertaken in respect of a suspect offence where if the offence is proven a Court has the power to impose a prison sentence of six months or more. surveillance may only be conducted where it is properly authorised in accordance with the Council's Regulation of Investigatory Powers Act Policy and by a Justice of the Peace. The Council will also actively participate in national counter fraud initiatives such as the National Fraud Initiative (NFI).

## **Investigation**

The Internal Audit team is charged with leading the Council's fight against fraud. The team reports to the Council's statutory Monitoring Officer and will be free to examine all allegations of fraudulent, financial misconduct, corruption and other behaviour affecting the finances or integrity of the Council.

The team will investigate any allegation that may have a direct or indirect impact on the Council's finances. This will include cases where staff may have financial information relating to organisations which are, or have been, funded by the Council or with whom the Council has a contract. Staff have a duty to assist the Council with any matter under investigation. Failure to assist with an investigation may be considered as a breach of trust or failure to comply with financial regulations. This could lead to disciplinary action being taken.

## **Sanctions and Redress**

The most appropriate sanctions will be sought against staff who commit fraud against the Council, its clients or the public purse. This will include disciplinary action, prosecution and civil proceedings. Employees found guilty of gross misconduct at a disciplinary hearing for offences of fraud, theft, serious financial malpractice, using their position for personal gain or for the gain of others, may be subject to summary dismissal in accordance with the Council's Disciplinary Policy and Procedure. This applies to employees who improperly benefit from the Council as a corporate body and not just those who steal funds. It also applies to employees who defraud or steal from the Council's clients. Disciplinary action will also be taken against staff convicted of fraud against other Local Authorities, or any other agency administering public funds.

At the conclusion of each fraud investigation, the investigator will produce a report. The Manager whose responsibility encompasses the area of that investigation will formally accept the report and take the appropriate action (disciplinary or other). In serious cases consideration must be given to referring the matter for further investigation.

The decision to refer the matter on for further action, such as prosecution, will be taken by the responsible Director or Chief Officer, following advice from the Council's Monitoring Officer and Chief Finance Officer, in accordance with any prosecution policy in force at the time.



As with all disciplinary matters, the level of proof required is that of the balance of probability. Disciplinary cases involving allegations of fraud, corruption and financial malpractice will be handled on this basis.

The Internal Audit team will highlight any system weaknesses that are identified as a result of an investigation. These will be addressed through an agreed action plan. The relevant service area manager is responsible for implementing the action plan. Internal Audit will monitor implementation of agreed actions. Failure to implement adequate system controls following a loss to fraud will be the subject of a report to the relevant Director, Corporate Management Team and, where appropriate, the Audit Committee.

All potential misconduct cases must be handled using the Council's Disciplinary Policy and Procedure and Internal Audit's investigating officers will liaise with line managers and Human Resources advisers to ensure effective use of the Council's procedures.

### **Contractors and Partners**

Those organisations undertaking work on behalf of the Council are expected to maintain strong anti-fraud principles and the Council's Internal Audit service will provide advice on anti-fraud measures where appropriate. Contracts and service level agreements should require contractors to take the issue of fraud seriously and sign an anti-collusion statement. Contractors and partners will be expected to have adequate recruitment procedures and controls when they are handling finance on behalf of the Council. This expectation will be written into all contract terms and agreements.

### **Prevention**

Partners and contractors are expected to have adequate controls in place to minimise fraud. Where practical fraud awareness training will be provided to partners, including community partners, to help them implement proper controls and protect the funds they administer.

### **Detection**

Where partner organisations are involved with the administration of Council finances, or those for which the Council has responsibility, internal audit reviews may be conducted of the internal controls put in place by those organisations and pro-active anti-fraud exercises may be undertaken with those partners.

### **Investigation**

Partners are required to provide full access to their financial records, as they relate to the Council's finances, and their staff will be required to assist fully with any investigation. These conditions should be included in any contract terms or agreements. Personnel records of any person suspected of being involved in fraud should be made available to Internal Audit.

### **Sanctions and Redress**

The Council will seek the strongest available sanctions against contractors in respect of their staff who commit fraud against the Council or who commit fraud against the public purse. A request that the relevant organisation takes appropriate disciplinary action against the individual committing fraud will be made and/or the Council may require that they are removed from the Council's contract. The ability to request removal of staff will be written into contract terms.

System weaknesses identified as a result of fraud investigations will be highlighted by Internal Audit. The partner organisation will be expected to address these issues. Failure to implement adequate system controls following a loss to fraud will be the subject of a report to the Service Director, Corporate Management Team and, where appropriate, the Audit Committee.

Should a contractor or partner fail to co-operate in the investigation of a suspected fraud, or following conclusion of an investigation fail to implement any reasonable requirements identified by the Council, then the contract or partnership may be ended. Contracts and service level agreements should incorporate this requirement.

All partners and contractors will be responsible for reimbursing to the Council any losses affecting Council funds attributable to their employees. This will be written into contract terms.

### **The Public and External Organisations**

Members of the public receive financial assistance, benefits, discounts and other concessions from the Council through a variety of services. These include Housing Benefit, Council Tax Support and other discounts National Assistance and Children's Act payments, Disabled Persons Parking Badges (Blue Badge), Concessionary Travel Passes and various Grants. Unfortunately, all of these areas have been the subject of attack by fraudsters. This means less money is available for those in genuine need. The counter-fraud effort will be balanced against the aim to ensure genuine applicants receive their full entitlement.

There is a specific Anti-Fraud Strategy for Council Tax Benefit and Council Tax Support/Discounts, Tenancy and Blue Badge fraud with a supporting Prosecution and Sanctions Policy and Code of Practice as attached at **Appendix A2**.

It is recognised that fraud may be perpetrated in respect of services, benefits or concessions administered by the Council which represent a relatively small financial loss to the Council, but which may provoke high levels of public concern. Examples may include fraudulent applications for, or use of, Disabled Persons Parking Badges (Blue Badges) or concessionary travel permits. In considering the appropriate action to take in respect of such frauds, consideration should be given to the level of public concern in addition to the level of financial loss.

### **Prevention**

The Council will implement strong systems of verification of all claims for all types of financial assistance and other valuable concessions. All available data will be utilised to corroborate information given by applicants for the purposes of prevention and detection of fraud. Grants and assistance given to external organisations will be monitored to ensure applications are genuine and funds are being used for the designated purpose. Staff involved in assessing applications will be given ongoing fraud awareness training.

### **Detection**

The Council will have in place formal referral procedures to be used by all staff to report suspicions of fraud and will encourage early referral of suspected cases.

The Council will participate in national and local initiatives, including data matching and will work with all Government agencies to detect and prevent fraud and other crimes affecting the well-being of the community.

Fraud trends will be analysed in order to identify high risk areas and to undertake pro-active anti-fraud drives based on that analysis.

The public will be encouraged to make use of the Council's free 24 hour fraud hotline **0800 917 8491** or on-line form (using the “report it” link on [www.bedford.gov.uk](http://www.bedford.gov.uk)) to report any suspected fraud in confidence and anonymously if preferred. All referrals received from members of the public will be evaluated and investigations commenced into all appropriate cases.

## Investigation

Internal Audit and the Fraud Investigation Team are responsible for investigating all allegations of fraud. The teams will work with other public sector bodies including; the Department for Work and Pensions (DWP), the Police, Inland Revenue, Customs and Excise and the Immigration Service for the purposes of preventing, detecting and investigating crime. The Council is a member of the National Anti-Fraud Network (NAFN), the Local Authorities Investigation Officers Group (LAIIOG) and The European Institute for Combating Corruption and Fraud (TEICCAF). The teams will liaise with these agencies while utilising their services, where applicable, to undertake their investigations.

## Sanctions and Redress

The Council's intention is to apply a sanction in all appropriate cases of fraud and attempted fraud. This will range from official warnings to criminal prosecution. In all cases, it will seek recovery of any amounts obtained fraudulently and any costs incurred in investigating and prosecuting the offences. It will utilise all legitimate and proportionate means available to recover these amounts. This may include actions under the Proceeds of Crime Act, freezing assets, confiscation orders, civil litigation and general debt recovery.

Offenders will be brought to justice through prosecution by the Council's Legal Service, or following a referral to the Policy by the Crown Prosecution Service. Prosecutions may include any instance where the Council has been deceived into providing assistance or a concession. Prosecutions may be brought under specific regulations relating to the benefit, assistance or concession received, or may be brought under general legislations such as the Fraud Act 2006.

The decision to instigate a prosecution may be made by the relevant Director or Chief Officers in consultation, where appropriate, with the Monitoring Officer, Chief Officer for Internal Audit and Chief Finance Officer. Decisions to prosecute should only be made following the completion of a formal investigation report and having regard to the outcome of a public interest test. Before proceeding with a prosecution advice should be sought from the Council's Legal Service to confirm that the evidence meets the standards required by the Courts and that there is a reasonable chance of success.

As a deterrent, successful sanctions will be publicised in the local press and this will include releasing the names and addresses of those convicted at a public court hearing of fraud against the Council.

### Prosecution Policy

#### Introduction

The Council has adopted an Anti-Fraud Strategy which sets out its aims and objectives in preventing fraud and corruption. It states that the Council will seek the strongest possible sanction against any individual or organisation that defraud, or seek to defraud the Council. The use of sanctions will be governed by this policy which forms part of the Strategy and the principles of this policy shall apply equally to any fraud against the Council or against funds for which the Council has responsibility.

#### Objectives

The objectives of this policy are:

1. To ensure that the Council applies a full range of sanctions in a just, proportionate and consistent manner.
2. To ensure that sanctions are applied in an effective and cost efficient manner.
3. To ensure that the sanction decision making process is stringent, robust and transparent.

This Policy is designed to provide a framework within which to ensure the most appropriate resolution to a case is reached. The decision on which sanction, if any, to apply will have regard at all times to the Council's Disciplinary Policy and Anti-Fraud Policy objectives, the individual circumstances of each person concerned and the overall impact of the punishment to both the individual and the community.

A range of sanctions is available to the Council. These include disciplinary action (in the case of fraud perpetrated by employees), civil proceedings, criminal proceedings, official cautions and administrative penalties.

The ultimate sanction available to the Council is criminal prosecution. It is recognised that this is a serious step and the decision to refer cases for prosecution will not be taken lightly.

A decision to bring a prosecution may be taken by the Council, or may be made by the Crown Prosecution Service where a fraud has been reported to the Police for investigation. The Council will refer cases to the Police where their additional powers are required to secure evidence or recovery of funds or where the matter is considered too serious to be pursued in-house.

The Council's Legal Service will undertake criminal prosecution in other cases on behalf of Assistant Chief Executive Law and Governance as Solicitor to the Council whose delegated powers includes prosecutions on behalf of the Council. In these cases, the decision to refer cases for prosecution will be taken by the responsible Director or Chief Officer in consultation with the Chief Executive, Chief Finance Officer and Chief Officer for Internal Audit.

In appropriate cases prosecution may be undertaken by other public agencies. This will usually be for cases involving joint investigations.

When considering a case for prosecution the Council will apply two "tests" – the evidential test and the public interest test. Only when both these tests are satisfied can a case be considered suitable for prosecution. The guidelines for both tests as applied by the Crown Prosecution Service are detailed in The Code for Crown Prosecutors ("The Code").

## **Evidential Test**

Is there enough evidence to provide a realistic prospect of conviction in order to ensure that a “realistic prospect of conviction” exists, officers of the Investigations team will ensure at all times that investigations are conducted in accordance with relevant legislation and in line with published current Codes of Practice and Guidance with regard to evidence gathering, interviewing and rules of disclosure.

A realistic prospect of conviction means that a jury, bench of magistrates or a judge hearing the case alone, properly directed in accordance with the law is more likely to convict the defendant than not. This is a separate test from one that the criminal courts themselves must apply. They will convict the defendant only if they are satisfied beyond reasonable doubt and sure to the exclusion of fanciful possibilities of the defendant’s guilt.

The Council does not have the resources of the police and CPS available to it and to ensure the cost effectiveness of actions, will require the evidence to be of a standard to make the prospect of a conviction realistic.

The evidence gathered will be examined in the first instance by the investigator and the Manager, however, in all instances where an investigation has been undertaken, the results should be reported to the appropriate Director, or Chief Officer, who will take a decision on the appropriate course of action, which may include a decision not to take further action. When deciding whether there is enough evidence to prosecute proper consideration must be given as to whether the evidence is reliable and is likely to be admissible in Court. It would be wasteful in time and resources to found a case on evidence that may be unreliable and/or inadmissible in Court. In many cases evidence will be strong and reliable but it must be tested as it is sometimes the case that that it is not as strong and reliable as it first appeared.

When satisfied that sufficient evidence exists to successfully prosecute and that the Public Interest test is also satisfied, in consultation with the Council’s Legal team, arrangements shall be made for prosecution. This may be instigated by the Council’s Legal team, or in more serious cases, the case file may be passed on to the Police for investigation and prosecution by the Crown Prosecution Service (CPS). Both the Council’s Legal team and the CPS will apply their own inspection of the evidence to ensure that a realistic prospect of conviction exists.

## **Public Interest Test**

In addition to considering the Code, other guidance provided by relevant Government agencies on prosecution will also be considered. Deciding on public interest is not simply a matter of adding up the numbers of factors for and against. It must be decided how important each factor is in the circumstances of each case in order to make an overall assessment.

### **Some Public Interest Factors for Prosecution**

1. A conviction is likely to result in a significant sentence.
2. The defendant is or was in a position of authority or trust.
3. The evidence shows that the defendant was a ringleader or an organiser of the offence or pressurised other into involvement.
4. There is evidence that the offence was premeditated.
5. There is evidence that the offence was carried out by more than one person.
6. The defendant’s previous convictions or cautions are relevant to the present offence.
7. The defendant is alleged to have committed the offence whilst under an order of the court.

8. There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct.
9. The offence, although not serious in itself, is widespread in the area where it was committed or a prosecution would have a significant positive impact in maintaining community confidence.
10. The value of the offence exceeds the starting point of the Sentencing Council's Sentencing Guidelines for the offence;
11. There has been fraud from the outset or the fraud spans a sustained period of time.
12. The offence was motivated by a form of discrimination against the victims ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation or the suspect demonstrated hostility towards the victim based on any of these characteristics.

### **Some Public Interest Factors against Prosecution**

1. The Court, in accordance with the sentencing guidelines, is likely to impose a nominal penalty.
2. The defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution or the defendant withdraws consent to have an offence taken into consideration during sentencing.
3. The offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence).
4. It is a first offence and the loss or harm can be described minor and was the result of a single incident, particularly if it was caused by a misjudgement.
5. There has been a long delay between the offence taking place and the date of the trial unless: the offence is serious, the delay has been caused in part by the defendant, the offence has only recently come to light or the complexity of the offence has meant that there has been a long investigation.
6. The defendant is considered to be vulnerable, for example, is or was at the time of the offence suffering from mental or physical ill health, unless the offence is serious or there is a real possibility that it may be repeated.
7. The defendant admitted the offence at the first opportunity and made an offer of repayment and the loss or harm was minor.

### **Fraud and Corruption by Officers or Members**

All cases of fraud, financial misconduct, serious and intentional breach of financial regulations or corruption committed:

- by Officers will result in disciplinary action by the Council. Such action should normally be considered to be gross misconduct for the purposes of the Council's Disciplinary Policy;
- by Members will result in action under arrangements by the Standards Committee for

breaches against the Members' Code of Conduct.

Where a financial loss has been identified, the Council will always seek to recover this loss either through the civil or criminal process.

Where fraud is committed by Officers or Members a criminal prosecution will be brought where such action is in accordance with this policy.

The factors that will affect the decision to prosecute will be based on the evidential and the public interest test. Prosecution will be undertaken in all cases involving theft from vulnerable clients or where there is evidence of corruption of public officials.

### **Anti-Fraud Strategy Part 3**

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#### **Fraud Response Plan – Internal Fraud**

The Council will provide written guidance to Managers to explain how Managers should deal with suspicions of fraud and what steps they should take on discovering a fraud. For operational reasons, this document will be retained separately from this publication and will be circulated separately to Service Area Managers.

## Anti-Fraud Strategy Part 4

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### Contact Information:

#### **Philip Simpkins – Chief Executive**

TEL: 01234 276200 (x47200)

EMAIL: [philip.simpkins@bedford.gov.uk](mailto:philip.simpkins@bedford.gov.uk)

#### **Barbara Morris – Assistant Chief Executive Law and Governance and Solicitor to the Council (Monitoring Officer)**

TEL: 01234 228434 (x 42434)

EMAIL: [barbara.morris@bedford.gov.uk](mailto:barbara.morris@bedford.gov.uk)

#### **Andy Watkins – Assistant Chief Executive of Enabling Service (Chief Finance Officer)**

TEL: 01234 718208 (x47208)

EMAIL: [andy.watkins@bedford.gov.uk](mailto:andy.watkins@bedford.gov.uk)

#### **Surinder Momi – Chief Officer for Internal Audit**

TEL: 01234 228359 (x42359)

EMAIL: [surinder.momi@bedford.gov.uk](mailto:surinder.momi@bedford.gov.uk)

#### **Bedford Borough Council Fraud Hotline (free phone 24 hours a day)**

TEL: 0800 917 8491

EMAIL: [fraud@bedford.gov.uk](mailto:fraud@bedford.gov.uk)

WEBSITE: [www.bedford.gov.uk](http://www.bedford.gov.uk) (click on “Report It”)



## APPENDIX A1

<b>STAKEHOLDER</b>	<b>SPECIFIC RESPONSIBILITIES</b>
Chief Executive	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.
Monitoring Officer	To advise Councillors and officers on ethical issues, standards and powers to ensure that the Council operates within the Law and statutory Codes of Practice.
Chief Finance Officer (Section 151 Officer)	To ensure the Council has an adequately resourced and effective Counter Fraud and Internal Audit and Risk Management Service.
Audit Committee	To monitor the Council's policies and consider the effectiveness of the arrangements for Counter Fraud.
Standards Committee	The Committee monitors and advises upon the content and requirement of Codes, Protocols and other procedures relating to standards of conduct throughout the Council.
The Mayor and Councillors	To support and promote the development of a strong counter fraud culture.
External Audit	Statutory duty to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud, corruption and theft.
Internal Audit	Responsible for developing and implementing the Anti Fraud Strategy and investigating any issues reported under this policy and the Confidential Reporting Policy. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this policy and that action is identified to improve controls and reduce the risk of recurrence.
Managers	To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud, corruption and theft and to reduce these risks by implementing robust internal controls.
Staff	To comply with Council policies and procedures, to be aware of the possibility of fraud, corruption and theft, and to report any genuine concerns to the appropriate management, the Chief Executive, Monitoring Officer, Chief Finance Officer, Internal Audit or the Fraud Investigation team.
Public, Partners, Suppliers, Contractors and Consultants	To be aware of the possibility of fraud and corruption against the Council and report any genuine concerns or suspicions.



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# **FRAUD INVESTIGATION SERVICE ANTI-FRAUD STRATEGY**

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**September 2017**

## **1.0 PURPOSE OF THIS STRATEGY**

- 1.1 Fraudulent claims for Housing Benefit and Council Tax Support (formerly Council Tax Benefit) are widely recognised to be a serious issue and significant drain on public funds. In July 2016 the Chartered Institute for Public Finance Accountancy (Cipfa) published their Annual Fraud Tracker Report which confirms that Housing Benefit and Council Tax Support remains the largest area of fraud resulting in overpayments and incorrectly discounted Council Tax payments. This document sets out the Council's strategy to reduce the risk and impact of fraudulent claims in Bedford Borough.
- 1.2 The Strategy is approved by the Audit Committee and forms an integral part of the Council's Anti-Fraud Strategy.
- 1.3 The Council is responsible for the payment of £53.8 million in Housing Benefit and for awarding £10.2 million in Council Tax Support discounts (2016/2017 financial year). Funding to enable payment of Housing Benefits is reclaimed from the Government through a subsidy grant and is effectively funded by national taxation. Where an overpayment of Housing Benefit occurs as the result of fraud the subsidy received is 40% of the amount of benefit paid. Any shortfall in the amount of subsidy must be made up from the Council's own resources and is effectively funded through the Council Tax paid by local residents, unless the overpayment can be successfully recovered from the recipient. The award of Council Tax Support discounts reduces the income the Council receives from Council Tax. Fraudulent applications for Council Tax Support therefore have a direct impact upon the Council's and precepting bodies' revenue income. Similarly, other Council Tax discounts, exemptions or reductions obtained fraudulently reduce the Council's revenue income.
- 1.4 The Council recognises its fiduciary responsibility to national and local taxpayers to protect public funds from fraud. This strategy sets out the arrangements the Council will take to ensure that Housing and Council Tax Benefit is only paid, and other Council Tax Support discounts reductions awarded, where there is genuine entitlement and that appropriate and proportionate measures are in place to prevent, detect and deter fraudulent claims for Housing Benefit and Council Tax Benefit/Support and other reductions.

- 1.5 The key purpose of the Strategy is to put in place resources and robust processes to prevent, detect, and deter fraudulent claims for benefit, reductions in Council Tax and disabled person's parking permits (Blue Badges) and to punish those that commit fraud. Where financial losses to the Council are identified action will be taken to recover the losses. In investigating fraud, punishing fraudsters and recovering lost monies the Council will use the full range of legal sanction available, but will ensure that the actions it takes are proportionate to the offence and the offender's circumstances. Successful counter fraud actions including the outcome of prosecutions will be publicised through the local media.
- 1.8 Whilst the DWP are responsible for the investigation of allegations of Housing Benefit fraud, as the administrating authority, Bedford Borough Council has an overarching responsibility in relation to prevention of fraud. This responsibility will be supported by the Council's Fraud Investigation Team and the DWP FIS Unit providing Fraud awareness training and bulletins to the Benefit Assessment Team to ensure that Fraud awareness remains high and any suspicions of fraudulent activity are correctly reported to the DWP in line with the SFIS service level agreement.
- 1.9 The Council's Fraud Investigation Team was successful in securing funding from the Department for Communities and Local Government to continue operating a Fraud Investigation Team to address other high risk areas of Fraud perpetrated against the authority. This funding was provided to deal specifically with Council Tax Discount Fraud and Tenancy Fraud and during 2017/18 will support the retained function to address Council Tax Support, Blue Badge and other Fraud risk areas.

## **2.0 CULTURE**

- 2.1 The Council promotes a counter-fraud culture where suspicions of Housing and Council Tax Benefit and Council Tax Support Discounts, Tenancy and Blue Badge fraud can be reported by staff, partners, stakeholders, and the public easily and in confidence. Those reporting suspicions of fraud should be confident that their suspicions will be taken seriously, evaluated objectively and thoroughly investigated where there is sufficient evidence to support an investigation.
- 2.2 In order to reduce the risk of fraud a culture of vigilance and security amongst staff is encouraged.
- 2.3 Awareness of, and an intolerance towards these forms of fraud will be encouraged within the community through a programme of publicity and education to highlight the cost of fraud to the community and the positive action members of the community can take to assist in its prevention.
- 2.4 The Council will work jointly with other stakeholders such as the Department for Work and Pensions, Registered Social Landlords and other public bodies to prevent and detect benefit fraud.

### **3.0 RESOURCES**

- 3.1 The need to allocate dedicated resources to the prevention and detection of benefit fraud is recognised. However, the level of resources deployed shall be proportionate to the level of risk arising from fraud. The level of dedicated resources will be reviewed annually as part of the Council's budget process in conjunction with performance information and other intelligence regarding the level of risk.
- 3.2 The current level (2017/2018) of dedicated staffing resources considered proportionate to counter the risk arising from Council Tax Support/Discounts, Tenancy and Blue Badge is:
- (a) 1 x full time equivalent Senior Investigation Officer;
  - (b) 2 x full time equivalent Investigation Officers;
  - (c) 0.5 x full time equivalent Clerical Assistant.
- 3.3 An appropriate standard of Information and Communication Technology (ICT) will be provided to ensure that information relating to claims is stored safely and securely at all times and to a standard that will enable the information to be used as evidence in criminal proceedings. Access to information will be strictly limited and controlled through appropriate physical and electronic security measures.
- 3.4 The ICT will be maintained to a standard that will facilitate the exchange of information with other public bodies for the purposes of prevention and detection of fraud. For example the technology in place to verify and record detailed images of passports and driving licenses that are provided as evidence to support applications.
- 3.5 The Internal Audit Unit, incorporating the Fraud Investigation Team, will maintain an awareness of developments in the field of counter-fraud and will assess any resource requirements arising from developments for consideration as part of the annual budgeting process.
- 3.6 The financial effect of detected benefit fraud will be measured and monitored on a monthly basis and will form part of the performance management process.

### **4.0 PERFORMANCE**

- 4.1 Performance against targets will be monitored throughout the year and will be reported to the appropriate senior managers on a monthly basis. Where a corporate performance indicator has been agreed, a quarterly report of performance will be reviewed by the Mayor, Portfolio Holders and Chief Executive, and will be made available to the Corporate Services Scrutiny Committee. An annual performance report will be submitted to the Audit Committee each financial year.
- 4.2 The Assistant Chief Executive for Law and Governance will be responsible for ensuring there is a suitable performance management framework in place for fraud investigation. This framework should be agreed following consultation with the Council's Chief Finance Officer and will include, but not be limited to, the following:
- (a) Monitoring of performance against service plan targets;
  - (b) Establishing and monitoring of local performance indicators;
  - (c) A quality assurance process;
  - (d) A process for assessing and delivering training needs for Council Officers, Members and external stakeholders;

- (e) A process for learning from complaints;
- (f) Evaluation of the cost and effectiveness of counter-fraud activity in comparison with similar services (i.e. Benchmarking);
- (g) Contingency plans to maintain performance at agreed levels;
- (h) Evaluation of the total cost to the Council of known benefit fraud;
- (i) Participation in professional associations and forums\*;
- (j) A process for reviewing the effectiveness of counter-fraud publicity;
- (k) A process for evaluating the full range of counter-fraud activities to identify the most effective sources of intelligence to counter fraud.

\* for example; National Anti-Fraud Network; Institute for Revenues, Rating and Valuation; Charter Institute for Public Finance and Accountancy; Local Authority Investigation Officers Group; The European Institute for Combatting Corruption and Fraud, etc.

## **5.0 PARTNERS AND STAKEHOLDERS**

- 5.1 The Council recognises the important role of partners and stakeholders in the prevention and detection of benefit fraud. In particular, the Department for Work and Pensions - Job Centre Plus Fraud Investigation Service is recognised as key partners in combating benefit fraud. The Council will work jointly with all partners in a spirit of co-operation and mutual support and subscribes to a Fraud Partnership Agreement with the Department for Work and Pensions.
- 5.2 Registered social landlords and private landlords are key stakeholders in the Housing and Benefits service and the Council will be proactive in engaging these stakeholders to assist in the prevention and detection of fraud.
- 5.3 It is in the interests of all Borough residents to prevent fraud. It is recognised that the public can play a vital roll in bring to the attention of the Fraud Investigation Team instance of fraud that would otherwise go undetected. In order to facilitate the reporting of suspicions a free and confidential telephone hotline shall be provided and also a facility to report suspicions through the Council's web site. The availability of these reporting mechanisms will be widely publicised and successful prosecutions arising from the public's referral shall be publicised.

## **6.0 PREVENTION OF FRAUD**

- 6.1 The suitability of employees to undertake work in connection with applications for Housing and Council Tax Support will be assessed through the Council's normal recruitment process. A minimum of two acceptable written references will be required prior to appointment. Candidates for appointment will be required to provide a full employment history and explain the reason for termination of all previous employment and to explain any gaps in employment. Candidates will be required to declare criminal convictions in accordance with the Council's normal recruitment process and must agree to the Council conducting a basic disclosure check through the Disclosure and Barring Service. Where staff have access to the Public Sector Network they will be required to undergo a Baseline Personnel Security Standard check.
- 6.2 Staff appointed on a temporary basis through an employment agency will be subject to the same requirements as permanent staff.

- 6.3 Staff are forbidden from accessing or amending claims in respect of themselves, their relatives or friends. Any such action will constitute gross misconduct and may result in criminal charges. Staff are required to declare in writing whether they have a personal interest in any records.
- 6.4 All staff involved in the application and award process will be trained to an appropriate standard. Training will include detailed awareness of regulatory requirements and internal processes and procedures including the verification process and fraud awareness. The competence of staff will be assured through formal assessments during training, an ongoing quality assurance process and an annual training needs evaluation as part of the performance development and review process.
- 6.5 The Council employs a verification process for claims for Housing Benefit or Council Tax Support. This process includes the following:
- (a) Applications must be made in an agreed format;
  - (b) Applicants are required sign a declaration confirming the information contained in the claim is true, accurate and complete and that they agree to inform the Council of any changes to their circumstances which may affect their entitlement;
  - (c) Documentary evidence must be provided to support of a claim;
  - (d) Documents containing ultraviolet security features may be verified under ultraviolet light;
  - (e) Applicants are required to prove their identity;
  - (f) Applicants are required to prove they are resident at the property and have a liability for rent or Council Tax.
- 6.6 The Council allows applications to be made using an on-line application form and accepts supporting evidence in electronic format (e.g. scanned images). However, where there are any concerns about the authenticity of the claim or supporting documents original documents will be required.
- 6.7 A quality control process will be operated by officers not involved in the assessment of claims. This process will involve the review of a sample of work conducted by all Benefit Assessors.
- 6.8 The Internal Audit Unit, incorporating the Fraud Investigation Team, will ensure a comprehensive series of internal controls is embedded throughout the Benefits Service. An annual audit will be conducted by the Internal Audit Unit to ensure that these controls are operating effectively.
- 6.9 The Council will agree and periodically review a comprehensive policy framework for the service.
- 6.10 The Revenues and Benefits Management Team will ensure up to date regulations and guidance is readily accessible to staff covering the full range of Housing and Council Tax Support process, and other forms of Council Tax reduction processes and the Blue Badge application process.
- 6.11 Professional training and qualification of officers is recognised to be beneficial to the delivery of an effective benefits and counter-fraud service. Officers will be encouraged and supported to undertake professional qualifications in the field of

counter benefit fraud such as the Institute of Revenues Rating and Valuation qualifications.

- 6.12 Appropriate and proportionate physical and electronic security will be in place to protect data and to reduce the risk of unauthorised access to personal information for the purposes of fraud. Mail containing precious documents (birth certificates, passports etc) shall only be opened and handled in a secure locked room. Such documents shall be despatched back to the customer the same day.
- 6.13 All correspondence to claimants and landlords relating to Housing Benefit and Council Tax Benefit/Support will be despatched using the Royal Mail's 'Do Not Re-Direct' service to prevent the use of false address for the purposes of fraud.
- 6.14 The Council is fully committed to participating in the matching of data against that of other Government bodies and other organisations to identify possible fraudulent claims, which include:
- Cabinet Office - National Fraud Initiative (NFI)
  - Department for Work and Pensions – Housing Benefits Matching Service (HMBS)
  - Department for Work and Pensions – Single Housing Benefit Extract (SHBE)
  - Service Level Agreements with Registered Social Landlords (RSL's)
  - Department for Work and Pensions - Customer Information System (CIS), linked to DWP records
  - Department for Work and Pensions Electronic Transfer of Data (ETD)
  - Department for Work and Pensions Automatic Transfers to Local Authority Systems (ATLAS)
  - Department for Work and Pensions/HMRC Real Time Information (RTI) and Wider Use of Real Time Information (WURTI)
  - Internal data matching by the Council's Internal Audit Team
  - The Council may also undertake other data matching process using, for example, commercially available services subject to the process meeting the requirements of the Data Protection Act.
- 6.15 The Council will publicise the requirement to notify changes of circumstances and ensure that claimants, and landlords, Council Taxpayers and Blue Badge holders are aware of their responsibilities.
- 6.16 The Council has a Policy to establish whether persons are to be considered fit and proper landlords. No payments will be made direct to a landlord who fails this test.

## **7.0 DETECTION**

- 7.1 The Council will maintain a dedicated Fraud Investigation Team separately to the main body of staff involved in processing claims and applications. Those employed as part of the Fraud Investigation Team will be required to complete an appropriate training programme such as the BTec Level 5 - Investigations. Other professional training in the field of counter-fraud will be encouraged and supported.
- 7.2 The Council will maintain membership of the National Anti-Fraud Network (NAFN) and Local Authority Investigation Officers Group (LAIIOG) and any other appropriate groups and will use all available resources from these organisations.



- 7.3 Any employee with suspicions of a fraudulent claim for benefits, Council Tax, Tenancy and/or Blue Badges is required to refer the case to the Fraud Investigation Team with full supporting information including the reason for the suspicion. Reasons may include noted irregularities between past and current applications or discrepancies between the claim and local knowledge of the individual staff member.
- 7.4 It is not acceptable for any employee to ignore, disregard or make assumptions when irregularities or omissions occur. In doing so they increase their involvement in any perceived wrongdoing by their complaisance. The Council may take disciplinary action on the grounds of misconduct where clear evidence of a possible offence of fraud is ignored.
- 7.5 Should an employee need to raise concerns about another employee or Member of the Council these must be reported to the Assistant Chief Finance Officer or Head of Internal Audit in all cases. Anyone raising such concerns is assured that the suspicions will be treated seriously and in complete confidence.
- 7.6 The Council's Fraud Investigation Team is based within the Internal Audit Unit for which the Head of Internal Audit has overall responsibility. The team consists of a Senior Investigation Officer, two Investigation Officers and one part time Clerical Assistant. The team is responsible for investigating suspicions of fraud and raising organisational awareness of the potential for fraud and of the Investigation Service.
- 7.7 All investigations shall be conducted to meet the requirements the Police and Criminal Evidence Act (PACE), Criminal Procedures and Investigations Act (CPIA), Regulation of Regulatory Powers Act (RIPA), Data Protection Act, the Council's Code of Practice and agreed policies and procedures and any other regulations which apply to such an investigation.
- 7.8 At least one Investigation Officer shall be qualified as an authorised officer within the meaning of Social Security Administration Act 1992 and under The Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013. This officer will have the power to enter premises (under SSAA 1992 only) liable to inspection where the officer has reasonable grounds for believing they are premises where persons are employed, a trade or business is being conducted, or records relating to a trade or business are kept. The authorised officer is also empowered to ask for information from employers about individual named persons, or in certain circumstances, the names and other personal details of the whole workforce. The Authorised Officer Powers Code of Practice is attached at **Appendix A2(ii)**.
- 7.9 In order to ensure the limited investigative resources are used effectively all cases referred to the Fraud Team shall be subjected to an intelligence based assessment process to evaluate the likelihood of conducting a successful investigation based on the information referred to the Team. Referrals that fail to meet the criteria considered necessary to instigate a full investigation will be recorded and taken into account in the event of a subsequent referral for the same individual.
- 7.10 The team shall maintain detailed records of all investigations in a secure manner for possible use in criminal proceedings.
- 7.11 The Council will participate in the Housing Benefit Matching Service, National Fraud Initiative and any other legitimate data matching processes in order to identify fraud. All persons claiming benefits, making other applications or providing information to the Council will be required to sign their agreement to their personal data being used in such data matching processes.

- 7.12 The Council will assist other councils and the Department for Work and Pensions with their investigation of fraud by providing information that may be requested.
- 7.13 A complaint may be made to the police for assistance in the investigation of a case of suspected fraud where it is considered necessary. The request will be made in accordance with the Council's scheme of delegation to officers.
- 7.14 Covert surveillance may be considered in exceptional circumstances where serious offences of fraud are suspected. Surveillance will only be considered where there are reliable reasons for suspicion of fraud, other less intrusive methods of obtaining evidence have proved inconclusive, it is considered necessary and proportionate to proving or disproving the suspected offence and the level of intrusion to the suspect or other person is reasonable and proportionate. Surveillance will only be conducted where properly authorised by a Justice of the Peace in accordance with the Regulation of Investigator Powers Act, the Council's Surveillance Policy and the Council's scheme of delegation.
- 7.15 Any public sources of information may be used to conduct investigations. This will include information made available on the Internet through social networking and similar web sites.
- 7.16 Information required in order to prevent or detect a crime is exempt from the restriction of the Data Protection Act and in order to assist with an investigation personal information will be sought from any party that may be able to assist. This will include, but not be limited to, employers, banks, utility companies, communication companies, public bodies, credit reference agencies, pension providers, credit card companies, schools etc.
- 7.17 Feedback will be provided to staff referring cases of suspected fraud and on the success of counter-fraud activity on a quarterly basis. This feedback will include the trends of fraud occurring within the area and current prosecution and sanction results.

## **8.0 DETERRENCE**

- 8.1 The Council will seek to deter fraud through the following measures:
- 8.2 Appropriate and proportionate sanctions will be imposed in all cases where fraud is proven in accordance with the Council's Sanctions Policy.
- 8.3 Successful prosecutions will be publicised through press releases, the Council's web site and other media. The publication will include the name of the offender, the road where they are resident, the sentence imposed by the Court, the amount of any financial losses and the nature of the offence.
- 8.4 The Council may notify the press in advance of the time and date of Court hearings where a prosecution is to be brought.
- 8.5 The Council will publicise the processes that may be undertaken in an investigation, including the possibility of:
- (a) An interviewed under caution;
  - (b) Information being sought from employers, banks, and other official sources;
  - (c) A complaint being made to the police for assistance in an investigation.

- 8.6 Statistical information will be publicised on a quarterly basis setting out the number and type of sanctions imposed and the amount of overpayments recovered.
- 8.7 The Council will maintain a free and confidential 24 hour telephone hotline to enable members of the public to report suspicions of fraud. A facility to report suspicions of fraud through the Council's web site will also be provided. The availability of these services will be actively promoted through publicity to encourage members of the public to report suspicions. The success of investigations arising from public referrals will be publicised.
- 8.8 The Council will work together with the DWP to publicise successful prosecutions undertaken by DWP FIS in respect of Housing Benefit claims administered by the Council.
- 8.9 Participating in the National Fraud Hotline service and advertising the contact telephone number for residents to report suspected fraud.
- 8.10 Participating in the Department for Work and Pensions national anti-fraud initiatives.

## **9.0 SANCTIONS**

- 9.1 Sanctions will be determined by an appropriately senior officer in accordance with the Council's Scheme of Delegation and the Council's Prosecution and Sanctions Policy, attached at **Appendix A2(i)**.
- 9.2 The Council will seek to use the full range of sanctions available and will ensure that sanctions imposed are proportionate to the severity of the offence and the offender's personal circumstances. In particular the following sanctions will be imposed;
- prosecution
  - administrative penalty
  - formal caution
  - recovery of fraudulent overpayments
  - confiscation of assets under the Proceeds of Crime Act
  - confiscation of a Blue Badge

## **10.0 EMPLOYEE ROLES AND RESPONSIBILITIES**

- 10.1 It is the Council's expectations that all officers will conduct themselves in ways which are beyond reproach, above suspicion and fully accountable.
- 10.2 All Council employees can play a vital role in the identification of fraudulent claims and fraud awareness training will be made available to all staff. It is the responsibilities of employees to promptly report any suspicious circumstances they become aware of that suggest a person may not be entitled to the benefit they are receiving.

## **11.0 BENEFIT RECIPIENTS' RESPONSIBILITIES**

- 11.1 Persons in receipt of Housing Benefit, or Council Tax Benefit/Support, other Council Tax reductions and/or Blue Badges have a range of responsibilities prescribed by law. The Council will proactively inform and educate those in receipt of these benefits, discounts or concessions of their responsibilities and will ensure that processes are in place to facilitate the discharge of these obligations.
- 11.2 The obligations are considered to include, but not be limited to, the following;
- (a) To provide accurate and truthful information on their application form;
  - (b) To provide original or copy documents (as determined by the Council) to support their claim;
  - (c) To disclose all relevant information;
  - (d) To notify the Council promptly of any changes in circumstances that may affect their entitlement to these benefits/concessions;
  - (e) To check information the Council sends to them, such as notifications of entitlement, and bring to the Council's attention any inaccuracies in the information provided;
  - (f) To not cash cheques received from the Council where they are aware that their entitlement to benefit may have changed;
  - (g) To inform the Council promptly of any bank credits ~~or tax account credits~~ received in respect of Housing Benefit ~~and Council Tax Support~~ to which they may not be entitled;
  - (h) To inform the Council promptly of any discount or other reduction in Council Tax shown on their bill to which they are not entitled.
  - (i) To co-operate with enquiries made by the Council in connection with any suspicions of fraud.

## **12.0 LANDLORDS' RESPONSIBILITIES**

- 12.1 Where a landlord is receiving direct payments of Housing Benefit, or is contacted in respect of an investigation, it is the Council's expectation that the landlord will fulfil the following responsibilities.

- 12.2 The responsibilities are considered to include, but not be limited to, the following:
- (a) To provide accurate and truthful information on request;
  - (b) To notify the Council promptly of any changes in circumstances that may affect their tenant's entitlement to benefits;
  - (c) To check information the Council sends to them, such as notifications of entitlement, and bring to the Council's attention any inaccuracies in the information provided;
  - (d) To not cash cheques received from the Council where they are aware that their tenants' entitlement to benefit may have changed;
  - (e) To inform the Council promptly of any bank credits received in respect of Housing Benefit to which their tenants' may not be entitled;
  - (f) To co-operate with enquiries made by the Council's in connection with any suspicions.

### **13.0 HOUSING AND COUNCIL TAX FRAUD THREATS**

13.1 The following types of fraud are considered to be particularly prevalent in respect of Housing Benefit and Council Tax, particularly Council Tax ~~Benefit~~/Support in the Bedford area:

- (a) Failure to promptly report a change of circumstances;
- (b) Failure to declare income (e.g. wages, pension, tax credits);
- (c) Failure to declare capital or savings (e.g. money in bank accounts, stock, shares a second property etc);
- (d) Failure to declare a partner;
- (e) Contriving a tenancy or rent in order to obtain benefit.
- (f) Providing false information or making false statements to obtain benefit and/or a reduction in Council Tax.

#### **13.2 Tenancy Fraud Threats**

The following types of fraud are considered to be particularly prevalent in respect of Tenancy Fraud in the Bedford area:

- (a) False applications
- (b) Subletting/Non-Occupation
- (c) Key selling

#### **13.3 Blue Badge Fraud Threats**

The following types of fraud are considered to be particularly prevalent in respect of Blue Badge fraud in the Bedford Area:

- (a) Misrepresentation of the applicant's level of mobility when applying for a Badge;
- (b) Failure to declare a change in personal circumstances;
- (c) Use of a relative's Blue Badge whilst they are not travelling in the vehicle;
- (d) Using an expired Blue Badge.

#### **14.0 REVIEW OF THIS STRATEGY**

- 14.1 The arrangements outlined in this strategy are not intended to be limiting and arrangements will be kept under constant review by those managers within the service area with responsibility for delivery of the strategy. New actions or initiatives will be implemented where considered appropriate.
- 14.2 The strategy will be subject to a formal review and be submitted for re-endorsement by the Portfolio Holder at least once every two years.

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# **FRAUD INVESTIGATION SERVICE PROSECUTION AND SANCTION POLICY**

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**September 2017**

## Statement of Intent

Bedford Borough Council is committed to protecting public funds through its action on preventing and detecting fraud. This Policy relates to the investigations undertaken by the Council's Fraud Investigation Service, for example Council Tax Support and other reductions, tenancy fraud, Blue Badge fraud etc. The Council recognises that prosecutions, the imposition of financial penalties and the issue of formal cautions are an essential part of this commitment and play a key role in deterring offenders. It is also recognised that in exercising its powers to impose sanctions against offenders the Council must act in a fair, reasonable and consistent manner, and that sanctions imposed should be proportionate to the seriousness of the offence and the individual circumstances of the case. This policy sets out guidelines to be followed in determining the appropriate sanction to impose in order to meet these requirements.

This policy should be read in conjunction with the Council's Anti-Fraud Strategy.

Bedford Borough Council will ensure that adequate resources are available to investigate and impose sanctions in accordance with this policy.

All cases of alleged fraud will be risk assessed by the Fraud Investigation Team as quickly and effectively as possible to ensure that appropriate cases are investigated. The team will conform to the legislation that governs the investigation of offences, which will include:

- Police and Criminal Evidence Act 1984 (PACE);
- Social Security Administration Act 1992 (as amended);
- Social Security (Fraud) Act 1997;
- Fraud Act 2006;
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013;
- Code of Practice for Crown Prosecutors;
- Criminal Procedures and Investigations Act 1996;
- Regulation of Investigatory Powers Act 2000 (RIPA) (as amended);
- Data Protection Act 1998;
- Child Support Pensions and Social Security Act;
- Proceeds of Crime Act 2002 (POCA);
- And other relevant legislation.

Bedford Borough Council will:

- Ensure that systems, controls and procedures operate in a manner which will minimise abuse both internally and externally;
- Ensure officers work in accordance with the Codes of Conduct;
- Ensure that training is provided for investigators and fraud awareness training for relevant staff connected with the benefit/support processes;
- Provide adequate resources to monitor and assess benefit/support claims accurately and to identify irregularities and to refer concerns to Fraud Investigation Officers;
- Manage investigations of irregularities to a satisfactory conclusion;
- Conduct pro-active investigations in order to detect benefit frauds not uncovered by routine verification;
- Take legal proceedings, or impose other sanctions where there are reasonable grounds for believing that criminal offences have occurred, publicise the outcome and seek to fully recover fraudulent overpayments of benefit/Council Tax due to deter further abuse;



- Work with partners such as DWP Single Fraud Investigation Service, and the Cabinet Office (through the National Fraud Initiative) and registered social landlords to maximise fraud detection and ensure fraud prevention.

This Policy is intended to ensure that offences are dealt with consistently and in line with best practice. It supports the procedures guide for investigating officers and will be regularly reviewed to take account of any legislative and other changes.

Where it is proved beyond reasonable doubt that an offence has been committed, the Council will instigate prosecution proceedings or offer alternative administration sanctions to the offender.

### **Prosecution**

The policy is intended to ensure the successful prosecution of offenders in court. However, not every contravention of the law should be considered for prosecution. The Council will weigh the seriousness of the offence (taking into account the harm done or the potential for harm arising from the offence) with other relevant factors, including the circumstances of the defendant, mitigating circumstances and other public interest criteria.

Each case will be considered on its own merits and discretion may be applied based on individual circumstances.

When considering the suitability of a case for prosecution two tests will be applied:

### **Evidential Test**

This test considers whether:

- there is sufficient evidence to provide a realistic prospect of conviction, and
- the evidence is admissible and reliable.

Where this test is satisfied, the public interest test will be considered:

### **Public Interest Test**

The Council will consider public interest factors to determine whether to prosecute an offender or consider whether an alternative course of action may be more suitable.

### **Circumstances where the Council is more likely to pursue proceedings**

Any case meeting one or more of the following criteria is likely to result in the Council pursuing prosecution proceedings:-

- A conviction is likely to result in a significant sentence;
- The defendant has or was in a position of authority or trust;
- The evidence shows that the suspect was a ringleader or an organiser of the offence or pressurised other into involvement;
- There is evidence that the offence was premeditated;
- There is evidence that the offence was carried out by more than one person;
- The defendant's previous convictions or cautions are relevant to the present offence;
- The defendant is alleged to have committed the offence whilst under an order of the court;

- There are grounds for believing that the offences were likely to be continued or repeated e.g. by a history of recurring conduct;
- The offence, although not serious in itself, is widespread in the area where it is committed or a prosecution would have a significant positive impact in maintaining community confidence;
- The value of the offence exceeds the starting point of the Sentencing Council's Sentencing Guidelines for the offence;
- There has been fraud from the outset or the fraud spans a sustained period of time
- The offence was motivated by a form of discrimination against the victims ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation or the suspect demonstrated hostility towards the victim based on any of these characteristics.

### Circumstances where the Council is less likely to pursue proceedings

It is possible that the Council will not wish to pursue prosecution proceedings in cases where, although there is sufficient evidence to prosecute:

- The court, in accordance with the sentencing guidelines, is likely to award a nominal penalty;
- The defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution or the defendant withdraws consent to have an offence taken into consideration during sentencing.
- The offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- It is a first offence and the loss or harm can be considered minor (based on each individual case) particularly if it was caused by misjudgement;
- There has been a long delay between the offence taking place and the date of the trial unless: the offence is serious, the delay has been caused in part by the defendant, the offence has only recently come to light or the complexity of the offence has meant that there has been a long investigation.
- The defendant is considered to be vulnerable, for example, is or was at the time of the offence, suffering from significant mental or physical ill health or is otherwise considered vulnerable, unless the offence is serious or there is a real possibility that it may be repeated;
- The defendant admitted the offence at the first opportunity and made an offer of repayment and the loss or harm was minor.
- Maladministration or delay of the Housing or /Council Tax Benefit/Support procedure on the part of the Council scheme has occurred at some period during the offence.

This list is not intended to be exhaustive.

### Options for sanctions other than prosecution

Where it is decided that the offence(s) involved are considered to be minor, it is likely that the Council will consider the offer of a **Formal Caution** or, where the law allows, **Administrative/Financial Penalty** as an alternative to proceedings. These can only be offered if the evidential test is satisfied.

Any final decision to offer a sanction will be made in accordance with the Scheme of Delegation and will only take place following consideration of the **evidential** and **public**

**interest tests** and being satisfied that the investigation has been undertaken in an appropriate manner.

Where prosecution action is recommended ~~by the Legal Services Unit~~, such action will only be undertaken following proper authorisation in accordance with the Scheme of Delegation.

### Formal Caution

A Formal Caution is an administrative sanction that local authorities are able to offer as an alternative to a prosecution as long as specific criteria are met, and the case is one the Council could take to court if the caution was refused. Such a caution would not give the claimant a criminal record, but would be held on the Council's records for 5 years and may be cited in Court should the offender re-offend.

It is normally considered appropriate to administer a Formal Caution as an alternative to prosecution in the following circumstances:

- The fraud is stopped before any loss accrues or benefit is paid, or the amount value of the benefit obtained fraudulently is considered to be less than the starting point for the courts' sentencing guidelines\*; and,
- It is known to be a first offence; **and**,
- A Formal Caution or Administrative Penalty has not been previously accepted or refused;;
- The offence is not considered widespread in the local area and the offence is not one that is of recognised concern to the community;
- The offence has not adversely affected other residents;

\* On occasions, where suitable mitigating circumstances apply, a caution may be offered in cases where the loss is at such a level where stronger penalties would *normally* be considered.

The Council will adhere to Home Office guidance on the use cautions that specifies that the offence must have been admitted at an interview under caution and informed consent from the person being cautioned must be obtained. When a Formal Caution is offered but refused, the Council will strongly consider the instigation of prosecution proceedings.

### Penalty as Alternative to Prosecution

Where the Council is satisfied that it has grounds for instituting legal proceedings against a person for an offence in connection with a claim for Council Tax Benefit or Support it may administer a financial penalty as an alternative to prosecution as follows:

1. Section 115A of the Social Security Administration Act 1992, as amended by sections 113 and 114 of the Welfare Reform Act 2012, allows the Council to administer a financial penalty as an alternative to prosecution in case of overpaid Council Tax Benefit. The amount of the penalty is 50% of the fraudulent overpayment subject to a minimum penalty of £350 up to a maximum of £2000.
2. Where the period in respect of which there is an overpayment starts prior to 8 May 2012 the penalty is 30% of the overpayment.
3. Regulation 11 of The Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013 allows the Council to administer a financial

penalty as an alternative to prosecution where a Council Tax Support discount was awarded for an amount greater than that to which they were entitled under the scheme. The penalty is 50% of the excess discount subject to a minimum amount of £100 to a maximum amount of £1,000.

Unlike a formal caution no admission of guilt is required from the claimant before offering penalty, although there is a statutory requirement to ensure that there are grounds for instituting criminal proceedings for an offence relating to the overpayment/excess discount.

Where there has been an overpayment of ~~Housing~~ or Council Tax Benefit or an excess Council Tax Support discount the Council will normally consider it appropriate to offer a penalty as an alternative to prosecution in the following circumstances:

- A formal caution is not considered appropriate; and,
- The value of fraudulently obtained benefit is below the starting point of the Sentencing Council's Sentencing Guidelines\* £5,000\*; and,
- It is known to be a first offence; and,
- There is a realistic prospect of both the overpayment and penalty being paid; and,
- A formal caution or penalty has not been previously accepted or refused;
- The person is 18 or over.

\* On occasions, where suitable mitigating circumstances apply, a penalty may be offered in cases where the amount is at such a level where stronger penalties would *normally* be considered.

Where a penalty has been offered but not accepted or if the acceptance is withdrawn within 28 days under the 30% penalty and 14 days under the 50% penalty, legal proceedings will be instigated.

### **Joint Working**

The Council may co-operate with, share information with and work jointly with other organisations affected by the offence, for example registered social landlords or the Department for Work and Pensions. The Council may, by agreement, bring prosecutions on behalf of other organisations following joint investigations or through the sharing of evidence.

### **Proceeds of Crime Act 2002 (POCA)**

In addition to the actions set out in this policy, the Council reserves the right to refer all suitable cases for financial investigation with a view to applying to the courts for restraint and/or confiscation of identified assets. A restraint order will prevent a person from dealing with specific assets. A confiscation order enables the Council to recover its losses from assets which are found to be the proceeds of crime.

### **Prevention of Social Housing Fraud Act 2013**

Under the Prevention of Social Housing Fraud Act 2013 the Court may, on application by the Council, issue an unlawful profit order to recover any profit made by a person or person who has been found to have sublet a social housing property. Where the Council has evidence of unlawful profit it will normally seek such an order.

### **Recovery of Overpayments**

The Council is committed to recovering all overpayments of Housing Benefit which are classified as recoverable in accordance with benefit regulations. In all cases due consideration is given to individual circumstances as to the manner of, and terms agreed in, the recovery process and in accordance with the Council's Fair Debt Collection Policy.

### **Recovery of Council Tax**

The Council is committed to recovering all unpaid Council Tax resulting from the withdrawal or reduction of a discount or other reduction, or where Council Tax is payable as a result of the withdrawal of Council Tax Support. The debt will be recovered in accordance with the Council Tax (Administration and Enforcement) (England) Regulations 1993 and the Council's Fair Debt Collection Policy.

### **Specialist Legal Representation**

In the majority of cases the Council will use its in-house Legal Team, however, the Council reserves the right to appoint specialist legal representation in certain cases.

### **Legal Costs**

The Council will seek to recover the full costs of the investigation and prosecution from the offender following a successful prosecution.

### **Records**

For an effective regime of sanctions to be successful it is essential that accurate records of all convictions, administrative penalties and formal cautions are maintained. The Council will allocate resources to ensure this action is carried out effectively. This will enable the Council to make correct decisions about possible sanction action in future, taking full account of any previous offences.

### **Publicity**

The outcomes of successful prosecutions will be proactively promoted and publicised with the intention of deterring others from fraudulent activity by raising public awareness of the consequences of committing fraud. This policy will be made available throughout the Council and to other stakeholders, third parties and members of the public.

Successful prosecutions will be publicised through press releases, the Council's web site, and other media. The publication will include the name of the offender, the road where they are resident, the sentence imposed by the Court, the amount of the overpayment and the nature of the offence.

The Council may notify the press in advance of the time and date of Court hearings where a prosecution is to be brought.

General statistical information regarding other sanctions imposed will be published on a regular basis.

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# **Authorised Officer Powers** **Code of Practice**

## **Obtaining Information from Employers, Contractors, the Self Employed, Banks, Utility Providers**

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A Guide to the Powers of Authorised Officers, and their  
Limitations

**This Code of Practice is also available to members of the public at Borough  
Hall, Cauldwell Street, Bedford MK42 9AP**

## Foreword – Why this Code of Practice is issued to you

Fraudulent claims for Housing and Council Tax Benefit/Reduction and Social Housing Council-are widely recognised to be a serious issue and significant drain on public funds.

Obtaining information as part of a criminal investigation is necessary if the Council is to ensure that taxpayers' money and services goes to those for whom it is intended.

The powers to obtain information are not intended to place additional burdens on business, banks, and utility providers. but to reduce the overall burden on Society. Everyone, therefore, has an interest in providing information to their local authority so that it can combat fraud.

This code of practice is binding on the activities of the local authority staff that operate the procedures under sections 109B and 109C of the Social Security Administration Act 1992, and Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and section 7 of the Prevention of Social Housing Fraud Act 2013.

If you are required to provide information to your local authority under the provisions of sections 109B and 109C of the Social Security Administration Act 1992, and/or Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, and/or section 7 of the Prevention of Social Housing Fraud Act 2013 this Code has been given to you so that you know what you can expect of the officers making enquiries, and so that you can understand your duties under these powers. It is aimed at encouraging compliance and co-operation. Where the requirements of this Code are not met grounds for complaint may arise. Information about how to complain is contained in this Code of Practice (see paragraphs 34 – 36).

Beating fraud is everyone's business and all members of the community must work together to achieve that aim.

## Introduction

1. This Code of Practice explains the powers of Authorised Officers, their limitations and the responsibilities and rights of those from whom information, as defined in the legislation. Authorised Officers are required to undertake their enquiries in accordance with this Code of Practice at all times. Although the powers for the Council to prosecute Housing Benefit have been repealed by the Welfare Reform Act 2012, the Council retains powers to obtain information for the administration of Housing Benefit and the Investigation Officers will remain duly authorised to do so.
2. Authorised Officers of the local authority should issue this Code of Practice to people from whom they require information under sections 109B and 109C of the Social Security Administration Act 1992, Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and/or section 7 of the Prevention of Social Housing Fraud Act 2013. It explains the powers of the local authority and therefore assists Officers in their enquiries. It should be issued with written enquiries, carried by Officers visiting employment premises (under Section 109B and 109C of the Social Security Administrations Act 1992) and made available at the Council Offices to members of the public who wish to consult it.
3. The obligation to provide information is detailed in sections 109A, 109B, 109C and 110A of the Social Security Administration Act 1992, and Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and section 7 of the Prevention of Social Housing Fraud Act 2013..

## Authorised Officers

5. Under section 110A of the Social Security Administration Act 1992, and Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and section 7 of the Prevention of Social Housing Fraud Act 2013, the Chief Executive or Chief Finance Officer of a local authority may authorise an officer/s of the local authority to exercise any of the powers which, subject to section 110A (8), are conferred on an authorised officer by sections 109B and 109C and under Regulation 4 of The Council Tax Reduction Schemes 2013 and section 7 of the Prevention of Social Housing Fraud Act 2013. Officers who do not have this authorisation may not make enquiries under these powers.
6. Authorised Officers are required to act reasonably in seeking information from individuals and organisations who hold information necessary to Local Authority enquiries. This means that they must act in an appropriate way given the circumstances of the case, and any representations that may be made during their enquiries. The resultant actions taken by Authorised Officers should be ones that would stand up to the scrutiny of a Court, or other independent body.
7. If the course of action undertaken, or proposed, by the Authorised Officer was not considered to be reasonable it should be raised at once with the Authorised Officer. If this does not satisfy the concerns raised the complaints procedure set out in this Code can be applied.

## What these powers are used for

8. Authorised Officers use these section 110 powers to obtain information from certain people, under 110A (2) of the Social Security Administration Act, and Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement)



(England) Regulations 2013 and section 7 of the Prevention of Social Housing Fraud Act 2013 to:

- Ascertain in relation to any case whether Housing Benefit, Council Tax Benefit/~~and Council Tax~~ Support is or was payable in that case;
- Ascertain in relation to any case involving Social Housing whether it was lawfully obtained and/or has been illegally sub-let since;
- Ascertain whether provisions of the relevant social security legislation, and Council Tax Reduction and Social Housing legislation that relate to Housing Benefit, Council Tax Benefit/ and Council Tax Reduction or Social Housing are being, have been or are likely to be contravened (whether by particular persons or more generally);
- Prevent, detecting and securing evidence of the commission (whether by particular persons or more generally) of offences relating to Housing Benefit, Council Tax Benefit/Reduction and/or Social Housing.

9. An Authorised Officer can ask for information about individual named persons or, in certain circumstances, the names and other details of the whole workforce. Requests for information can be made in writing (SSAA 1992, CTRS 2013 and/or POSHFA 2013 or in the course of a visit (SSAA 1992).

The following are examples of the types of information that Authorised Officers might request, for example from an employer:

- Names of employees;
- Wage details;
- Period of employment;
- Conditioned hours;
- Terms of employment (i.e. whether an employee, subcontractor, or self-employed);
- Bank details (e.g. whether wages are paid into a Bank, and its location);
- Staff/payroll number;
- National Insurance number;
- Home address;
- Date of Birth;
- Next of Kin, emergency contact details;
- Any death benefit payable to nominated person.

This list is not exhaustive and there will be circumstances in which Authorised Officers will seek information not specifically listed here, which is relevant to their enquiries, and determined on the circumstances of the investigation.

### Written requests for information

10. Section 109B(1) allows an Authorised Officer to write to (or e-mail) any of the persons defined in section 109B (2) and under Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and section 7 of the Prevention of Social Housing Fraud Act 2013 listed below to obtain information. These people are:

- Any person who is or has been an employer or employee;
- Any person who is or has been a self-employed earner;
- Any person who, under existing legislation, is treated as an employer, employee, or self-employed earner;

- Any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises;
- Any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his;
- Any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to others, of persons available to do work or to perform services;
- Any local authority acting in their capacity as an authority responsible for the granting of any licence;
- Any person who is or has been a trustee or manager of a personal or occupational pension scheme;
- Any person who is or has been liable to make a compensation payment or a payment to the Secretary of State under section 6 of the Social Security (Recovery of Benefits) Act 1997 (payments in respect of recoverable benefits); and
- The servants and agents of any person as described above 11;

An Authorised Officer will only write to any of those persons defined above for information if they have reasonable grounds to suspect that an offence is being, has been or is likely to be committed. They will provide a written notice that sets out:

- Who they are;
- Their address;
- What information they need;
- The format in which they would like the information provided in; and
- When they would like the information by.

11. They may ask for original documents, photocopies of documents or extracts of documents (e.g. computer printouts etc) to be produced. However, they will only request the information they need and will take account of the burden this would place on the business, as well as their own needs.

#### **The legal duty to provide information required under a written notice**

12. If an Authorised Officer writes to ask for information recipients are legally obliged, under section 109B(3) of the Social Security Administration Act 1992, and Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and section 7 of the Prevention of Social Housing Fraud Act 2013 to provide it in the form it has been requested and within the time specified.
13. If a recipient of such a request has difficulty meeting any part of a request for information, they may contact the Authorised Officer to explain why, and make alternative arrangements for the provision of the information.
14. The legal duty to provide information is not discharged until this has been done.

#### **Verbal requests for information by visit**

15. Under section 109C, an Authorised Officer may seek entry to any premises (including a home) where there are reasonable grounds for suspecting that a business or trade is being carried out. They are also allowed to enter any premises (including a home) where there are reasonable grounds for suspecting that documents relating to a trade or business are kept.

16. An Authorised Officer may also seek entry to any premises:
  - From which a personal or occupational pension scheme is being administered or where documents relating to the administration of such a scheme are being kept;
  - Where a person or someone acting on their behalf, who has paid compensation in relation to an accident, injury or disease is to be found.
17. Requests to enter such premises will only be made where the Authorised Officer has reasonable grounds to believe that benefit fraud is being, has been or is likely to be committed by one or more persons.
18. When visiting premises, the Authorised Officer will state who they are and will show their certificate of authorisation and identity card.
19. The authorisation allows the officer to be accompanied by any other person or persons they think fit to accompany them, for the purpose of their visit. If other persons are accompanying the Authorised Officer, they will be identified, and all visiting officers will carry identification, which will be presented for inspection.
20. Generally, Authorised Officers will give advance notice of their intention to visit. However, in certain circumstances this is not always appropriate, and visits may be made without prior notification.
21. Officers will only enter premises with consent (that is, the owner, the occupier, or their representative). They should never try to force an entry – they have no legal powers to do so. If, after entry has been granted, the officers are asked to leave before they have completed their enquiries, they will do so. However, where an officer(s) considers that such action has been taken to obstruct their enquiries or to conceal evidence, they will consider criminal proceedings.
22. Under section 111 of the Social Security Administration Act 1992, it is an offence to intentionally delay or obstruct an Authorised Officer in the exercise of their powers under this Act.
23. When visiting premises, an authorised officer and any person accompanying them, may inspect the premises and question, with the consent of the owner, occupier, or their representative, anyone they find there. They do not have the power to detain people.
24. The Authorised Officer may require anyone on the premises to produce documents, make photocopies of documents or extracts of documents or to create computer or other printouts. An Authorised Officer will only seek access to records that are considered to be connected with payments, and employment details, of employees, sub-contractors, recipients of commission payments, etc.
25. If absolutely necessary (for example because there is not a photocopier available), the officer may lawfully remove documents from the premises visited. The Authorised Officer will explain why this is necessary. Any original documents that are removed will be returned as soon as possible. A receipt will be given for any documents that need to be removed temporarily.
26. Documents will not be seized and removed by force. They will only be removed with consent.

## The statutory duty to provide information

27. No one is required to provide any information (whether documentary or otherwise) that tends to incriminate them, or, if they are married/civil partners, their spouse or civil partner.
28. Otherwise, whether a request by an Authorised Officer is made in writing or verbally and in person, there is a statutory duty to provide that information, including any documentation that is requested.
29. Under section 111 of the Social Security Administration Act, ~~and under~~ Regulation 6 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and section 8 of the Prevention of Social Housing Fraud Act 2013, it is an offence to intentionally delay or obstruct Authorised Officers in the exercise of their powers or to refuse, or neglect, to:
  - Answer any questions;
  - Furnish any information;
  - Produce any documents when required to do so by an Authorised Officer.

Obstruction includes circumstances where false or inaccurate information is provided in response to enquiries.

30. The Data Protection Act 1998 will not be contravened by providing the information requested by Authorised Officers. Under section 35(1) of the Data Protection Act 1998 exemption from the non-disclosure provisions exists where a statutory provision, such as section 109 B and C of the Social Security Administration Act 1992, ~~and~~ Regulation 4 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and section 7 of the Prevention of Social Housing Fraud Act 2013 requires the supply of information.
31. Failure to meet in full requests for information could result in criminal proceedings being instigated. The maximum penalty is a maximum fine, fixed at level 3, currently set at £1000, with a continuing penalty of £40 per day (under section 111(2) of the Social Security Administration Act 1992), Regulation 6 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and section 8 of the Prevention of Social Housing Fraud Act 2013).
32. If information is not provided the Authorised Officer should explain the Local Authority's statutory powers, and the potential consequences of non-compliance.

## At the end of the local authority enquiries

33. Where an Authorised Officer has made enquiries, and obtained information notification of any further action, that is being taken, will be made as soon as possible. When the enquiry has been concluded notification of that action will also be made.

## Complaints

34. If you have any grounds for complaint about how Authorised Officers have used their powers under section 110 SSAA 1992, Regulation 11 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, section 7 of the Prevention of Social Housing Fraud Act 2013 or the reasonableness of their actions, when obtaining information, please write to the Chief Executive or Monitoring Officer at Bedford Borough Council, Borough Hall, Cauldwell Street, Bedford, MK42 9AP.
35. Independent legal advice may be sought at any time. The local Citizens Advice Bureau can assist in deciding whom to contact. Their locations and telephone numbers can be found in the local telephone directory.
36. This does not affect the right to seek assistance from a Member of Parliament to refer a complaint to the independent Parliamentary Commissioner for Administration, commonly known as the "Ombudsman".

## Disclaimer

**Please note this Code of Practice gives general guidance only and should not be regarded as a complete and authoritative statement of the law. If you do not understand any of the contents of the Code you may wish to seek independent advice.**