

## **Executive Member for Corporate Services and Advisory Panel**

12 September 2006

Report of the Assistant Director (Audit and Risk Management)

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## **Review of the Council's Fraud and Corruption Prosecution Policy**

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### **Summary**

- 1 The purpose of the report is to seek the Executive Member's approval for a revised policy for prosecuting individuals who have committed acts of fraud or corruption against the Council.

### **Background**

- 2 The Council has a duty to protect public money and to ensure that its resources are not put at risk from potential fraud and corruption. The existing counter fraud arrangements include a Fraud and Corruption Response Plan and a Prosecution Policy, both of which have been in place for a number of years.
- 3 The Prosecution Policy covers all acts of fraud or corruption which have caused financial loss to the Council, or would have done so had the fraud been successful. The Policy sets out the circumstances when the Council will take legal action against the perpetrators of fraud or corruption. The Policy also sets out the circumstances when it is appropriate to offer a formal sanction as an alternative to prosecution in respect of benefit related fraud.
- 4 The Policy now needs to be updated to take account of various developments and changes, including;
  - the Council's new Constitution and the Officer Scheme of Delegation;
  - changes in relevant legislation;
  - changes in roles and responsibilities within the Audit and Risk Management Division;

- changes in the subsidy rules for housing benefits which have ended the system of financial rewards for prosecutions and sanctions;
- recent changes in the Department for Work and Pensions' own prosecution and sanctions policy.

Although the current Policy remains adequate for its primary purpose there is scope to make a number of other improvements particularly in respect of applying alternatives to prosecution in respect of housing benefit and council tax benefit related fraud.

## Revised Prosecution Policy

5 The main changes to the policy are summarised as follows;

- the Policy now formally allocates responsibility for decision making to 'authorised officers';
- the Policy now includes specific criteria for determining whether a prosecution would be in the public interest or not;
- the threshold for prosecuting benefit related fraud has been increased from £1,500 to £2,000 to be consistent with the Department for Work and Pensions' own prosecution policy;
- more discretion has been given when deciding to offer a sanction as an alternative to prosecution in benefit related fraud cases;
- the Policy now clearly states that serious attempted fraud will also be considered for prosecution or sanction;
- the Policy recognises the powers available to the Council under the Proceeds of Crime Act 2002 to recover assets from convicted fraudsters.

6 The revised policy is attached as Annex A.

7 One of the implications of the new Policy is that there are likely to be fewer prosecutions for benefit related fraud but a corresponding increase in the number of sanctions (cautions and administrative penalties) being offered. The total cost of prosecuting benefit related offences has risen significantly in the last two years, partly as a result of more cases being put forward but also as a result of increased legal costs. The prosecution costs were in part covered by subsidy from the Department for Work and Pensions (DWP). However, from 1 April 2006, the subsidy rules have changed and the Council no longer receives any additional subsidy for the number of prosecutions and sanctions achieved. By reducing the number of prosecutions undertaken it is expected that the pressure on the existing prosecution budget will be reduced.

8 Reducing the number of prosecutions for benefit fraud is also consistent with moves by the DWP to prevent the criminalisation of claimants for

relatively minor fraud where the use of sanctions is considered to be a sufficient deterrent. Prosecutions by the DWP are instead limited to more serious benefit offences.

- 9 Once approved, the new Prosecution Policy will be incorporated into the codes and protocols of the Council's Constitution.

## Consultation

- 10 Not relevant for the purpose of the report.

## Options

- 11 Not relevant for the purpose of the report.

## Analysis

- 12 Not relevant for the purpose of the report.

## Corporate Priorities

- 13 This report contributes to the corporate priority of improving efficiency and reducing waste so as to free up more resources. The report also contributes to the overall effectiveness of the Council's internal management & assurance arrangements by helping to achieve the following corporate objectives;

- Ensure probity, integrity and honesty in everything we do (Objective 8.3).
- Improve the forward planning, openness, propriety, speed and effectiveness of decision-making (Objective 8.4).
- Continue to provide sound and timely financial management, and improve medium and long term financial planning. (Objective 8.6).
- Manage the Council's property, IT and other assets on behalf of York residents. (Objective 8.9).

## Implications

- 14 The implications are;
- **Financial** – there are no financial implications to this report other than a potential decrease in the costs of prosecuting benefit related fraud.
  - **Human Resources (HR)** – there are no HR implications to this report.
  - **Equalities** - there are no equalities implications to this report.

- **Legal** - there are no legal implications to this report.
- **Crime and Disorder** - there are no crime and disorder implications to this report.
- **Information Technology (IT)** - there are no IT implications to this report.
- **Property** - there are no property implications to this report.

## Risk Management Assessment

15 Decisions taken by the Council to prosecute the perpetrators of fraud and corruption may not be consistent with the Council's Constitution and DWP policies.

## Recommendation

16 That the Advisory Panel advise the Executive Member to:

- consider and approve the revised fraud and prosecution policy;

### Reason

*To enable appropriate action to be taken in response to acts of fraud and corruption committed against the Council.*

## Contact Details

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Report Approved



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### Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All

For further information please contact the author of the report

## **Background Papers**

- Current Council Prosecution Policy in cases of Fraud and Corruption
- Fraud and Corruption Response Plan

## **Annexes**

Annex A – draft City of York Council Fraud and Corruption Prosecution Policy