

PROSECUTION POLICY
1/3/2001

NORTH NORFOLK DISTRICT COUNCIL

PROSECUTION POLICY

This Council is committed to protecting the public funds that we are responsible for administering. The Council will take action in respect of offences which have been committed, whether of a financial or non-financial nature, having due regard to all the circumstances.

Staff

Where the Council finds clear evidence of fraud or corruption disciplinary action will be taken and the evidence will be passed to the Police and the Crown Prosecution Service, for possible prosecution. The Council will also take disciplinary action if there is clear evidence of deceit by staff.

Staff and Third Parties

The Council has procedures for dealing with financial irregularity and corruption - whether perpetrated by its employees, councillors, by members of the public or contractors in their business dealings with the Council.

The policy with regard to fraud and corruption by a third party will depend on the legislation relating to the scheme involved. The Council will prosecute in most circumstances but heed will be paid to what is sensible and economic. When the prosecuting authority is the Crown Prosecution Service the evidence will be passed to them and it will be their decision as to whether or not to prosecute.

Action

In deciding what action is appropriate for a particular case, the Chief Officer concerned, together with appropriate advice from, for example Personnel, Internal Audit or Legal, will assess all available evidence and reach a decision based on the facts. Each decision will be supported by the appropriate documentation or other relevant evidence.

Housing Benefit and Council Tax Benefit

The Prosecution Policy for the Benefits Office reflects the Corporate Policy in all except one issue The Social Security Administration (Fraud) Act 1997 s.15 enables local authorities to offer a penalty as an alternative to prosecution where the making of the overpayment is attributable to an act or omission on behalf of the individual; and there are grounds for instituting against them proceedings for an offence relating to the overpayment.

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A written notice must be given to the person inviting them to agree to pay a penalty of 30% of the amount of overpayment. If that person agrees, in the specified manner, the penalty is recoverable in the same manner as the overpayment and no proceedings can be instituted against that person for the overpayment.

If the person withdraws their agreement within 28 days from the date of that agreement proceedings should be instituted against that person for the recovery of the overpayment.

In cases where a penalty is offered authorisation must be sought from the Legal Section who will respond within 10 working days, recommending what action is to be taken.

Financial or Other Loss

After a thorough investigation, either undertaken by or verified by Internal Audit, the decision whether to take action rests with the relevant Chief Officer in consultation with the Head of Legal Services.

If a disciplinary hearing is to take place this will be in line with the Councils Disciplinary Procedure.

The decision whether to prosecute must take into account the following aspects:

- the level and duration of the offence or financial loss.
- whether there is a history of previous offences.
- the degree of any breach of trust.
- the degree of premeditation and involvement of others in the offence.
- whether it was a deliberate act.
- the impact on the Council as a whole.

Conclusion

It is important that action is seen to be taken when any case of alleged impropriety is brought to Council's attention. Further, it is vital that if wrongdoing is substantiated then appropriate action is taken and given the right level of publicity.

By publicising action the clear message is sent out about the Council's intentions.