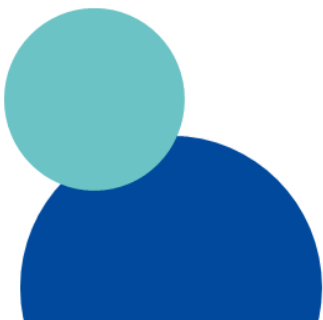




Waverley Borough Council
Fraud Prosecution Policy

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Approval & Publication:

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Impact Assessments and Consideration:

Impact Assessment Type	Required / Not Required	Date Completed	Impact Assessments and Considerations Comment	Assessment Owner
Equality Impact Assessment			Everyone will be treated equally in accordance with the law and the contents of the agreed councils fraud related policies	
Health in all Policies	NR			
Data Protection Impact Assessment			Information obtained will be treated in accordance with legal requirements.	
Climate Change	NR			

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1. Introduction

Waverley Borough Council is committed to conducting its business properly through the application of a range of policies and procedures this policy relates to the prosecution of individuals who have breached regulatory or legislative requirements. Waverley Borough Council has a zero tolerance policy towards fraud, corruption and bribery. This commitment to preventing fraud and corruption is reinforced through the development of the Council's 'Counter Fraud Strategy and Policy' in order to prevent and minimise its occurrence.

The Council will constantly review and monitor its systems and amend procedures as required.

This policy does not supersede other internal disciplinary codes implemented by the Council, and internal offenders (e.g., Council employees or elected Members) will be subject to general disciplinary procedures in addition to potential prosecution. Where the offender is a contractor or subcontractor the Council would potentially prosecute, and this could result in the cessation of the relevant contract.

2. Policy Statement

This policy is intended to ensure that the council applies the appropriate process when deciding to complete prosecutions against those individuals that commit improper conduct that can result in prosecution action being adopted.

3. General

a. The Council's policy on fraud is to:

- ❖ Deter it in the first instance
- ❖ Detect it quickly
- ❖ Investigate it efficiently and in accordance with the law; and
- ❖ Prosecute offenders when appropriate
- ❖ Make it as easy as possible for staff, Members and the Public to report concerns

b. In order to prosecute;

- The evidence must be collected according to local procedures and in accordance with the necessary laws, which currently include the Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedures Investigations Act 1996 (CPIA), the Regulation of Investigatory Powers Act 2018 (RIPA) and Prevention of Social Housing Fraud Act 2013.
- The Council must be satisfied that there is sufficient evidence to provide a 'realistic prospect of conviction', meaning that a jury or bench of magistrates or a judge hearing a case alone, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.

- If there is sufficient evidence to provide a realistic prospect of conviction, the Council must also be satisfied that it is in the public interest to prosecute.
- c. The council will when considering a prosecution, and throughout the course of a case, always adhere to the principles contained in the Code for Crown Prosecutors issued by the Director of Public Prosecutions.
- d. In most cases, the Section 151 Officer and the Internal Audit Manager, and where appropriate in consultation with the Joint Chief Executive, or another designated officer, will decide whether reporting the matter to the Police is appropriate. In exceptional circumstances the Internal Audit Manager may, after consultation with the Council's Borough Solicitor/Legal Services, refer a matter to the Police direct without prior consultation with the S151 Officer or the Joint Chief Executive. Cases will also be discussed with the Leader of the Council, and the relevant Portfolio Holder will be kept informed of progress.
- e. In deciding whether a fraud should be reported to the Police, the following factors will be taken into consideration.
- The extent of the fraud/corruption in financial terms and how long the offence has lasted.
 - The sufficiency and appropriateness of evidence.
 - How the public interest will be best served.
- f. In general, all cases will be reported to the Police. However, the decision as to whether to prosecute or not ultimately rests with the Police and the Crown Prosecution Service, although the Council reserves the right to instigate proceedings itself if it is considered necessary. Any action will be taken in accordance with underlying principles, which include the following:
- Each case will be examined on its own merits;
 - All persons under suspicion will be treated fairly;
 - Decisions will only be taken when the facts are known;
 - The rules of Natural Justice will always prevail.
- g. The Section 151 Officer in consultation with the Internal Audit Manager and the Monitoring Officer/Borough Solicitor, will decide on the sanctions to be imposed should the case be deemed serious. These sanctions can include disciplinary action, criminal prosecution, civil litigation and/or referral to professional accredited bodies.

In respect of Housing Benefit fraud, this type of fraud is now investigated by the DWP as part of the Single Fraud Investigation Service. One of the basic principles in the management of public sector organisations is to ensure the proper use of public funds. It is, therefore, important that all those who work in the public sector are aware of the

risks of fraud, bribery, corruption and/or money laundering, along with the measures and it's detection and prevention.

This policy sets out the council's position in respect of fraud, bribery and/or corruption, along with associated activities, involving dishonesty such as money laundering, tax avoidance and is applicable to all aspects of the council's business, employees, contractors and any person or organisation doing business with the council.

The council use of sanctions will be governed by this policy and the principles of the policy shall apply equally to any fraud against the council or against funds for which the council has responsibility. The council will not accept abuse of either its services or resources. Fraud, corruption and theft whether committed by staff (paid and volunteers), elected members, contractors, agents and/or other third parties will not be tolerated. All persons under suspicion will be treated fairly. This means that so far as it may be reasonable and/or appropriate to do so, the council will look to strike the right balance between preservation of personal rights and freedoms and the public interest need, to ensure justice which is achieved in any given case.

The council's fraud response plan, supports this policy provides further details on:

- definitions of fraud, bribery, corruption and money laundering
- what criminal offences relate to fraud, bribery, corruption and money laundering
- the council's approach to ensure adequate procedures in place to mitigate the risks
- general roles and responsibilities
- an overview of relevant contacts for advice or reporting concerns
- the range of sanctions available to the council as a deterrent fraud, bribery and associated offences

This policy is underpinned by a strategy that sets out how this policy will be implemented and delivered, with specific reference to the outcomes and priorities identified in this policy.

4. Publicity

- a. The Council's aim, and statutory responsibility, is to prevent the waste, theft and fraud of public money. With that in mind the Council has in place a wide range of measures aimed at preventing fraud, corruption and other wrong doings. These include measures to prevent and deter the commission of offences.
- b. One such deterrent measure is the publication of details of convictions obtained by the Council. The publicity surrounding a conviction for fraud has two positive effects. First, it deters others who may be seeking to commit such offences, and second it generates confidence in the general public that the Council takes a serious view of fraud and is proactive in seeking to prevent it.

- c. The Council will therefore consider publishing the name and address of each person convicted of fraud, together with details of the offence(s) in question. In reaching a decision as to whether to publish the name(s) and address(es), the Council will take the following factors into consideration;
- The specific details of the offence committed.
 - The public interest in disclosing personal information (for example, the deterrent effect referred to above).
 - Whether the publication would be proportionate.
 - The personal circumstances of the offender.
 - Whether any other person may be affected by the publication (for example, family members).
- d. This list is not exhaustive and other factors may be relevant in the circumstances of each individual case.
- e. When having considered the above factors, it is considered appropriate to publish details of a conviction, the Section 151 Officer will record the reasons for the publication, and the Monitoring Officer, will maintain a central register of the records.

5. Links to other Corporate Policies or relevant external/ legal documents

This policy should be read in conjunction with all other related policies including:

1. Counter Fraud Strategy
2. Counter Fraud Policy
3. Fraud Response Plan

A number of service areas within the council have statutory, regulatory or other enforcement powers in place and have their own service specific policies that focus on those specific operational considerations. These policies complement this policy, providing detailed operational context specific to the enforcement remit of the relevant services to which they relate. In the event, however, that conflict may arise, clarification should be sought from the Council's Borough Solicitor.