

REVISED BENEFIT PROSECUTION POLICY

The policy forms part of the Council's strategy for tackling fraud and corruption and should be read in conjunction with the Anti Fraud and Corruption Policy.

The Welfare Reform Act 2007 provided local authorities with powers to investigate and prosecute offences against certain national social security benefits alongside Housing Benefit and Council Tax Benefit. Where possible joint working will take place between Blaby District Council and the Department for Work and Pensions.

All cases will be investigated to the highest standards and will comply with all relevant legislation including:

- Police & Criminal Evidence act 1994
- Criminal Procedure & Investigations Act 1996
- Data Protection Act 1998
- Regulation of Investigatory Powers Act 2000
- Various Social Security Acts

The Council recognises the relevant deterrent value of sanctions and supports their application, where appropriate. This policy, as written, is not to be regarded as "set in stone". The Council will consider each case individually and will give thought to both mitigating and aggravating factors.

PROSECUTION POLICY

The Council will be prepared to prosecute, or ask others to prosecute, where:

1. Sufficient admissible evidence is available to justify the laying of information.
2. Prosecution is in the public interest (The Code for Crown Prosecutors provides guidance)
3. Case meets the Council's own criteria:
 - a) Interview under caution (IUC), and therefore prosecution, will be considered if ten or more weeks benefit is or appears to have been overpaid. Ten week guideline does not preclude consideration of persistent or blatant offenders.
 - b) Quality of evidence must be sufficient to offer realistic prospect of conviction.
 - c) Where an offence has been committed the Council can consider administering a caution, offering an administrative penalty, or instigating a prosecution. The Performance & Audit Manager in consultation with the Investigations Officer will decide if prosecution or an alternative sanction will be imposed.
 - d) Consideration will always be given to the following factors. These can be applied prior to the decision to IUC or afterwards. Where the decision on whether to proceed with prosecution is changed due to these factors then the reasons must be documented.
 - o Value of overpayment
 - o Duration of the offence.
 - o Fraud calculated and premeditated.
 - o False identities or documents used.
 - o Claim fraudulent from outset.
 - o Previous incidence of fraud.
 - o Collusion with others eg: landlord or employer.
 - o Position of trust eg: member or officer of the Council.
 - o Alleged illness, both mental and physical, which should be backed up by medical evidence with reference to independent medical advice if appropriate.
 - o Old age or infirmity / Young persons under the age of 21. *In general it is not considered appropriate to prosecute these groups. Nevertheless blatant offences and those which meet the public interest test will still be considered.*
 - o Voluntary disclosure.
 - o Repayment of amounts overpaid.
 - o Failure in investigation.
 - o Failure in benefit administration.
 - o Admittance of offence
 - e) Proceedings should be prepared where three invites for IUC have been ignored / refused.
 - f) Proceedings should be considered where an Administrative Penalty or a Formal Caution is declined as an alternative to legal action.

The Council will seek appropriate publicity for all successful prosecution cases.

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