



Mission Grove Primary School

PROSECUTION POLICY

VISION STATEMENT

*Everyone Aims High
Everyone is included
Creativity is valued*

VALUES

*Respect, Inclusion, Lifelong learning, High Aspirations, Resilience,
Communication.*



Approved by Governing Body
Date: January 2026

PROSECUTION POLICY

LONDON BOROUGH OF WALTHAM FOREST

ANTI-FRAUD AND CORRUPTION FRAMEWORK

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1. Introduction

1.1 This policy applies to all:

- Members and employees of the Council;
- agency workers and consultants engaged by the Council, and
- the Council's agents, partners, suppliers and contractors supplying goods or services to the Council, or performing work and/or delivering services on behalf of the Council.
- Maintained schools' employees, agency workers, partners, suppliers and contractors supplying goods or services to the school, or performing work and/or delivering services on behalf of the school.

1.2 This policy does not apply to Academies or Free Schools. Allegations of suspected fraud or financial irregularity in these instances, will be dealt with by the Counter Fraud and Investigation Team of the Education and Skills Funding Agency.

2. Undertaking our own prosecutions

2.1 These arise from statutory powers vested in the Council, as enforcing authority for specific statutory or regulatory crime within the administrative area of Waltham Forest. These powers will either arise by way of a power or a duty to act.

2.2 A power provides the Council with discretion over whether or not to investigate the commission of an offence. Whatever decision is arrived at must be capable of objective justification. In practice, this means assessing what the most appropriate action and/or sanction should be in the circumstances under consideration. Not every case would therefore result in an investigation, or prosecution.

2.3 A duty in the event of a breach of regulatory or statutory provisions invariably means that there is no discretion for the Council whether or not to investigate the commission of an offence. Therefore, where there is a duty to act the Council must act.

2.4 During and following an investigation, a two-stage test will be undertaken prior to a decision to prosecute being made ("the full code test"). Firstly, an assessment of the available evidence ("the evidential test") to determine whether or not there is enough evidence to secure a realistic prospect of conviction, will be undertaken. This is a formal professional assessment and in all cases will be drafted by officers in Legal Services.

2.5 The second part of the test is an assessment of the interests of justice ("the public interest test") i.e. understanding the extent the public interest needs to see that justice is seen to be done.

2.6 Only where both the evidential and public interest tests are satisfied will a prosecution ever follow. In reaching a decision, the Code for Crown Prosecutors will be applied.

2.7 Details of the full code test are detailed at appendix 1.

- **Liaison and cooperation with other agencies**

3.1 The Council's Corporate Anti-Fraud Team may liaise with other agencies as necessary (e.g. the Police, Crown Prosecution Service, Social Services) concerning a potential prosecution.

3.2 There will be occasions when it is necessary to undertake multi-agency investigations and/or prosecutions because criminal activity or statutory/ regulatory breaches cut across the remit of other agencies in addition to the Council. Examples include prosecutions where offences have been committed in neighbouring authorities.

3.3 Between the Council service or directorate involved in such initiative and the external organisation, arrangements exist to identify which authority will be the lead within the operation. Where the Council service is the lead, this prosecution policy will apply to the prosecution of offenders resulting from the operation.

4. Legislative Framework

4.1 Anyone involved in committing fraud against the Council may commit offences contrary to a number of acts of parliament and statutory regulations. Primarily, these may include the Theft Acts 1968 and 1978, The Criminal Attempts Act 1981, Forgery and Counterfeiting Act 1981, the Criminal Justice Act 2003, the Fraud Act 2006, Proceeds of Crime Act 2002, Criminal Finances Act 2017, the Housing Act 1984 (as amended), the Prevention of Social Housing Fraud Act (2013), Disabled Persons Parking Badges Act 2013, the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017). The Crown Prosecution Service (CPS) and/or the Council may prosecute offences covered by this legislation.

4.2 In addition, Council employees, agents or any person with whom it does business, may commit a corrupt act. These offences would be contrary to the Prevention of Corruption Acts 1906 and 1916, or the Bribery Act 2010. Only the Crown Prosecution Service can prosecute these offences.

4.3 There are also fraud offences that are contrary to the Representation of the People Acts that cannot be prosecuted by the Council and have to be referred to the police for investigation and subsequent prosecution by the Crown Prosecution Service.

4.4 In addition, offences may be committed against the Council as a social landlord that are covered by the Housing Acts. All offences covered by the Housing Acts are civil offences. However, the Prevention of Social Housing Fraud Act 2013,

makes subletting the whole of a social rented dwelling a criminal offence for which proceedings can be brought by the landlord (Council).

4.5 Potential charges to consider for investigations are included at **appendix 3**.

5. Code of Conduct of Investigations

5.1 All investigations will be undertaken in accordance with current legislation. At the date of publication, this includes:

4. The Police and Criminal Evidence Act (1984)
5. The Human Rights Act (1998)
6. The Criminal Procedures and Investigations Act (1996)
7. The Criminal Procedures and Investigations Act (1996) (Code of Practice) Order 2015
8. The Data Protection Act (2018)
9. The Regulation of Investigatory Powers Act 2000
10. Anti-Terrorism, Crime and Security Act 2001
11. The Public Interest Disclosure Act (1998)
12. Equality Act 2010
13. Protection of Freedoms Act 2012
14. Welfare Reform Act 2007
15. Care Act 2014

5.2 The investigating officers will also act in accordance with the Council's policies and procedures, in particular the employee code of conduct and grievance procedure, whistleblowing policy, and contract and financial procedure rules.

6. Prosecutions and Authorisations.

6.1 Once investigations are complete these may have an alternative sanction applied by the Corporate Anti-Fraud Team; instructions to the in-house Legal Team for prosecution or have been allocated to the appropriate law enforcement agency.

6.2 For local council tax reduction scheme cases, the Corporate Anti-Fraud Team officers will complete a sanctions pro forma with a recommendation for an alternative sanction if deemed appropriate, for authorisation by the Corporate Director of Internal Audit and Anti-Fraud Shared Service, the Deputy Head of Internal Audit and Anti-Fraud, or the Corporate Anti-Fraud Team Manager. This pro forma contains a summary of the case and reasons for recommending an alternative sanction.

6.3 For prosecution cases, or cases where an alternative sanction has been refused, the investigations officer will complete the required documents for a full prosecution file, (or an expedited file for cases where, for example, a guilty plea is indicated) including a recommendation on whether to prosecute or not. This may include an opinion from the prosecuting lawyer.

6.4 Cases of significant value, with the potential for large reputational risk, or involve staff will be referred to the Strategic Director of Finance and Governance for

approval to instruct Legal Services. In all these cases, an authority to prosecute form will be completed by Legal Services which sets out the evidential and public interests tests and whether the thresholds relating to criminal charges have been met.

- 6.5 The Senior Leadership Team may make representations to the Strategic Director of Finance and Governance before a final decision is made.
- 6.6 The decision of the Strategic Director of Finance and Governance is final.
- 6.7 Cases which involve Members of the Council will be referred to the Monitoring Officer for approval to institute proceedings if the matter falls outside of criminal offences under Section 34 of the Localism Act 2011 which is dealt with under part 9 of the Council's constitution, Code of Conduct for Members.
- 6.8 For housing tenancy-related cases, the Corporate Director of Internal Audit and Anti-Fraud Shared Service, the Deputy Head of Internal Audit and Anti-Fraud, and the Corporate Anti-Fraud Team Manager have delegated authority to issue instructions to the in-house Legal Team to prosecute under the Prevention of Social Housing Fraud Act 2013 in line with the Constitution and general scheme of management.
- 6.9 The Head of Housing Management and the Housing Managers have delegated authority to issue instructions to the in-house Legal Team to issue proceedings for civil Housing tenancy-related cases.
- 6.10 For all other cases except bribery and corruption investigations (see below), the Corporate Director of Internal Audit and Anti-Fraud Shared Service, the Deputy Head of Internal Audit and Anti-Fraud, and Corporate Anti-Fraud Team Manager have delegated authority in line with the Council's constitution and general scheme of delegation to issue instructions to legal services to prosecute.
- 6.11 Once cases have been accepted by the in-house Legal Team, these may be subject to further consultation between the Corporate Director of Internal Audit and Anti-Fraud Shared Service, the Deputy Head of Internal Audit and Anti-Fraud, the Corporate Anti-Fraud Manager and the in-house legal team if there is any significant change during the prosecution process.
- 6.12 Referrals to the Police or requests for Police assistance will be agreed by the Corporate Director of Internal Audit and Anti-Fraud Shared Service, the Deputy Head of Internal Audit and Anti-Fraud, the Corporate Anti-Fraud Manager in advance of any referral.
- 6.13 If a referral to the CPS is agreed by then the decision to accept such cases or how to proceed with prosecution will then fall under the CPS and will be subject to their own procedures and policies.
- 6.14 There will be cases where there is an identified suspect and evidence of an offence but the recommendation is not to seek a prosecution or caution. The cases should still be referred in accordance with this policy. The investigating

officer must clearly outline their reasons and recommend any alternative sanctions or actions they believe to be more appropriate.

- 6.15 All referrals relating to bribery and corruption need to be referred according to the Anti-Bribery Policy to the Internal Audit and Anti-Fraud Division who will decide if it is appropriate to investigate or whether it needs to be reported to the National Crime Agency under self-reporting.
- 6.16 If an investigation is conducted by the Corporate Anti-Fraud Team, all cases involving bribery and corruption must be referred for a sanction decision under this policy. A decision will be made on whether to refer the matter to the National Crime Agency under self-reporting requirements, or the Crown Prosecution Service, or whether to apply to the Director of the Serious Fraud Office or Director of Public Prosecutions for personally approved permission to prosecute, as set out in section 10 of the Bribery Act 2010.

- **Alternative or Parallel Sanctions**

- 7.1 There are alternatives to prosecution which may be deemed more appropriate than prosecution or undertaken in parallel to a criminal investigation. These could be a simple caution, disciplinary or management investigation and/or reporting to a professional body. There will be others associated to specific types of employment or legislation.
- 7.2 It should be noted that for some cases disciplinary action is undertaken before recommendation for prosecution has been made and formally considered. The same may also be true for reporting to professional bodies. In cases where such action has already taken place, and is then recommended for prosecution or alternative sanction, the investigations officer needs to include the full details and outcome of any such action.
- 7.3 Cases in which the management or disciplinary process is followed adhere to the Anti-Fraud and Human Resources 'working together' protocol, Code of Conduct for Employees and Members, ACAS Code of Practice on Disciplinary and Grievance Procedures and relevant employment law.
- 7.4 In April 2015, the Ministry of Justice provided updated guidance on the use of simple cautions for adult offenders. A simple caution is a formal warning that may be given by the police to persons aged 18 or over who admit to committing an offence. The scheme is designed to provide a means of dealing with low-level, mainly first-time offending within a prosecution, when specific criteria are met.
- 7.5 While the guidance itself does not apply to bodies other than the police and the CPS, it is deemed good practice and the underlying procedures are available for the council to use within a local policy as a considered alternative to prosecution for summary or either-way offences.
- 7.6 The Corporate Director of Internal Audit and Anti-Fraud Shared Service, the Deputy Head of Internal Audit and Anti-Fraud, and the Corporate Anti-Fraud Team Manager have delegated authority from the Strategic Director of Finance &

Governance to issue simple cautions for fraud-related offences. Where this is done, a record of the caution can be stored locally for a period of up to three years. Should reoffending occur within this time, this will be considered within the decision to prosecute.

- 7.7 Should a simple caution be refused, the case should still meet the criteria for consideration for prosecution.
- 7.8 There are alternative sanctions within the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 which are two levels of possible fines.
- 7.9 The council can impose a penalty of £70 where the person has negligently made an incorrect statement or representation or failed to promptly notify of a change of circumstances.
- 7.10 Where there is evidence that the liable party has had a reduction which is greater than the amount of the reduction to which they were entitled, the council may invite the liable party to agree to pay a penalty, which is set at 50 per cent of the amount of the excess reduction subject to a minimum amount of £100, and a maximum amount of £1,000.
- 7.11 The excess reduction is calculated on a daily basis beginning within the first day in respect of which the excess reduction was awarded and ending with the day on which the council knew or ought reasonably to have known that an excess reduction had been awarded.
- 7.12 There are 14 days within which the liable party can choose to withdraw their agreement.
- 7.13 Whilst the public interest factors including impact on the offender must be considered, their ability to pay the penalty should not be a consideration as a factor on its own.

8. Recovery Action

- 8.1 Recovery of losses should be sought for all investigations and these could be via voluntary reparation by the suspects, through pension benefits for employees (either voluntarily or via a forfeiture certificate), civil recovery through the courts or financial and asset recovery under the Proceeds of Crime Act 2002.
- 8.2 In proven cases of subletting, the Prevention of Social Housing Fraud Act 2013 makes allowance for the council to apply for civil or criminal profit orders.
- 8.3 The council may seek confiscation hearings under the Proceeds of Crime Act 2002 or Criminal Justice Act 1988 with a view to requesting confiscation orders for criminal or particular benefit resulting from fraudulent activities.
- 8.4 In addition, the recovery of legal costs and investigations costs should be sought in all cases, where appropriate.

All recovery options must be notified to the prosecuting lawyer including the agreement/action, compliance and any recovered amounts throughout the prosecution.

8.5 Financial investigations under the Proceeds of Crime Act 2002 must have begun prior to prosecution and full details disclosed to the prosecutions officer as representation is made to the court at the point of any conviction for the recovery process to begin.

8.6 It should be noted that recovery, whether voluntary or otherwise, will not prevent prosecution consideration.

- **Appealing Against Decisions and Complaints**

9.1 Where there are rights of representation, or appeal mechanisms, against enforcement action these will be communicated in accordance with the relevant statutory obligations. In the absence of such obligations these will be communicated at the same time as the action is taken, or, if that is not possible as soon as is reasonably practicable afterwards.

9.2 If anyone is dissatisfied with the conduct of council officers or believes there has been a failure to follow this policy, related codes, or to meet service standards, they may complain using the Council's complaints procedure.

9.3 Details of this procedure can be found on the Council's website.

- **Publicising Prosecution Actions**

10.1 Prosecution actions will be considered for publication in all instances. The Council's Legal team should be aware of such publicity if particular persons or businesses are identified.

10.2 Prosecution actions and outcomes should only be published with the intention of;

7. Reassuring community stakeholders that breaches are taken seriously and are dealt with

8. Setting standards of acceptable conduct and deterring others from undertaking similar activities

9. Promoting or increasing the flow of intelligence about similar issues that may be happening.

10.3 In all cases the equalities and humans rights of victims, witnesses, and those against whom action has been taken, shall be taken into account.

APPLICATION OF THE FULL CODE TEST

All cases must meet the full code test before an investigations officer can recommend a prosecution or alternative sanction. The full code test has two stages, being the evidential test followed by the public interest test.

In the vast majority of cases, investigations officers would not be considering their recommendation until their investigation had been completed. However, there will be cases where it is clear prior to completion of the investigation that it will not be in the public interest to proceed with a prosecution or an alternative sanction, in which case paragraph 7.13 of this policy should be applied.

The Evidential Test

The case must meet the evidential criteria in that there must be sufficient evidence for a realistic prospect of conviction. If the case does not pass the evidential stage it is not prosecutable and a sanction cannot be considered.

Examples of the factors to consider are:

General Evidential Factors:

- There must be enough evidence to provide a realistic prospect of conviction on each charge;
- A realistic prospect of conviction is an objective test. It means that a jury, bench of magistrates or judge, hearing a case alone and properly directed in accordance with the law, is more likely than not to convict the defendant of the charges alleged;
- The evidence must be usable and reliable.

Usability of Evidence

1. The evidence must be usable – is there a possibility that the evidence could be excluded in court?
2. The evidence must have been gathered correctly and be unlikely to be excluded because of the way it was gathered;
3. If it is likely to be excluded, is there sufficient other evidence to support a realistic prospect of conviction?

Reliability of Evidence

- Is there evidence which might support or detract from the reliability of a confession?
- What explanation has the defendant given – is a court likely to find it credible in the light of the evidence as a whole?
- Is the witness's background likely to weaken the prosecution case – for example does the witness have any motive that may affect his or her attitude to the case or a relevant previous conviction?
- The investigation process should be examined for breach of process, for example extensive delay. This may impact on the realistic prospect of a conviction.

If the case does pass the evidential test, the next stage is to consider the Public Interest Test.

Evidence should not be ignored just because the investigator is not sure if it is usable or reliable. The primary assessment is whether there is a realistic prospect of conviction.

There may be cases where the investigations officer is unable to fully assess the reliability of evidence or witnesses, or there may be a need to seek an opinion on use of evidence or other points of law. In these cases the investigations officer must consult with a prosecution lawyer prior to making a recommendation on the case, after authorisation by the Corporate Director of Internal Audit and Anti-Fraud Shared Service, the Deputy Head of Internal Audit and Anti-Fraud, or the Corporate Anti-Fraud Manager.

A case which does not pass the evidential test must not proceed, no matter how serious or sensitive it may be.

The Public Interest Test

Having examined the evidential test and established that there is sufficient evidence of a realistic prospect of conviction, the public interest test is then applied to determine whether a prosecution should take place or whether an alternative sanction may be suitable. As a result, the following factors need to be considered.

The factors for and against prosecution should be balanced carefully. If there are additional factors that should be taken into account then these factors should be considered. The criteria for deciding whether a case is in the public interest to prosecute are derived from the Crown Prosecution Services policy guidelines.

Factors tending in favour of prosecution or alternative sanction:

1. A conviction is likely to result in a significant sentence;
2. A conviction is likely to result in a court order which would exceed that of a conditional caution;
3. Any pre-meditation;
4. If the offence was carried out by a group;
5. If the offence was committed in order to facilitate a more serious offence;
6. If the victim was vulnerable, elderly or young, or lacked capacity to understand what was happening and the suspect took advantage of that situation;
7. The suspect was in a position of authority or trust and took advantage of this position;
8. The suspect was the ring leader or organiser;
9. The suspect has previous convictions or out of court disposals which are relevant to the present offence;
10. The suspect is alleged to have committed the offence in breach of a court order;

11. The significant positive impact on maintaining community confidence;
12. There are grounds to believe the offence is likely to continue or be repeated;
13. If the suspect is a member of staff, councillor, agent, contractor or any other person acting on behalf of the council;
14. If the suspect is an employee, volunteer or agent of any other public sector or voluntary body;
15. The impact on the reputation of the council;
16. The impact of the offence on either a member of the community or the community as a whole.

7.4 Factors tending against prosecution;

- The court is likely to impose notional penalty;
- The matter can be dealt with by out of court disposal which the suspect agrees and complies with;
- The suspect is already subject to regulatory proceedings, punitive or civil penalty which is already adequate/in place;
- It was a genuine mistake or misunderstanding;
- The loss or harm is minor, it was a single incident, particularly if caused by misjudgement;
- There has been a long delay between date of offence and date of trial, unless:
 - the offence is serious;
 - the delay was caused in whole or in part by the suspect;
 - the offence only recently came to light;
 - the complexity of the offence has meant that there has been a long investigation;
 - new investigative techniques have been used to re-examine old cases which result in a suspect being identified.
- Prosecution is likely to have an adverse impact on the victim's physical/mental health (still need to consider seriousness of offence, views of the victim and the impact upon them);
- The suspect had only a minor role in the commission of the offence;
- The suspect has put right the loss or harm caused (they cannot escape prosecution/out of court disposal solely because of this);
- The suspect is or was at the time of the offence suffering significant mental or physical ill health;
- Prosecution would require details to be made public which would harm information sources or the use of investigative techniques in future cases;
- The age of the suspect;
- Any factors within the suspect's personal life which may have contributed to their decision to commit the offence or impact on the court's sentencing recommendations.

7.5 If a suspect or their legal representative has made statements of mitigation in explanation of their actions, or on the impact of any possible prosecution upon their personal circumstances or well-being, these must be noted by the investigating officer and presented when making a recommendation for

prosecution. These will not normally have any evidential value but must be considered.

- 7.6 The investigator must also note and present if the suspect is a member of any professional body which would remove their qualification/registration if they were convicted of the offence as this may have a significant impact on their ability to continue in their chosen

POTENTIAL CHARGES

- 9.1 When considering which potential charges may apply, investigators must consider whether such charges:
5. Reflect the seriousness and extent of the crime as supported by the evidence;
 6. Enable the case to be presented clearly and simply;
 7. Allow the court adequate powers for sentencing or conviction orders.
- 9.2 Therefore the investigation officers must know the actual legislation and offences that likely apply in order to assess whether the evidence they have gathered is sufficient to prove the elements of the offence.
- 9.3 Where there are a number of offences or there are possible alternative charges the prosecutions officer may conclude that it is not the most serious charges which a suspect is eventually charged with.
- 9.4 In addition, charges against a suspect may later be changed to reflect changes in the suspects' circumstances.
- 9.5 Where cases are being progressed by the CPS, the list of potential charges they could use may exceed those within the jurisdiction of the Council.
- 9.6 In the main, cases progressed using in-house resources will relate to offences contained within the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, Disabled Persons Parking Badges Act 2013 (Section 7), the Forgery and Counterfeiting Act 1981, the Fraud Act 2006 or the Theft Act 1968 depending on when all elements of the offence occurred. However there may also be charges for associated offences or multiple types of fraud which have been committed. A non-exhaustive list of relevant legislation which may be used can be found in **Appendix 3**.
- 9.7 Charges under the Fraud Act 2006 only apply to offences which occurred after the 15 January 2007. These charges could include:
- 7 Fraud by false representation (section 2 of the Act);
 - 8 Fraud by failing to disclose information (section 3 of the Act);
 - 9 Fraud by abuse of position (section 4 of the Act).
- 9.8 The Theft Act 1968 applies prior to January 2007 when this was substantially repealed by the Fraud Act 2006 although there are some charges which still remain on the statute books. These charges could include:
- Obtaining property by deception (section 1 of the Act);
 - Fraudulent obtaining of money by transfer (section 15A of the Act);
 - Obtaining a pecuniary advantage (section 16 of the Act);
 - False accounting (section 17 of the Act);
 - Dishonestly retaining wrongful credits to accounts (section 24A of the Act).

- 9.9 Charges under the Prevention of Social Housing Fraud Act 2013 apply from 15 October 2013 (prior to this date charges may be considered under alternate legislation in line with the provisions of this policy). These charges could include:
- Knowingly subletting or parting with possession of a property let under a secure tenancy (section 1(1))
 - Dishonestly subletting or parting with possession of a property let under a secure tenancy (section 1(2)).
- 9.10 The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 were implemented following the abolition of council tax benefit. While a new area, charges under this legislation can include:
- 10 False representation for obtaining a reduction (regulation 7)
 - 11 Failing to notify a change of circumstances (regulation 8)
 - 12 Offences by bodies corporate (regulation 9)
- 9.11 A Joint Working Initiative with the Department for Work and Pensions (DWP) for cases which involve allegations of State Benefit and Housing Benefit offences and council tax reduction scheme offences has come into effect from 28 January 2019. Consideration for prosecution or sanction on these joint working cases will be in line with the DWP National Guidance applicable at the time and referred to the CPS where appropriate.
- 9.12 The Disabled Persons Parking Badges Act 2013, which came into force on 8 October 2013, assists local authorities in addressing blue badge abuse. The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2013 allow for enforcement officers to inspect and retain blue badges without a police presence. Offences under other primary legislation can include:
- Misusing a real badge or use of fake/altered badge while the vehicle is being driven (section 21(4B) of the Chronically Sick and Disabled Persons Act 1970)
 - Misusing a real badge or use of fake/altered badge while the vehicle is parked (offences under sections 115 or 117 of the Road Traffic Regulation Act 1984)
 - Dishonesty or deception committed in relation to the badge (Fraud Act 2006, Theft Act 1968, Forgery and Counterfeiting Act 1981)
 - Failing to produce a badge when required to do so without reasonable excuse (section 21 (4BD) of the Chronically Sick and Disabled Persons Act 1970).
- 9.13 Prosecutions of private sector landlords, or managing agents, will render them 'a not fit and proper person' under the licensing terms of the Council's Private Sector Housing Enforcement Policy.
- 9.14 Social housing fraud falls into the following categories;-
- Illegal subletting of a social housing property for financial gain - for these cases the Council will take civil proceedings to recover the property from

the registered tenant, and to evict the illegal occupier of the property. The Council may also seek restitution in the form of an Unjust Enrichment order to recover the proceeds acquired by the registered tenant from the illegal subletting of the property. In addition, where there is sufficient evidence to support a case under the Prevention of Social Housing Fraud Act 2013, the Council may seek to prosecute the registered tenant and to recover assets obtained through criminal activity by obtaining an order from the courts.

- Obtaining social housing with no recourse to public funds –the Council will take civil proceedings to recover the property from the tenant.
- False applications for social housing –the Council will remove the person from the housing register and will consider prosecution under the Prevention of Social Housing Fraud Act 2013.
- Falsely claiming succession or assignment rights to a social housing property - the Council will take civil proceedings to recover the property from the tenant and will consider prosecution under the Prevention of Social Housing Fraud Act 2013.
- Fraudulent right to buy application for a social housing property – for these cases the Council may seek to prosecute the person that has applied for or purchased the social housing property through the right to buy scheme. The Council may also take legal action to seek restitution, either in the form of an Unlawful Profit Order or Unjust Enrichment Order granted by the courts, or a confiscation and/or compensation order granted by the Courts under the Proceeds of Crime Act.

ALTERNATIVE LEGISLATION

- Bribery Act 2010
- Proceeds of Crime Act 2002 – money laundering
- Criminal Justice Act 1988 s.93 – pre POCA
- Identity cards Act 2006 (1 charge not repealed)
- Criminal Law Act 1977 – conspiracy
- Criminal Justice Act 1987 – conspiracy to defraud
- Accessories and Abettors Act 1861 – aiding and abetting
- Magistrates Courts Act 1980 – aiding and abetting
- Criminal Attempts Act 1981
- Forgery and Counterfeiting Act 1981
- Computer Misuse Act 1990
- Housing Act 1985 (as amended)
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013
- The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989
- The Prevention of Social Housing Fraud Act 2013
- Serious Crime Act 2015
- Serious Organised Crime and Police Act 2005
- Anti-Terrorism Crime and Security Act 2001
- Chronically Sick and Disabled Persons Act 1970
- Disabled Persons' Parking Badges Act 2013
- Road Traffic Regulation Act 1984
- Misconduct in Public Office¹
- Misfeasance in Public Office (Civil)

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• This is a common law offence and should only be used where there is no relevant statutory offence, but the behaviour or the circumstances are such that they should nevertheless be treated as criminal; where there is a statutory offence but it would be difficult or inappropriate to use it. This might arise because of evidential difficulties in proving the statutory offence in the particular circumstances; or because the maximum sentence for the statutory offence would be entirely insufficient for the seriousness of the misconduct.

