



**BRAINTREE DISTRICT COUNCIL**

**PROSECUTION POLICY**

Revised November 2012

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### **PROSECUTION POLICY**

Braintree District Council is committed to protecting public funds, and will therefore take action against persons found to be committing or attempting to commit fraud following an investigation.

#### **Housing Benefit & Council Tax Benefit Prosecution Policy**

**Braintree District Council will prosecute in all cases: -**

- where there is sufficient evidence to do so
- where it is in the public interest to do so

**When deciding if it is in the public interest, we are less likely to prosecute if the accused:**

- is seriously or terminally ill.
- has a serious mental health problem.
- is a juvenile or is a pensioner.
- made a voluntary disclosure of the offence before the Council had any suspicions.
- has caused only a small loss to public funds.
- has social factors that are considered relevant.

**We are more likely to prosecute if:**

- the offence has continued for some time.
- the accused has a position of trust (e.g. employee of the Council).
- the offence was deliberate (e.g. claims that are false from the outset).
- the offender has been warned about a similar offence in the past.
- the offence involves collusion (e.g. collusive landlord or conspiracy).

## **We will normally prosecute:**

- anyone who has been offered, and refused, an Administrative Penalty or Official Caution.
- anyone who has received an Official Caution or Administrative Penalty for a similar offence.
- anyone who has previously been prosecuted for a similar offence.
- anyone who obstructs an Authorised Officer appointed under section 110A of the Social Security Administration Act (as amended).
- anyone who makes threats against an employee of this Authority.

## **Cases other than Housing Benefit & Council Tax Benefit**

The Council will prosecute any cases of fraud and dishonesty involving its activities, subject to:

Each case being fully investigated and considered under points above.

The assessment of the merits of each case will be made by the relevant Head of Service, Director or Chief Executive. Where further advice is required consultation with the Prosecutions Referral Panel (consisting of Internal Audit, Insurance & Risk Manager, Head of Law and Governance and the Human Resources Manager or their nominees) for an independent opinion and to promote consistency, who will decide whether the matter should be referred to an external agency (e.g. Police) or to the Council's Legal Section.

Where it is decided not to prosecute an offender, the deciding officer will record, in writing, the reasons for the decision.

If it is decided that the issuing of a 'caution' by the Councils' Legal Section is appropriate then details of the caution shall be made within the written record.

This policy applies equally to all members of the public, Members and employees of Braintree District Council.

