ANTI-FRAUD AND CORRUPTION STRATEGY

THREE RIVERS DISTRICT COUNCIL
WATFORD BOROUGH COUNCIL

1 POLICY STATEMENT

1.1 Both Councils take their duty to protect public funds very seriously and are committed to a zero tolerance approach to fraud and corruption. Any loss of funds affects the Councils' ability to maintain high levels of service to their communities.

1.2 This Strategy sets out how the Councils will prevent, detect and investigate cases of fraud or corruption through a range of supporting documents and procedures. It will be reviewed at least on an annual basis. Any measures adopted will take into account the perceived risk of fraud brought about by changing economic circumstances.

1.3 Each case of suspected fraud or corruption is unique and must be considered on its own facts and merits. In line with the Councils Equality Policies there will be no discrimination against any individual or group of people on the grounds of ethnic or national origin, sex, religious beliefs, political views, sexual orientation or disability.

1.4 For the purposes of this Strategy the terms fraud and corruption are used in their widest sense and are not directly related to those sections of the criminal law under which charges might be brought. However, for further clarification the following definitions are contained in both the CIPFA publication "The Investigation of Fraud in the Public Sector" and the Audit Commission's "Fraud and Corruption Audit Manual":-

Fraud

"The intentional distortion of financial statement or other records by persons internal or external to the organisation which is carried out to conceal the misappropriation of assets or otherwise for gain."

Note: this Strategy is also relevant to misappropriation or petty theft without the distortion of financial statements or other records - i.e. wider than the above definition.

Corruption

"The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person."

Note: Council Members and officers should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

Fraud may be committed against the Council from the inside by its Members, employees or from the outside by third parties (the public, contractors and suppliers). Third parties can also influence the actions of insiders.

1.5 The Councils will ensure that they have adequately resourced and experienced Internal Audit and Fraud Teams capable of dealing with all suspected irregularities. Action will be taken as necessary against all those involved in any irregularity.

1.6 The Councils will encourage and protect those who report improper or fraudulent actions. Arrangements for this are set out in the joint Whistleblowing Policy (Appendix 1).

2 PREVENTION AND DETECTION

2.1 Culture

The success of this Strategy is based on the Councils' promotion of a culture of openness and accountability in which all Members and officers apply the highest standards of ethical behaviour and are willing to voice concerns they may have about any aspects of the Councils' work.

2.2 Control Environment

There are a number of controls in place that individually and collectively contribute to effective control environments at both authorities and therefore to the prevention, detection and investigation of fraud and corruption.

Features of the control environment are:

- sound systems of financial management;
- effective and well-documented internal controls;
- accountability through clear roles and responsibilities throughout the Councils;
- effective communication systems, both within the Councils and external to them;
- effective use of technology,
- effective budgetary control and performance monitoring systems and
- effective internal audit.

All Members and employees are required to comply with:

The Councils' Constitutions and Contract and Financial Procedure Rules.

2.3 Members

As elected representatives, all Members of both Councils have a duty to ensure that the Councils use their resources prudently and in accordance with the law.

They are bound to abide by their Codes of Conduct. Each Council has a Standards Committee to consider, advise and if necessary, investigate complaints about the conduct of a Councillor.

Members declare financial or other interests as appropriate.

2.4 Management

The Councils have determined the 'Proper Officer' appointments under the Local Government Act 1972 (as amended), including the Chief Finance Officer (Section 151) and the Monitoring Officer.

Senior managers are responsible for ensuring that procedures are in place;

- to ensure adherence to management policies and directives in order to achieve the Council's objectives;
- to safeguard assets;
- to secure the relevance, reliability and integrity of information, so ensuring as far as possible the completeness and accuracy of records; and
- to ensure compliance with statutory requirements
- to prevent fraud.

Additionally managers are expected to carry out risk assessments, including the risk of fraud.

2.5 Employees

The Councils will ensure that they have sound recruitment and disciplinary procedures in place.

The Councils will ensure that they have effective procedures for training and maintaining competence, including training in ethics, the Code of Conduct for Officers, fraud prevention, detection and investigation.

The Council will ensure that its officers are aware of this Strategy and the Whistleblowing Policy. The whistleblowing procedure aims to provide appropriate arrangements for the receipt of reports of suspected fraud and other concerns.

Any breaches of either Council's Constitution or Financial Procedure Rules will be handled in accordance with each Council's disciplinary procedures.

Employees are expected to declare interests as appropriate.

Housing Benefits is likely to be the single largest area of fraud in terms of numbers and value. The Benefits Team will apply rigorous vetting procedures to check on the eligibility of all new applicants for benefits and on notifications of changes of circumstances. All suspicious cases will be referred to the Fraud Team.

2.6 Investigating Officers

There are a number of sources of information available to the investigators which identify potential cases of fraud. These include:

- the Benefits team
- the National Fraud Initiative
- the Housing Benefit Matching Service and
- the fraud hotline – 0800 458 9200 (Freephone).

2.7 Internal Audit

Work is undertaken by Internal Audit under the Council's statutory duty to maintain an adequate and effective system of internal audit. Internal Audit maintains a continuous review of key financial and non-financial systems to ensure that there are robust controls in place which both prevent and detect frauds. Fraud may be detected during the course of this work. The audit work programme is in part based on a fraud risk assessment. The work of Internal Audit is regularly reviewed to ensure that it reflects the risks of fraud associated with changing economic circumstances.

2.8 External Audit

The Council's external audit is carried out in accordance with the 'Code of Audit Practice'. The responsibilities of the auditor and the audited body (i.e. the Council) are set out in a statement accompanying the Code.

2.9 Contractors

As a deterrent, the Councils' standard Terms and Conditions of Contract allow for the termination of a contract in the event of fraud or corruption.

2.10 The Public

The Councils have complaints procedures which provide arrangements for complaints from third parties to be received and for concerns to be aired. The complaints procedures ensure that officers responsible for dealing with complaints are alert to the potential for fraud and corruption.

There is also a fraud hotline in place for the public to report any concerns they may have.

2.11 Publicity

The Councils will regularly publicise (internally and externally) arrangements for reporting suspected cases of fraud or corruption.

They will also seek to publish details of successful prosecutions in the local media as a deterrent to others.

3 INVESTIGATION

The Internal Audit and Fraud teams will continue to work closely together on fraud related issues and there will be a joint approach to raising fraud awareness.

Whilst different procedures apply to the different types of fraud the Councils will comply with the requirements of the various relevant legislative requirements such as the Data Protection Act, Regulation of Investigatory Powers Act, the Police and Criminal Evidence Act, Proceeds of Crime Act, Fraud Act, Criminal Procedures and Investigation Act and the European Convention on Human Rights. The Councils' policies on equal opportunities and customer care will be applied at all times.

The investigation of benefit fraud is covered by the Benefit Fraud Policy (Appendix 2) and the Sanctions Policy (Appendix 3). All policies are supported by a separate Code of Conduct for Investigators which includes an outline of the procedures to be followed in an investigation.

Benefit Fraud

Any allegation of benefit fraud against a Council Member, an officer or a member of the public, must be referred to the Fraud Team.

Other Fraud and Corruption

Any allegation against a Member of either Council must be referred to the relevant Monitoring Officer (Solicitor/Head of Legal and Property Services) who will decide whether the matter should be referred to the Standards Committee.

Any other allegation of fraud or corruption must be referred to either of the two Councils' Chief Finance Officers, the Chief Executive (Three Rivers) or Managing Director (Watford).

The Audit Manager will be notified of all suspected/proven cases of fraud or corruption to inform his/her opinion on the internal control environment and to carry out any necessary system reviews to ensure that control weaknesses are addressed.

4 PARTNERSHIPS/VOLUNTARY SECTOR

Partnerships/voluntary sector organisations are likely to be in receipt of public funds and there is the potential that they may either commit fraud against the Councils or be the subject of fraud themselves. Risk assessments carried out before councils enter into a partnership or in relation to the operation of a partnership itself must give due consideration to the risk of fraud. The Councils' approach to suspected cases of fraud will depend on the nature and extent of the fraud, the terms of agreement with the organisation and the organisation's own ability to deal with the case. The Councils will seek to apply the strongest possible sanctions if fraud is proven.

5 SUMMARY

The Anti Fraud and Corruption Strategy is a statement of the both Councils' attitude towards, and procedures for tackling, fraud and corruption. The key elements are:

The Councils will not tolerate abuse of Council services.
Persistence or planned abuse will result in disciplinary/legal action being taken against the individual(s) concerned.
Anyone found defrauding the system will have to repay to the affected Council the sum of their financial gain.
Each case will be examined on its merits.
Officers will treat all customers with fairness.
Decisions on action will only be made once all the facts have been established.

6. REVISING THE STRATEGY

Amendments to this Strategy will be formally approved in accordance with the arrangements in place at each authority.

Revisions will take place on an annual basis and will take into account factors such as organisational or policy changes and the prevailing economic climate.

Appendix 1

WHISTLEBLOWING POLICY

THREE RIVERS DISTRICT COUNCIL
WATFORD BOROUGH COUNCIL

1 INTRODUCTION

1.1 Employees are often the first to realise that there may be something seriously wrong within the Councils but may find it difficult to know what to do about it. They may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Councils. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion.

1.2 The Councils have jointly introduced this Policy to reassure staff that it is safe and acceptable to speak up and to enable them to raise any concern they may have at an early stage.

1.3 Both Councils are committed to the highest possible standards of openness and accountability and have adopted a zero tolerance approach to fraud and corruption. We encourage any Council employee with serious concerns about any aspect of the Councils' work to come forward and express those concerns. These may relate to another Council employee, contractor, supplier, elected Member or representative of any other body supported by or working for or on behalf of the Councils.

1.4 The Councils will encourage all organisations working with them or on their behalf to adopt their own Whistleblowing arrangements.

1.5 These procedures are designed to ensure the greatest possible degree of confidentiality and protection for any member of staff who finds it necessary to use them.

1.6 Whilst intended primarily for Council employees, the reporting arrangements set out in this policy are also open to any member of the public, elected Member or representative of any organisation associated with either Council. The Councils also have Complaints Procedures which may be followed by members of the public.

2 AIMS OF THE POLICY

2.1 Provide avenues for you to raise concerns and receive feedback on any action taken in cases where you feel that you cannot use the normal complaints procedure.

2.2 Reassure you that we will do everything possible to protect your confidentiality and to protect you from reprisals or victimisation.

2.3 Ensure that your concerns are taken seriously and are swiftly acted upon.

2.4 Allow you to take the matter further if you are dissatisfied with either Council's response.

3 SCOPE

3.1 Whilst the policy is a key feature of our joint Anti-fraud and Corruption Strategy, its use is not restricted to fraud related issues. It covers a wide range of topics including:

- fraud, corruption or any other unlawful act
- maladministration and mismanagement
- breach of any statutory code of practice
- breach of the Councils' procedure rules or policies
- actions which are likely to cause physical danger or risk of damage to property
- failure to report and/or rectify any situation which is likely to cause significant avoidable cost or loss of income
- misuse of information which could seriously prejudice or compromise either Council
- abuse of power or the use of the Councils' powers and authority for any unauthorised or ulterior purpose.

3.2 The policy is not intended to cover staff complaints about harassment, discrimination, victimisation or other similar matter. These complaints are dealt with by other Council policies/procedures.

3.3 You may call the Fraud Hotline (Freephone 0800 458 9200) rather than use this process if that is easier for you.

4 SAFEGUARDS

4.1 Confidentiality

The Councils will do their best to protect your identity when you raise a concern and do not wish your name to be disclosed. It must be appreciated however that there may be times when it is not possible to resolve a concern without revealing your identity e.g. where your personal evidence is essential. This will be discussed with you in advance of any action being taken. You will be given all necessary support if your name has to be revealed.

4.2 Harassment or Victimisation

The Councils recognise that the decision to report a concern can be a difficult one to make not least because of the fear of reprisals from those responsible for the alleged malpractice. The Councils will not tolerate harassment or victimisation and will take action to protect you if the concern is raised in good faith.

This does not mean that if you are already the subject of disciplinary or redundancy procedures that those procedures will be halted as a result of your whistleblowing.

4.3 False Allegations

If you make an allegation in good faith but the investigation fails to support your concern, no action will be taken against you. However, any abuse of this process by employees maliciously raising unfounded allegations will be dealt with under the Councils' disciplinary arrangements.

4.4 Anonymous Allegations

You are encouraged to put your name to any issue raised. Anonymous concerns are much less powerful and are often difficult to follow up, especially if further information is required. Each case will be considered however and will be investigated depending on:

- the credibility of the concern
- the seriousness of the issue
- the possibility of verification from other sources.

5 HOW TO RAISE A CONCERN

5.1 You should normally report any concerns to your immediate manager or his/her superior for the matter to be dealt with in accordance with standard Council procedures. Line Managers must not investigate any suspected case of fraud or corruption but must refer it immediately to one of the two Chief Finance Officers, the Chief Executive (Three Rivers) or the Managing Director (Watford) who will decide what further action is to be taken.

5.2 If you feel unable to do this, e.g. you feel that your manager may be implicated or you have already done so but do not feel that the matter has been properly dealt with; you can then use the Whistleblowing process to report any concern.

5.3 Concerns should be reported to either:

The Chief Executive (Three Rivers)
The Managing Director (Watford)
Either of the two Councils' Chief Financial Officers.

These officers will decide the most appropriate method for dealing with your concern.

5.4 The earlier you express concern the easier it is to take action.

5.5 Do not try to investigate the matter yourself but pass on as much evidence or information you may have. You are not expected to prove the truth of the allegation but you will need to demonstrate that there are sufficient grounds for your concern.

5.6 You may invite your staff or trade union representative or a friend to act on your behalf.

5.7 The Councils have the resources and expertise to investigate any concern internally. If you feel it right to raise the matter externally, or have raised it internally but feel that it has not been properly investigated, there are a number of possible contact points, for example:

- your local Council Member
- the External Auditor (Grant Thornton)
- a relevant professional or regulatory body
- the Police
- the Ombudsman
- the Audit Commission (Whistleblowing Hotline – 0845 052 2646)
- the Health and Safety Executive
- Standards Board for England (matters relating to elected members).

6 THE COUNCIL'S RESPONSE

6.1 All concerns will be taken seriously and acted upon immediately.

6.2 After an initial review a decision will be taken on whether to take the matter further by way of a confidential investigation, to refer the matter to the Police, to arrange for an independent inquiry (e.g. by the external auditor) or to take no further action.

6.3 Some concerns may be resolved by agreed action without the need for a detailed investigation.

6.4 You may be approached for further information. At any meeting you may be accompanied by your representative or a friend.

6.5 We will ensure that you receive the necessary support/advice should the matter result in disciplinary or legal action at which you are required to give evidence.

6.6 Within ten working days of the concern being received the Councils will write to you (subject to any restrictions arising from the Data Protection Act):

- acknowledging that the concern has been received
- indicating how it is proposed to deal with the matter
- giving an estimate of how long it will take to provide a final response
- telling you whether any initial enquiries have been made and whether further action is proposed.

6.7 As you need to be assured that the matter has been properly addressed you will receive information about the outcome of any investigation, subject to any legal or confidentiality constraints.

7 THE RESPONSIBLE OFFICER

The Chief Executive (Three Rivers) and the Managing Director (Watford) have overall responsibility for the maintenance and operation of this policy. It will be reviewed on an annual basis in accordance with arrangements in place at each authority.

Appendix 2

HOUSING BENEFIT/COUNCIL TAX BENEFIT FRAUD POLICY

THREE RIVERS DISTRICT COUNCIL

WATFORD BOROUGH COUNCIL

1 Statement of Intention

1.1 The two Councils are committed to the delivery of Housing Benefit and Council Tax Benefit to its customers. Benefits are for those who are most vulnerable in society and should be assessed and paid within guidelines set by Central Government.

1.2 The Councils are committed to ensuring that benefits are delivered to those who have a true entitlement to them.

1.3 The Councils are committed to providing a modern and efficient Anti Fraud Service.

1.4 A strong counter fraud culture is fundamental to reducing the harm caused by fraud and in ensuring public confidence and reputation is not undermined.

1.5 The Councils have a clear commitment towards a zero tolerance towards fraud.

1.6 We will ensure that we have transparent targets with regular reporting on our performance. We must continue to employ qualified investigators.

1.7 Tackling fraud effectively needs a collaborative approach. We will develop working with partners to maximise our counter fraud activities and resources on those areas of greatest risk or social harm.

1.8 We will publicise these policies and ensure they are communicated to all staff.

1.9 We will seek to be fair and consistent in our handling of all cases and will act in accordance with the law, guidelines and the Councils' policies.

2 Introduction

2.1 The Government is committed to building a strong, healthy and prosperous society. It is therefore important that the administration of Housing and Council Tax Benefit is secure.

2.2 The Department for Work and Pensions (DWP) 2009-2012 sets out one of their strategic objectives as being to pay our customers the right benefit at the right time.

2.3 The Councils are committed to ensuring that benefits are delivered to those who have a true entitlement to them. This policy contributes towards two of Three Rivers' strategic objectives being Towards Excellence and Sustainable Communities. In respect to Watford this policy contributes towards their strategic objective of being An Efficient, Effective, Value for Money Council.

2.4 Unfortunately, economic stress can increase the incentive to commit fraud. Some people will attempt to obtain Benefits to which they are not entitled. We will ensure that our procedures and processes are sufficiently robust to reduce the risk.

2.5 The Councils recognise that as well as causing financial loss, fraud is also detrimental to the provision of services, and damaging to the reputation of, and confidence in, the Councils.

2.6 In 2008/09, more than £18.5 billion housing and council tax benefit was paid by councils in England. Latest figures indicate by the Audit Commission (AC) that more than £700 million was overpaid as a result of fraud and error.

3 Processes

3.1 To ensure that all counter fraud activities are properly managed, it is important to focus resources on fraud prevention, to investigate and rectify administrative weaknesses, to provide assurances of the integrity of the benefit system and the quality of the investigations.

3.2 Effective anti fraud activities reduce the levels of fraud and error.

3.3 The Councils believe that it is important to discourage and prevent fraud from taking place in the first instance. The Councils will implement vigorous procedures for the verification of claims. The minimum standard for verification will be the guidelines previously known as the Verification Framework. However, although claims for benefit will be subject to close scrutiny, the Councils are committed to delivering benefits within the official government timescales. The Councils will give assistance to claimants of benefits in applying for benefit and to maximise take-up

3.4 The Councils' application forms for Housing Benefit/Council Tax Benefit/Local Housing Allowance will include questions and instructions in plain language giving the customer clear directions on what is required. The forms will carry warnings against providing false information and will explain the risks that claimants will run if they choose to give incorrect information or fail to give information to the Councils about their personal circumstances. The forms will contain all the information the claimant requires to understand their rights.

3.5 The Councils will put in place systems which will allow the claimant to request assistance to complete their application form, in the office or their home, and to educate customers of the importance and need to inform the Councils of changes to their circumstances.

3.6 The Councils are committed to controls designed to prevent fraud being perpetrated by its own staff. Staff employed in Revenues and Benefits and Fraud Investigations will be vetted at the time of application. If misrepresentation is found to have occurred on the application form or at interview, disciplinary procedures will be considered, including dismissal

3.7 The Councils will comply with the requirements of the Department for Work and Pensions Housing Benefit Matching Service which compares claims for Housing Benefit and Council Tax Benefit against many other data sets.

3.8 The Councils will participate in the Audit Commission National Fraud Initiative which allows comparison of benefit data held by the Council against other data sources, e.g. Payroll.

3.9 The Councils will maintain and advertise a benefits free fraud hotline and an Internet "Report a Fraud" service to enable concerned residents to report suspected fraud confidentially.

3.10 The Councils will subscribe to the National Anti-Fraud Network (NAFN) to ensure the national partnership providing support, data and intelligence assists us in our counter fraud activities. The network obtains, collates and disseminates intelligence on fraud to all members.

3.11 The Councils will also maintain membership of the Local Authority Investigations Officer Group (LAIOG) for inter-authority networking and to enable Fraud Investigations Officers to keep abreast of new developments in the fraud arena. They will also join in appropriately with other local partnerships to ensure we are up to date with current fraud risks.

3.12 The Councils will have a zero tolerance approach to fraud.

3.13 The Councils will assess the management of counter fraud resources against best practice.

3.14 The Councils will maintain working arrangements with relevant organisations to ensure effective sharing of knowledge and data about fraud.

3.15 The Councils will raise awareness of fraud risks by training new staff, existing staff and members.

3.16 The Councils will ensure they have a robust fraud risk assessment to enable resources to be focused on areas where there is high risk of fraud.

3.17 The Councils will ensure that there is focus on both proactive and reactive work in the fraud risk areas that cause the greatest financial, social and reputational harm.

3.18 Tackling fraud effectively requires a concerted and collaborative response. When public, private and voluntary sector bodies work in partnership we benefit from sharing work programmes and specialist expertise as well as improving knowledge and information about fraud and its causes.

4 Overpayments

4.1 In all cases, the Councils will seek to recover overpayments. It would not be the Councils' intention to cause hardship. Accordingly, the ability to repay the overpayment will be considered in individual cases where hardship would be a proven outcome of pursuance of the debt. Factors such as the nature of the offence and the rate of recovery will be taken into account when determining the level of recovery. In some cases, failure to come to a reasonable arrangement for repayment will result in civil action through the courts.

4.2 Payments of benefit are often made directly to Landlords on behalf of claimants. If landlords falsify claims or assists claimants to falsify claims for benefits the Councils will consider criminal proceedings under the Social Security Administration Act 1992 or the Fraud Act 2006. Landlords who receive benefit directly are obliged to report any known changes in their tenants' circumstances. When a Landlord fails to do this, they may be paid more direct benefit than they should be paid. The Councils make Landlords aware of their duty to report known changes in circumstances. The Councils will consider recovering any overpaid benefit either directly from ongoing payments of benefit to the Landlord (even from the payments for other tenants for whom the landlord is receiving direct benefits) or through civil action through the courts.

5 Data protection Act

5.1 The Councils will be correctly registered under the Data Protection Act 1998.

6 Duties and Consideration of Fraud Investigators

6.1 When investigating fraud, the Councils' senior fraud investigators will work within the guidelines of the Police and Criminal Evidence Act 1984, the Criminal Procedures and Investigation Act 1996, and the Regulation of Investigatory Powers Act 2000. The Investigators will adhere to the requirements of their Code of Conduct and will, at all times, apply appropriate procedures to maintain confidentiality of information.

7 Duties and Consideration of Council Employees

7.1 The Councils will require all Council Officers involved in the administration of benefits to report to the Benefits Manager details of any property within the area that they are renting to tenants and any claims of benefit to which they have some connection. This may be a claim for benefit where the Officer is the landlord, the claimant, a partner, a dependant or a non-dependant on the application. If a Benefits Officer has knowledge of a claim where they are a close family member, as described by Schedule 2 of the Housing Benefit and Council Tax Benefit General Regulations, the Officer must report this case to the Benefits Manager whereupon they will be prevented from access to the case in question on the Benefits computer system.

8 Duties and Considerations of Elected Members

8.1 The Councils will require all elected Members to report details of any property within the Councils that they are renting to tenants and any claims of benefit to which they have some connection. This may be a claim for benefit where the Member is the Landlord, the claimant, a partner, a dependant or a non-dependant on the application.

9 Sanction Process

9.1 Once an investigator is satisfied that a case which they are investigating is suitable for a sanction they will inform the Fraud Manager. A file must be prepared by the investigator and it should contain a summary of the relevant facts, copies of witness statements, copies of documentary exhibits, a working copy tape of interviews under caution and a transcript and any other information relevant to making a decision.

9.2 A sanction that may be imposed can be the offer of an Administration Penalty. An Administration Penalty is the offer of a financial penalty if the person, by act or omission, has caused benefit to be overpaid to them. The legislation governing the use of penalties is contained in Section 115a of the Social Security Administration Act 1992 inserted by the Social Security (Fraud) Act 1997. Details of an Administration Penalty are contained in the Sanction Policy.

9.3 Next the Councils may issue a Formal Caution. Formal Cautions act as a deterrent for persons at the lower end of benefit related offences where criminal proceedings are not the preferred option. A formal caution can only be issued where a person has admitted the offence. See Sanction Policy

9.4 Finally, the Councils may consider issuing criminal proceedings. Various factors need to be considered as contained the Sanction Policy.

Appendix 3

SANCTIONS POLICY

THREE RIVERS DISTRICT COUNCIL
WATFORD BOROUGH COUNCIL

1 INTRODUCTION

1.1 This document sets out the policy of Three Rivers District Council and Watford Borough Council towards sanctions, including criminal prosecutions, for offences relating to Housing and Council Tax Benefit and 'National' Benefit Fraud.

1.2 'Local' benefits (Housing Benefit and Council Tax Benefit) are administered by the Councils as part of their statutory local government functions. In addition following the introduction of the Welfare Reform Act 2007 (WRA 2007) the Councils are now able to investigate and prosecute for National Benefits an example of which is Income Support. The WRA 2007 also provided provisions for access to information to carry out such activities.

2. GENERAL PRINCIPLES

2.1 Both Councils are committed to the prevention, detection, correction, investigation and, where appropriate, prosecution of fraudulent benefit claims. The issuing of an Administrative Penalty or a Formal Caution may also be considered.

2.2 The aim is to prevent criminal offences occurring by making it clear to our customers that they have a responsibility to provide accurate and timely information about their claims; to punish wrongdoing; and to deter offending.

2.3 This policy supports three of the Audit Commissions strategic policies to challenge public bodies to deliver better value for money, promote high standards of governance and accountability and encourage continual improvement in public services so they meet the changing needs of diverse communities and provide fair access for all.

2.4 Each potential fraud referral is risk assessed. This assessment will result either in cases being investigated further under criminal investigation standards as set out within the remainder of this document or rejected.

3. ORGANISATION

3.1 Criminal investigations are undertaken by the Councils Senior Investigation Officers in accordance with;

- the Police and Criminal Evidence Act 1984 (PACE)
- the Criminal Procedures and Investigations Act 1996 (CPIA)
- Human Rights Act 1998
- Fraud Act 2006
- The Regulation of Investigatory Powers Act 2000 (RIPA)
- Data Protection Act 1998
- all other relevant legislative and common-law rules

3.2 Senior Investigation Officers receive at minimum Professionalism in Security (PINS) training which is accredited by Portsmouth University.

4. SANCTIONS

4.1 Where an offence has been committed the Fraud Manager can consider offering a caution, an administrative penalty, or instigating a prosecution. The choice will depend on the factors below.

4.2 Cautions

4.2.1 A caution is an administrative sanction that the Councils are able to offer as an alternative to a prosecution as long as specific criteria are met, and the case is suitable to take to court if the caution was refused.

4.2.2 Cautions are usually aimed at the less serious benefit frauds and those where the overpayment is generally under £2,000. It also provides an additional tool for the Councils to use in those cases where the deterrent effect is considered a sufficient and suitable alternative to prosecution or an administrative penalty.

4.2.3 The offender must make a clear and reliable admission of the offence verbally or in writing and there must be a realistic prospect of conviction if the offender were to be prosecuted in line with the full Code Test of the Code for Crown Prosecutors.

4.2.4 If the customer is subsequently prosecuted for another benefit offence the caution may be cited in court.

4.2.5 Generally a person will not be offered a caution if they have previously in the last 3 years received a caution or administrative penalty.

4.2.6 A person must sign an agreement acknowledging the offence for which they receive a caution for.

4.2.7 A caution will be recorded on a data base held by the DWP

4.2.8 The Fraud Manager retains the discretion in all cases, including those which do or do not fall within any of the above criteria when other factors make the offer of a caution inappropriate for its purpose. One of many circumstances may be where a fraud involving low sums of money over a long period of time has resulted in a small overpayment.

4.3 Administrative penalties

4.3.1 An administrative penalty is the offer to the customer to agree to pay a financial penalty where the customer has caused benefit to be overpaid to them, by either an act or omission. The amount of the penalty is currently stipulated at 30 per cent of the amount of the gross overpayment.

4.3.2 The Councils can offer these penalties where the case is deemed to be not so serious and the offer of an administrative penalty is considered a suitable alternative to prosecution, and where the gross overpayment is under £2,000.

4.3.3 Unlike cautions no admission of guilt is required from the customer before offering an administrative penalty, although there is a statutory requirement for investigators to ensure that there are grounds for instituting criminal proceedings for an offence relating to the overpayment.

4.3.4 An administration penalty can only be offered to a person in respect of an overpayment.

4.3.5 If a person agrees to a penalty, the Councils will not instigate proceedings against them in respect of the offence that generated the overpayment upon which the penalty is based.

4.3.6 An interview under caution (IUC) must have been conducted.

4.37 The Fraud Manager retains the discretion in all cases, including those which do or do not fall within any of the above criteria when other factors make the offer of an administrative penalty inappropriate for its purpose. One of many circumstances may be where a fraud involving low sums of money over a long period of time has resulted in a small overpayment.

4.4 Prosecutions

4.4.1 The decision to prosecute an individual is a serious step. Fair and effective prosecution is essential to law and order. Prosecutions have serious implications for all involved including witnesses and defendants.

4.4.2 There are three stages in the decision to prosecute. The first stage in a case being considered for criminal prosecution is where **one or more of the following criteria are met:**

- The gross adjudicated overpayment is £2,000 or over
- False identities or other personal details have been used
- False or forged documents have been used
- Official documents have been altered or falsified
- The person concerned occupied a position of trust
- The person concerned assisted or encouraged others to commit offences
- There is evidence of premeditation or organised fraud
- The customer had previously been convicted of benefit fraud
- The amount of the overpayment is under £2,000 and the offer of an administrative penalty or caution is not accepted.

4.4.3 The second stage is the **evidential test**. If the case does not pass the evidential test, it must go no further no matter how serious or important it may be.

4.4.4 We must be satisfied that there is enough evidence to achieve a realistic chance of a conviction against each defendant on each charge. A realistic chance of conviction means a magistrate or jury properly directed is more likely than not to convict the defendant of the alleged charge.

4.4.5 We must consider whether the evidence can be used and is reliable. Is the evidence likely to be excluded because of the way it was gathered or because of the rules of hearsay as evidence? Is any explanations given by the defendant credible? Is the witness's background likely to weaken the prosecution case? For example, does the witness have any motive or a relevant previous conviction?

4.4.6 The third stage is the **public interest test**. The public interest test must be considered in each case where there is enough evidence to provide a realistic prospect of conviction.

4.4.7 Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect.

4.4.8 Some common public interest factors in favour of prosecution are: a conviction is likely to result in a significant sentence; there is evidence the offence was premeditated; the defendant's previous convictions are grounds for believing the offence is likely to be repeated and the offence, although not serious in itself, is widespread in the area.

4.4.9 Some common public interest factors against a prosecution are the court is likely to impose a nominal sentence, the offence was committed as a result of a genuine mistake, there has been a long delay between the offence taking place and the court hearing unless the offence has only just come to light or the complexity of the offence has meant that there has been a long investigation, the defendant is elderly and was suffering at the time of the offence from a significant mental of physical ill health

4.4.10 In all cases, including those which do not fall within any of the above criteria, the Councils retain discretion as to whether criminal proceedings are started. One of many circumstances may be where a fraud involving low sums of money over a long period of time has resulted in a small overpayment.

5. PROCEEDS OF CRIME ACT (POCA)

5.1 The Councils will refer all suitable cases to an accredited financial investigator with a view to applying to the courts for restraint and/or confiscation of identified assets. A restraint order prevents a person from dealing with specified assets. A confiscation order enables the Councils to seek to recover its losses from assets which are found to be the proceeds of crime.

6. RECOVERY OF DEBT

6.1 Where an overpayment arising from fraud is identified the Councils will take steps to recover the resultant debt, including taking action in the civil courts if necessary, in addition to any sanction it may impose in respect of that fraud.