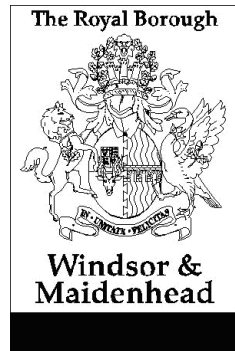


Report for: ACTION



Contains Confidential or Exempt Information	NO - Part I
Title	Resubmission of Corporate Prosecution and Sanction Policy
Responsible Officer(s)	Richard Bunn, Interim Head of Finance
Contact officer, job title and phone number	Catherine Hickman, Service Manager – Shared Audit and Investigation Service, 07917 265742
Member reporting	Cllr Paul Brimacombe
For Consideration By	Audit and Performance Review Panel
Date to be Considered	28 June 2016
Implementation Date if Not Called In	Immediately
Affected Wards	All

REPORT SUMMARY

This report presents the Corporate Prosecution and Sanction Policy which aids the Panel to discharge their responsibilities as stated in its Terms of Reference

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Anti-fraud and anti-corruption work undertaken by the council is supported by robust policies and procedures thereby protecting both the interests of the residents and the council.	Immediately

1. DETAILS OF RECOMMENDATION

RECOMMENDATION: That Audit and Performance Review Panel consider and approve the Corporate Prosecution and Sanction Policy.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Background

- 2.1 The council has responsibility for a number of enforcement activities and to protect public funds administered by the council from fraud and corruption. To fulfil these responsibilities the council may be required to prosecute offenders. The use of prosecution will be governed by the following statement and the principles of this shall apply equally to any criminal offences committed against the council, against funds for which the council has responsibility or committed contrary to legislation the council has responsibility for enforcing. The principles of this statement, its objectives and the Crown Prosecutions Services' own Code for Crown Prosecutors will however be the guide as to whether or not the council prosecutes offenders.

Option	Comments
Approve the policy. Recommended	This will ensure that activity undertaken on behalf of the council, complies with legislation.
Amend the policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.
Not approve the policy.	May result in legal challenge through not complying with legislation or inefficiencies for the Council.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Residents have confidence that public funds are being used economically, efficiently and effectively and that Council assets and interests are being safeguarded from misappropriation / loss.	<p>Significant financial losses to the Council.</p> <p>Loss of residents confidence.</p> <p>Council reputation may be affected.</p>	<p>Financial losses are identified and recovered.</p> <p>Gain residents confidence.</p> <p>Council reputation protected.</p>	N/A	N/A	31 March 2017

4. FINANCIAL DETAILS

Financial impact on the budget

There are no financial implications.

	2015/16	2016/17	2017/18
	Revenue £'000	Revenue £'000	Revenue £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

	2015/16	2016/17	2017/18
	Capital £'000	Capital £'000	Capital £'000
Addition	£0	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

5.1 Code for Crown Prosecutors.

6. VALUE FOR MONEY

6.1 Investigation work is planned to assist the council in ensuring that its assets are used efficiently and effectively and that they are being properly safeguarded against misappropriation, loss and fraud.

7. SUSTAINABILITY IMPACT APPRAISAL

7.1 N/A

8. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
1. Failure to have and follow appropriate fraud policies leads to breach of legislation resulting in fines, investigation and reputation damage.	High	Appropriate fraud policies are in place, have been approved and are followed.	Low

Risks	Uncontrolled Risk	Controls	Controlled Risk
2. Failure to provide an investigation service leads to major event, fraud and/or mismanagement of monies.	High	An appropriate investigations service is in place.	Low
3. Failure to have an investigation service in place to investigate potential losses.	High	An appropriate investigations service is in place.	Low

9. LINKS TO STRATEGIC OBJECTIVES

9.1 Helps the council accomplish its objectives by undertaking investigations into misappropriation, loss or fraud.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 N/A

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 N/A

12. PROPERTY AND ASSETS

12.1 N/A

13. ANY OTHER IMPLICATIONS

13.1 N/A

14. CONSULTATION

14.1 Consultation has taken place with the Corporate Management Team and S151 Officer.

15. TIMETABLE FOR IMPLEMENTATION

Date	Details
29/06/16	Policy will be implemented with immediate effect.

16. APPENDIX

16.1 Appendix A – Corporate Prosecution and Sanction Policy.

17. BACKGROUND INFORMATION

17.1 Previous versions of the above mentioned policy.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Corporate Management Team (CMT)	Managing Director, All Strategic Directors, Head of Finance	02/06/16	09/06/16	MD - Updates to Policy approved.
Legal Services				
Human Resources				
Cllr Brimacombe	Chair of the Audit and Performance Panel			

REPORT HISTORY

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Catherine Hickman	Service Manager, Shared Audit and Investigation Service	07917 265742

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD **CORPORATE PROSECUTION AND SANCTION POLICY**

Introduction

The Royal Borough of Windsor and Maidenhead will prosecute any person who commits a criminal offence against the systems, processes and functions of the Council and/or assaults or threatens any member or employee of the Council, if there is sufficient evidence and if, in the opinion of the Council, it is in the public interest to do so.

When deciding if it is in the public interest, all officers authorised to decide whether to prosecute on behalf of the Council will be guided by the Code for Crown Prosecutors. Whenever it is appropriate, the Council will consider offering other sanctions as an alternative to prosecution.

The Council will consider each case on its own merits before deciding whether or not to prosecute. If it is the case that the Council has suffered a material/financial loss, it may take separate action to stop further payments/ recover money, irrespective of whether it decides to take criminal proceedings, and where steps to prevent further losses or recover losses already incurred are not available or desirable in the course of any criminal proceedings.

Alternatives to Prosecution - Cautions

In the issuing of Cautions the Council will be guided by the relevant statutory Guidance, currently the Ministry of Justice – Simple Caution for Adult Offender guidance.

Alternatives to Prosecution - Statutory Sanctions

The Council may consider a Statutory Sanction, whether a monetary penalty or otherwise, as an alternative to prosecution for an offence where the imposition or offer of such a sanction for the specified offence or offences is prescribed by law.

Code for Crown Prosecutors – The Evidential Test

When making a decision on whether to prosecute, the Council will first consider whether there is sufficient evidence:

- a) is there sufficient evidence of the commission of an offence to provide a realistic prospect of conviction? And
- b) is the evidence reliable and able to be used in court?

Code for Crown Prosecutors – The Public Interest Test

Once the Evidential Test has been satisfied, the Council will then consider whether the Public Interest Test is satisfied. The Public Interest Test will be assessed following the guidance in the “Code for Crown Prosecutors” to ensure that any prosecution is in the public interest.

Other Sanctions or Penalties

Where a person engages in conduct which is not criminal, but is otherwise prohibited by legal statute or regulation applicable to the functions of the Council, or fails in their legal obligation to the Council, the Council may consider the imposition or offer of a sanction or monetary penalty where to impose a monetary penalty or sanction for the given circumstances is prescribed by law.