



**COUNTER FRAUD
SANCTION & PROSECUTION
POLICY**

MARCH 2026

Reviewed:
Next Review:

M Cameron
Head of Internal Audit

March 2026
January 2029



Sanction & Prosecution Policy

1 Introduction and Purpose

1.1 The London Borough of Enfield (“the Council”) is committed to:

- Protecting public funds;
- Maintaining public confidence;
- Preventing and addressing fraud, corruption and associated criminality.

1.2 This Sanction and Prosecution Policy sets out the framework applied by the Council when deciding whether to pursue sanctions following **the investigation of fraud or related offences**. All investigations will be conducted to a standard appropriate for criminal proceedings. Sanction options include:

- Criminal prosecution;
- Civil action;
- Financial recovery;
- Other alternative outcomes.

1.3 This policy ensures decisions are lawful, fair, consistent, proportionate and transparent, and that they support both deterrence and the wider public interest.

1.4 This policy applies to investigations undertaken by or on behalf of the Council, including those involving:

- Council employees and Members;
- Agency workers and consultants engaged by the Council;
- Tenants, residents and service users;
- The Council’s agents, partners, suppliers and external organisations working for or on behalf of the Council.

2 Statutory and Legal Framework

2.1 Section 151, Local Government Act 1972

Under section 151 of the Local Government Act 1972, the Council has a statutory duty to make arrangements for the proper administration of its financial affairs. This includes taking appropriate action to prevent, detect and respond to fraud and financial irregularity, including the pursuit of sanctions and prosecution where justified.

2.2 Section 17, Crime and Disorder Act 1998

Section 17 of the Crime and Disorder Act 1998 places a duty on the Council to exercise its various functions with due regard to the need to do all that it reasonably can to prevent crime and disorder in its area. The effective investigation of fraud and the use of appropriate sanctions are key mechanisms by which the Council fulfils this duty.

Sanction & Prosecution Policy

2.3 Crown Prosecution Service Code for Crown Prosecutors

When making decisions on prosecution, the Council will have due regard to the principles set out in the Crown Prosecution Service (CPS) Code for Crown Prosecutors. Decisions will be guided by the application of the two-stage test:

- the evidential test; and
- the public interest test.

2.4 Other Relevant Legislation and Guidance

Depending on the nature of the offence, the Council may consider action under, but not limited to:

- Theft Act 1968;
- Criminal Attempts Act 1981;
- Forgery and Counterfeiting Act 1981;
- Housing Act 1985;
- Proceeds of Crime Act 2002;
- Fraud Act 2006;
- Bribery Act 2010 (where applicable);
- Prevention of Social Housing Fraud Act 2013;
- Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013;
- Disabled Persons Parking Badges Act 2013;
- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017).

Where appropriate, the Council will refer cases to the police for investigation, with any resulting prosecutions undertaken by the Crown Prosecution Service. Fraud offences under the Representation of the People Acts, which the Council has no power to prosecute, will be referred to the police for investigation and prosecution by the Crown Prosecution Service.

3 Principles Governing Sanction Decisions

3.1 The Council will apply the following principles when determining the appropriate outcome of an investigation:

- **Legality** – all actions must be lawful and within the Council's powers
- **Proportionality** – sanctions are proportionate to the offence and harm caused
- **Consistency** – similar cases will be treated in a similar manner
- **Transparency** – decisions will be documented and capable of scrutiny
- **Public Interest** – outcomes must serve the wider interests of the community.

Sanction & Prosecution Policy

- 3.2** Each case will be decided on its individual merit. No individual has an automatic right to avoid prosecution or formal sanction.

Evidential Considerations

- 3.3** Before any formal sanction is pursued, the Council must be satisfied that there is sufficient, admissible and reliable evidence to provide a realistic prospect of conviction or success in civil proceedings, in line with the CPS evidential test.
- 3.4** Consideration will be given to the likely defence case and how it may affect the prospects of securing a conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

Public Interest Considerations

- 3.5** Where the evidential test is met, the Council will assess whether formal action is in the public interest, and that any appropriate out-of-court disposals have been considered. Relevant factors may include:
- The seriousness of the offence;
 - The level of financial loss or harm caused;
 - Abuse of a position of trust;
 - Whether the conduct was deliberate or repeated;
 - The need for deterrence;
 - The impact on victims, the Council and the wider community.
- 3.6** Mitigating factors, such as personal circumstances, health issues, or early admission, may be considered but will not automatically prevent formal action.

4 Available Sanctions

- 4.1** The Council may apply one or more of the following sanctions:
- Criminal prosecution;
 - Civil recovery of losses;
 - Formal cautions or alternative disposals (where lawful);
 - Financial penalties or administrative sanctions;
 - Disciplinary action (for employees);
 - Termination of contracts or tenancies;
 - Referral to professional or regulatory bodies.
- 4.2** The Council will seek to recover losses in all cases, regardless of whether criminal proceedings are pursued.

Sanction & Prosecution Policy

5 Decision-Making and Authorisation

- 5.1** Sanction decisions will be based on a documented assessment of evidential sufficiency and public interest.
- 5.2** Completed assessments are reviewed by Senior Counter Fraud Investigators, who provide sanction recommendations for consideration and authorisation by the Counter Fraud Manager. The Head of Internal Audit is ordinarily responsible for authorising referrals for prosecution.
- 5.3** Depending on the nature of the case, certain decisions may require authorisation from the Director of Law and Governance and the Section 151 Officer, particularly where the matter involves a Council employee.
- 5.4** Where cases have been recommended for criminal prosecution or civil recovery the matter will be referred to Legal Services to pursue action.

6 Potential Charges

- 6.1** When considering potential charges, investigators will liaise with Legal Services to ensure charges:
- Reflect the seriousness and extent of the offence
 - Allow the case to be presented clearly
 - Provide the court with appropriate sentencing or conviction options.
- 6.2** Charges may relate to, but are not limited to, the legislation set out in **Section 2.4**, some of which is detailed further in the following paragraphs.

Theft Act 1968

- 6.3** Charges under the Theft Act 1968 could include:
- Obtaining property by deception (section 1)
 - Fraudulent obtaining of money by transfer (section 15A)
 - Obtaining a pecuniary advantage (section 16)
 - False accounting (section 17)
 - Dishonestly retaining wrongful credits to accounts (section 24A).

Fraud Act 2006

- 6.4** Charges under the Fraud Act 2006 could include:
- Fraud by false representation (section 2)
 - Fraud by failing to disclose information (section 3)
 - Fraud by abuse of position (section 4).

Prevention of Social Housing Fraud Act (POSHFA) 2013

- 6.5** Charges under POSHFA could include:

Sanction & Prosecution Policy

- 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)).

Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013

6.6 Charges under the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 could include:

- False representation for obtaining a reduction (regulation 7)
- Failing to notify a change of circumstances (regulation 8).

6.7 A Joint Working Initiative with the Department for Work and Pensions (DWP) came into effect on 28 January 2019 for cases involving State Benefit, Housing Benefit, and Council Tax Reduction Scheme offences. Decisions on prosecution or sanction in any joint cases will follow the DWP's current National Guidance and be referred to the CPS where appropriate.

Disabled Persons Parking Badges Act 2013

6.8 This legislation assists local authorities in addressing blue badge abuse. Offences are included in the following legislation:

- Misusing a real badge or using a 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 using a fake/altered badge while the vehicle is parked (offences under sections 115 or 117 of the Road Traffic Regulation Act 1984)
- 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).
- Dishonesty or deception committed in relation to the badge (Fraud Act 2006, Theft Act 1968, Forgery and Counterfeiting Act 1981).

6.9 Where multiple or alternative offences apply, the eventual charge may not be the most serious available. Charges may be amended at a later date if the suspect's circumstances change.

7 Alternative or Parallel Sanctions

7.1 Alternatives to prosecution are detailed below, and may run alongside criminal investigation:

- Simple cautions;
- Disciplinary or management action;
- Referral to professional bodies (e.g. The Law Society, Social Work

Sanction & Prosecution Policy

- England);
 - Removal from the housing register where there is a false application for social housing;
 - Civil possession proceedings to recover social housing in respect of falsely claimed succession or assignment rights;
 - Civil proceedings to recover property where it has been obtained by someone with no recourse to public funds;
 - Civil proceedings to recover property and evict illegal occupier in subletting of a social housing property;
 - Unlawful profit orders for illegally subletting a social housing tenancy;
 - Unjust Enrichment orders.
- 7.2** Where disciplinary action or professional referrals have already taken place, investigators must record the details and outcomes when later recommending prosecution or another sanction.
- 7.3** Criminal proceedings may influence when disciplinary action is taken, although in some cases both processes may proceed at the same time to protect the public interest and ensure timely disciplinary proceedings.
- 7.4** A criminal investigation may take priority if parallel disciplinary action risks prejudicing the case. However, where there is strong public interest in suspending or removing an individual, a case conference should be held to address the circumstances and disclosure requirements.
- 7.5** Disciplinary cases must comply with the Council's Codes of Conduct and the Principles of Managing Misconduct, the ACAS Code of Practice, and relevant employment law.
- 7.6** If an employee resigns during an investigation, the Council will seek to conclude the process within their notice period, especially where gross misconduct is suspected.
- 7.7** Certain evidence from criminal investigations, such as interview-under-caution transcripts, cannot be shared with civil or disciplinary proceedings.
- 7.8** Under the Council Tax Reduction Schemes Regulations 2013, the Council may impose:
- a £70 penalty for negligent inaccuracies or failure to report a change in circumstance;
 - a penalty of 50% of any excess reduction received (minimum £100, maximum £1,000), with a 14-day withdrawal period.

Ability to pay will not be considered in isolation when deciding on penalties.

Sanction & Prosecution Policy

8 Recovery Action

- 8.1** The Council will seek to recover losses in all investigations. Recovery may be achieved through voluntary repayment, deductions from employee pension benefits (voluntary or via forfeiture), civil court action, or financial and asset recovery under the Proceeds of Crime Act 2002.
- 8.2** The Council may also pursue confiscation hearings under the Proceeds of Crime Act 2002 or the Criminal Justice Act 1988 with a view to recovering criminal benefit gained through fraudulent activity.
- 8.3** Financial investigations under the Proceeds of Crime Act 2002 must commence before prosecution, and full details must be provided to the prosecutions officer so representations can be made at conviction for the recovery process to begin.
- 8.4** In proven subletting cases, the Prevention of Social Housing Fraud Act 2013 allows the Council to apply for civil or criminal profit orders. Where evidence supports this, referral instructions will include an application for a profit order to the court.
- 8.5** Recovery of legal and investigation costs will be pursued in all appropriate cases.
- 8.6** Legal Services will be informed of all recovery actions, including agreements, compliance and amounts recovered throughout the prosecution process.
- 8.7** Recovery, whether voluntary or otherwise, does not prevent consideration of prosecution.

9 Appealing Against Decisions and Complaints

- 9.1** Where statutory rights of representation or appeal exist, these will be communicated in line with the relevant legal requirements. If no such obligation applies, details will be provided at the same time enforcement action is taken or as soon as reasonably practicable afterwards.
- 9.2** Anyone dissatisfied with the conduct of Council officers, or who believes this policy, related codes or service standards have not been followed, may submit a complaint through the Council's complaints procedure. Information about the Council's complaints procedure is available on the Council's website.

10 Publicising Prosecution Actions

- 10.1** Prosecution outcomes will be considered for publication in all cases, in consultation with the Council's Communications Team. Where individuals or businesses are identified, the Counter Fraud Manager will notify Legal Services of any proposed publicity.

Sanction & Prosecution Policy

11 Equality, Human Rights and Data Protection

- 11.1** The Council will have due regard to its obligations under the Equality Act 2010 and the Human Rights Act 1998 when applying this policy.
- 11.2** Personal data will be processed in accordance with data protection legislation and information-sharing agreements.

12 Review and Governance

- 12.1** This Policy will be reviewed every three years to ensure it remains legally compliant, effective, and aligned with best practice, or sooner where legislative changes require.