

Elmbridge Borough Council

**Policy for prevention, detection and
sanctioning of fraud in claims for Council Tax
Support, Council Tax Discounts and Housing
Assistance**

March 2018

Scope of this Policy

This policy covers the functions of Council Tax Support (previously Council Tax Benefit), Council Tax Discounts and Housing Services. This policy document sits as an Appendix to the Council's Corporate Anti-Fraud and Corruption Policy.

Introduction

Elmbridge Borough Council is firmly committed to protecting public funds, specifically the awarding of Council Tax Support and any other linked benefits and discounts. The Council is committed to tackling fraud in Council Tax, Single Person Discounts (SPDs). The council is also committed to preventing and detecting fraud in other services provided by the Housing department, including Housing Applications and Housing Register. The qualified Investigation Team also work closely with the authorities main housing provider Paragon and other social Landlords to help combat Tenancy Fraud. In pursuit of these objectives, the Council seeks to maximise activities for the prevention, detection and investigations of these frauds. Where such frauds are established, Elmbridge Council is firmly committed to taking the appropriate actions in the form of applying legal sanctions, recovering properties and ensuring that all debts resulting from fraud are recovered.

Use of the Council's legal powers

Elmbridge Council will carry out its duties to prevent, detect, investigate and enforce in accordance with the law. These duties and powers include:

- **Local Government Finance Act 1972** gives the council the authority to investigate and prosecute offences.
- **Criminal Procedure and Investigations Act 1996** (CPIA) ensures that all investigations and evidence are recorded retained and revealed in a durable form.
- **Regulatory Investigation Powers Act 2000**(RIPA) ensures that proportionality and necessity are considered when conducting surveillance, e.g. Human Rights are not infringed.
- **Data Protection Act 1998** ensures that all documents containing personal information obtained during any investigation are obtained fairly and lawfully and are securely kept. This Act also ensures fair and lawful sharing of such information where appropriate.
- **Police and Criminal Evidence Act 1984** (PACE) governs the way we interview customer under caution, to protect their legal rights.
- **Human Rights Act 1998** means the council must treat everyone equally, with fairness, dignity and respect.
- **Equalities Act 2010** ensures the Council does not treat any customer differently because they have a protected characteristic.
- **Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013** enables the council to pursue cases of false representation and failure to inform of a change in circumstances.
- **Social Security Administration Act 1992, as amended by the Fraud Act 2001** enables the council to pursue cases of failing to notify changes of circumstances, false statements and dishonesty.

- **Fraud Act 2006** enables the council to pursue cases where customers have acted dishonestly, intending to make a gain or cause a loss to another.
- **Theft Act (1968 and 1978 as amended)** covers the offences of: dishonestly obtaining a money transfer, false accounting, and dishonestly obtaining a wrongful credit.
- **Proceeds of Crime Act 2002 (POCA)** enables the council to bring proceedings following a successful prosecution to financially punish those that have benefitted from crime against the authority.
- **The Forgery and Counterfeiting Act 1981** relates to offences of identity fraud and fabricating false statements and documents.
- **Prevention of Social Housing Fraud Act 2013** relates to offences surrounding illegally subletting of Social Housing by tenants.
- **Housing Acts** (various) relate to fraud offences.

Fraud Prevention and Detection

Elmbridge will undertake a number of activities to assist in the prevention of fraud, these include:

- Preventing fraud by educating residents about the importance of what constitutes fraud and to encourage them to report incidents of suspected fraud. By publicising proven cases of fraud, we are further raising awareness of this high-profile area. Carrying out robust checking of documents to verify claims for Council Tax Support and Housing services.
- The operation of and advertising of, a confidential fraud reporting hotline.
- Providing and advertising a dedicated email address for reporting fraud.
- Running ad hoc campaigns and raising awareness amongst Elmbridge residents to encourage reporting of potential fraud.
- Carrying out a robust checking process for new applications and change of circumstances, to ensure that documents are cross checked to verify the information.
- Undertaking training amongst council staff and members of what constitutes fraud and how to make referrals of potential fraud.
- The Council will ensure that information is made available on fraud awareness through a range of outlets including its own web site, external publications and press releases.
- It will also encourage other sections in the authority, external partners and the public to identify potential fraudulent cases by providing easy to use, and confidential, referral mechanisms including a dedicated phone fraud hotline. All Council Employees are trained on fraud awareness.

Elmbridge will also undertake a number of activities to assist in the detection of fraud, these include

- National data matching. Information is checked with other Government data bases and mismatches are passed securely and electronically to the Authority for investigation. These may be undeclared earnings, undeclared Benefit, etc.
- National Fraud Initiative. This is a national data matching exercise that compares records held with employers and other agencies and highlights

anomalies against benefit databases. These are then passed to the authority for investigation, through a risk based analysis of high, medium and low risk. The cases are prioritised in this order.

- Surrey County Council led Single Person Discount fraud initiatives. A data matching exercise to reduce single person discount fraud.
- Paragon and EBC data matching on Tenancy Holders.
- any other schemes as may become applicable to improve the ability to prevent and detect fraud.

Investigation

The Council has a dedicated Fraud Investigation Team that deals with Council Services. Investigation Officers investigate cases of possible fraud. Assessment Officers and Council Tax Officers can also be involved in reviewing and identifying potential fraud referring Fraud to the Investigations Team.

Fraud referrals come from a number of sources, these include referrals from assessment officers, other council departments, data matching exercises, partner agencies and anonymous reporting from members of the public.

A risk based fraud referral system operates to receive, identify, prioritise and allocate cases more likely to be fraudulent. All referrals for investigation are risk assessed by a trained member of staff. The risk assessment is completed to score referrals in to high, medium and low risk categories. This takes in to account the credibility of the source of the information and the quality of the information, which helps ensure an objective and consistent approach. High risk cases are taken on as a priority. Reviews of this risk based system are undertaken at least annually.

Referrals that meet the appropriate risk score are allocated to an Investigations Officer to investigate. All Investigation Officers are highly qualified as Accredited Counter Fraud officers in the qualification of Professionalism in Security (PINS) level 1 to 7, or equivalent. They have also undertaken a number of other relevant qualifications to enable them to carry out their role of investigating fraud.

Referrals for investigation are recorded methodically, with a specific, securely held document case file. Investigations involve the obtaining and gathering of information and evidence. These are carried out strictly in accordance with the relevant legal requirements.

Investigations involving working with, and sharing information with, other internal departments within the council and external partner agencies are carried out within the remit of formal partnership working agreements. These agencies include The National Anti-Fraud Network (NAFN), The Department for Work and Pensions (DWP), The Police, Registered Social Landlords (RSLs). These are also covered through a data sharing protocol. Working with these agencies will sometimes involve joint working practices that lead onto joint investigations. Any information that is obtained or shared is done so lawfully.

Investigations sometimes involve taking formal witness statements. These are carried out following best practice and lawfully in accordance with PACE and PINS training requirements. Investigations that require obtaining specific information and evidence from employers or financial institutions are carried out by an officer formally authorised by the Council to use such powers under PINS 9 and 9A or equivalent.

Investigations that involve Interviews Under Caution (IUCs), are carried out strictly in accordance with Law contained in the Police and Criminal Evidence Act (PACE).

Sanctions for Fraud

Where fraud is established, Elmbridge Council is firmly committed to apply timely sanctions which include, but is not limited to

- Prosecution,
- Financial Penalties as an alternative to prosecution or
- Formal Cautions,
- Recovery of any overpayments created as a result of fraud.
- Withdrawal of housing assistance

Elmbridge Council is firmly committed to undertake criminal court prosecutions against the most serious fraudsters. We will also work in partnership with Registered Housing Providers, seeking to recover tenancies that have been fraudulently obtained.

How decisions are made on the most appropriate sanctions

Action will be considered in all cases by reference to an internal Sanction Decision Making Procedure. The procedure is based on the principles of The Code for Crown Prosecutors, in particular the evidential and public interest tests. It also looks at the duration and severity of the offences. This ensures a fair and consistent approach to each individual case.

Where prosecution is not appropriate, officers will consider an alternative action in the form of a Financial Penalty (fine) or Formal Caution (providing the offence has been admitted). This course of action will be recommended by the Team Leader for Investigations and must be supported by a Manager from the Benefits Team.

Cases that are considered appropriate for prosecution action are presented to the Prosecution Panel. The panel use the Sanctions Decision Making Procedure to make a decision on commencing action through the courts for a case. The panel is constituted by the Head of Housing, a member of the legal team and a manager from the Benefits Team. The Team Leader for Investigations will present cases to the panel.

Recovery of Proceeds from fraudulent activity

In addition, where substantial assets have been gained through criminal activity, the authority will seek to take action to recover these monies via the Proceeds of Crime Act 2002 (POCA).

Monitoring Processes

A review of the effectiveness of its existing risk analysis structure and programme, will be carried out periodically, at least annually, and appropriate changes will be made where necessary.

A performance management regime, covering investigations and sanctions activity, will be embedded as part of the Council's core corporate performance reporting framework.

Through corporate monitoring and service planning, the Council will keep under constant review the appropriate level of resources required to operate the fraud investigation function.