



Bromsgrove
District Council

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**Housing/Council Tax Benefit
Prosecution Policy**

2007-08



BENEFIT FRAUD PROSECUTION POLICY

Bromsgrove Council has the right to prosecute cases involving fraudulent claims for Housing Benefit and Council Tax Benefit. It does not have legal powers to prosecute National Benefit Offences, as paid by the Department for Work and Pensions. Bromsgrove Council will, however, participate in prosecutions where National Benefit Offences are paid in addition to Housing Benefit/Council Tax Benefit. In these cases the Department for Work and Pensions would act on the Council's behalf.

Bromsgrove District Council will investigate suspected benefit offences up to a criminal standard of proof.

The purpose of the investigation is to establish the facts in an equitable and objective manner.

Investigation Officers are charged with the duty of investigating under the Police and Criminal Evidence Act 1984, and will therefore work within the guidelines of this Act, in addition to other investigative legislation. Examples are: Human Rights Act 1998, Data Protection Act 1998, Fraud Act 2006, other relevant Acts of Parliament and Social Security Legislation. Council Policies on Customer Care, and Equalities and Diversity Policy, will also be adhered to.

Investigation Officers will undertake enquiries or activities at all times of day (or night, where applicable) in order to ascertain if offences have been committed. Activities may include authorised Surveillance where Officers may follow someone covertly if they have reasonable suspicion to suspect that an offence has been committed, or is being committed. Directed surveillance will be undertaken within the guidelines of the Regulation of Investigatory Powers Act 2000. Telecommunications data may also be obtained where applicable. Data that may be acquired with authorisation include:

- names
- addresses
- telephone numbers to find out who is called and when, but not the content of the calls
- IP addresses – when a session online was started and ended but not the website viewed
- Geographical location of the calling or called parties.

Communications data surveillance does not monitor content.

The Council will use all powers granted to the Council by the Secretary of State for Social Security under the Social Security Administration (Fraud) Act 1997, namely the powers of inspection and the power to obtain information from landlords.

When landlords commit an offence by failing to report changes in their tenant's circumstances or help the claimant to commit benefit fraud, landlords will be investigated and may be prosecuted by the Council. The Council makes Landlords aware of their duty to report changes in circumstances. Any overpaid benefit to a Landlord will be recovered, either directly from ongoing payments of benefit to the Landlord or through civil recovery via the courts.

Where necessary, the Council will work in co-operation with other organisations such as the Police, Department for Work and Pensions, Home Office, and Her Majesty's Revenue and Customs, in order to combat benefit fraud.

It is the duty of the Fraud Investigators to look at all referrals of suspected or alleged benefit fraud and to establish the facts of each case. The Council's Officers will at all times apply appropriate procedures to maintain confidentiality.

The following section confirms Bromsgrove Council's policy on prosecution:

- The Council is prepared to prosecute, or ask others to prosecute, appropriate cases throughout the full range of Benefit Fraud;
- The final decision as to whether prosecute or not, will be taken by the Head of Legal & Democratic Services and this decision will be binding;
- Elected members will not make decisions about any cases;
- The Council will seek to prosecute any person who declines to accept an Administrative Penalty or Formal Caution as an alternative to legal action;
- The following factors will be taken into account:
 - The amount of money obtained by the fraud
 - The duration of the offence
 - The suspects age, physical and mental condition
 - Voluntary disclosure
 - Previous incidence of fraud
 - Social factors
 - The amount of evidence obtained and the reliability of witnesses
 - Possible failure or delay in the benefit sections administration.

Bromsgrove Council does not apply strict financial levels to the type of sanction that may be appropriate based on the level of the overpayment.

In cases of Joint Working with the Department for Work and Pensions, liaison and consideration will take place, in accordance with their policies:

- Overpayment more than £50 but less than £2000 – Formal Caution/Administrative Penalty may apply
- Overpayment of more than £2000 – Prosecution may apply.

In cases deemed suitable for a Formal Caution or Administrative Penalty the following factors will be considered:

- the person has committed an offence, which would normally result in a prosecution
- the evidence is sufficient for a prosecution
- the person is aware of the terms of the Formal Caution/Administrative Penalty
- the person will agree to accept the Formal Caution/Administrative Penalty

The Council will publicise successfully prosecuted cases if:

- the conviction will generate positive publicity
- if the release may help to deter others from fraud
- to promote the Councils Anti-Fraud work
- to promote the Councils fraud Hotline.

Decisions on Benefit Fraud Investigations will not discriminate or condone unacceptable behaviour, in relation to race, colour, sexual orientation, gender, gender re-assignment, religion, age, disability, income group, marital status or geographical location. Decisions to prosecute or sanction such cases will be taken on individual merit, evidence obtained and legal requirements.