

## STROUD DISTRICT COUNCIL

### Revenue and Benefits

#### Prosecution Policy

This document sets out Stroud District Council's policy on the prosecution of persons who have committed criminal offences against the authority by fraudulent claims to Housing Benefit and Council Tax Benefit. All action will be taken in a fair and equitable manner having particular regard to the Human Rights Act, Race Relations Act and any other legislation or Policies, which may have an impact.

It is our intention that Stroud District Council will provide a secure and efficient benefits administration and that this policy forms an integral part in providing an effective deterrent. This policy contributes to the implementation of Stroud District Council's corporate aims of working with others to make the district a better place to live and work, which incorporates the objective to prevent and reduce crime and disorder.

#### **Deciding whether to prosecute**

The decision to refer a case for prosecution or not has been delegated to the Head of Revenue and Benefit Services, who will, apply the following criteria when making that decision:

1. *Is there sufficient evidence to realistically expect a conviction?*
2. *Is a prosecution in the public interest?*
3. *Will publicity provide deterrence?*

The following guidelines should be taken into account:

- The amount of money obtained;
- The duration of the offence;
- The suspect's physical and mental condition;
- Voluntary disclosure;
- Any previous incidence of fraud;
- Social factors
- How clear cut the evidence is;
- Any failure in the Investigation;
- Any failure in benefit administration, including delay;
- Whether a conviction is likely to result in a significant sentence;

- Whether there is evidence that the defendant is involved in organized fraud;
- Whether there are grounds for believing that the offence is likely to be continued or repeated
- Whether the offence, although not serious in itself, is widespread in the area where it is committed
- Whether the defendant has put right the loss or harm caused (suspects must NOT avoid prosecution simply because they can repay)

In general the guidelines below should be followed when deciding the appropriate action:

<b>Amount of Total Overpayment Up to £400</b>	Appropriate Action Official Caution to be administered by the Investigations Department. To be retained on file for 2 years from the date given and notified to the Professional Standards Unit of the Department of Social Security in line with instructions.
<b>£401 - £1,500</b>	Administrative penalty to be given by the Investigations Department. To be retained on file for 6 years or 18 months after the date the overpayment and penalty has been paid in full.
<b>£1,501 - £3,000</b>	Prosecution under Social Security Legislation or Theft Act were appropriate.
<b>Over £3,001</b>	Prosecution under the Theft Act or other appropriate legislation

#### **Who takes the prosecution?**

The authority has the necessary powers in respect of Housing Benefit and Council Tax Benefit and will usually do so. Where appropriate the authority may use one of the following agencies:

Crown Prosecution Service

Department of Social Security Solicitors Branch