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**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**  
**POLICY**  
ON CASE DISPOSAL  
(INCLUDING THE USE OF PROSECUTION AND OTHER SANCTIONS)

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**Approved by the Audit & Governance Committee on 16 February 2021**

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**  
**ON CASE DISPOSAL**  
**(INCLUDING THE USE OF PROSECUTION AND OTHER**  
**SANCTIONS)**

**Statement**

The Royal Borough of Windsor and Maidenhead Council 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.

### **1. Introduction**

The Royal Borough of Windsor and Maidenhead Council (The Council) 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.

#### **1.1**

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.

#### **1.2**

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.

#### **1.3**

The Council authorises case disposal decisions to be made in accordance with the guidance in the Crown Prosecution Service guidance on charging responsibility, noting that for 'CPS' will be read 'Legal Services' and for 'police' will be read 'investigation managers', in so far as this is possible.

### **2 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.

### **3 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.

### **4 Code for Crown Prosecutors – The Evidential Test**

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

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

### **5 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.

### **6 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 and/or monetary penalty where to impose a monetary penalty or sanction for the given circumstances is prescribed by law. The Council may also offer such sanctions and/or monetary penalties where a person undertakes criminal conduct but the council determine that a prosecution is not to be undertaken for any reason.

**7 Investigation Costs**

7.1

In all cases where the council is put to the cost of an investigation (and this may also include, but is not limited to, costs associated with civil and/or criminal proceedings and enforcement action), the council will seek to recover those costs from the party whose conduct has caused those costs.

7.2

In cases where legislation allows the responsible party to be billed for costs, the Council will normally do this. In litigated cases, the council will normally seek to recover all costs through the courts, as part of the relevant litigation. In other cases, the council will always consider seeking the cost directly from any party whose actions have given rise to the costs, either by voluntary contribution or by taking legal action to recover the costs.

**8 Criminal Proceedings**

The Council adopts the National File Standard as its approved method of file preparation in all cases to be heard in the criminal courts.

**9 Processes and Procedures**

The Council instructs the Lead Specialist, Audit and Investigation Shared Audit and Investigation Service to create and maintain such processes and procedures as are necessary to put this policy into effect.

**10 Duty to Comply**

All those mentioned in this policy are reminded that deliberately or recklessly failing to comply with this policy (or to follow the procedures and processes created in accordance with this policy) will normally amount to misconduct, which can have serious disciplinary consequences, including summary dismissal.

**11 Adoption of the Policy**

This version of the Policy was approved by the Audit & Governance Committee on behalf of the Council on 16 February 2021 after which it came into immediate effect. It replaces all previous policies on these subjects. .

**Note: The procedures issued under para 9 may be found on Share Point.**