

ORKNEY
ISLANDS COUNCIL

Corporate Anti-Fraud Policy

July 2019

1. Introduction

1.1. Orkney Islands Council expects its staff and elected members at all times to act honestly, with integrity, and to safeguard the public resources for which they are responsible. The Council expects this honesty and integrity to extend to all individuals and organisations with whom it deals including contractors and their employees.

1.2. The Council has a zero tolerance attitude and will not accept any level of fraud, bribery or corruption. Any instances of fraud or suspected fraud will be investigated thoroughly and dealt with appropriately. Every opportunity will be taken to seek to recover any loss suffered by the Council as a result of fraud.

1.3. The Council is committed to ensuring that opportunities for fraud, bribery and corruption are minimised wherever practicable and, where appropriate and legal, will co-operate and share information with other local authorities and public sector bodies in the prevention, detection and investigation of fraud, bribery and corruption.

1.4. This policy will be communicated to all employees, elected members and external stakeholders and published on the Council's website to ensure awareness.

1.5. This policy does not cover the procedures to be followed in respect of Housing Benefit or Council Tax Reduction for the reporting, investigation or prosecution of such fraud. Separate policies for these are located at http://www.orkney.gov.uk/Service-Directory/B/Benefit-Fraud_2.htm

2. Definition of fraud

2.1. Although no precise legal definition of fraud exists in Scotland, the Accounts Commission for Scotland describes fraud as the use of deception with the intention of obtaining private gain, avoiding an obligation or causing a loss to another party.

2.2. Fraud can be used to describe a wide variety of dishonest behaviour, such as theft, false accounting, embezzlement, forgery, bribery, corruption, deception, false representation, concealment of material facts and other dishonest actions which result in loss. The fraudulent use of Information and Communication Technology (ICT) resources is included in this definition, where its use is a material factor in carrying out a fraud.

2.3. Fraud can occur within the Council or can be perpetrated against the Council by outside parties.

3. Bribery

3.1. A bribe is an offer or promise of a financial or other advantage, designed to induce another person to perform improperly in their position of trust and responsibility. The Bribery Act 2010 is UK-wide legislation that:

- makes it a criminal offence to give, promise or offer a bribe and to request, agree to receive or accept a bribe either within or outwith the UK;
- specifies the maximum penalty for bribery as up to 10 years imprisonment, with an unlimited fine; and

- introduces a corporate offence of failure to prevent bribery by persons working on behalf of a business.

4. Procedures for reporting fraud

4.1. Managers and staff must always be alert to the risk of fraud, theft, bribery and corruption. The Council has in place clear procedures for reporting instances of actual or suspected fraud. In the first instance staff should report fraud or suspicion of fraud to their Line Manager, Head of Service or Executive Director, who must inform the Head of Finance and the Council's Chief Internal Auditor. The Chief Executive will be informed immediately by the Head of Finance and/or the Chief Internal Auditor. The Head of Finance and the Chief Internal Auditor should also ensure the relevant Executive Director is made aware as appropriate. Vigorous and prompt investigations will be undertaken in all cases where actual or suspected fraud is discovered or reported.

4.2. Staff can also report the matter directly to the Head of Finance or Chief Internal Auditor where preferred.

4.3. Alternatively, an employee wishing to raise any matter may do so following the Council's 'whistle-blowing' arrangements. The Council's Whistleblowing Policy and Procedure is consistent with the Public Interest Disclosure Act 1998, with respect to the disclosure of information by employees and all matters highlighted under these arrangements will be dealt with in confidence and in strict accordance with the terms of the Whistleblowing Policy. This statute protects the legitimate personal interests of staff irrespective of how an allegation is highlighted.

4.4. If it is found that an individual has made malicious or vexatious allegations, disciplinary action may be considered and implemented.

5. Responsibilities

5.1. The roles and responsibilities of officers and elected members are detailed in legislation and in the Council's own governance provisions. This policy defines roles and responsibilities for dealing with the prevention of fraud internally and externally. The following officers and groups have a key role in dealing with the threat of fraud:

Chief Executive

5.2. The Chief Executive has overall responsibility for the operations and activities of the Council. This includes overall responsibility to ensure that the Council's management arrangements in respect of fraud are adequate and effective and that any lessons to be learned corporately from any fraud occurrences arising are appropriately addressed.

Executive Directors

5.3. Each Executive Director is expected to display the highest standards of personal conduct and is responsible for establishing and maintaining a sound system of internal control within his/her areas of responsibility which supports the achievement of Council policies, aims and objectives. The system of internal control is designed to

respond to and manage the whole range of risks which the Council faces, including minimising the scope for fraud.

Head of Finance

5.4. The Council has delegated lead responsibility for the management of fraud to the Head of Finance whose duty, in accordance with Section 95 of The Local Government (Scotland) Act 1973, is to make proper provision for the administration of the Council's financial affairs. Proper administration includes ensuring that an adequate system of financial control exists and operates effectively throughout the Council which includes providing adequate resources for the prevention and detection of fraud.

5.5. Other responsibilities of the Head of Finance of relevance to fraud include ensuring that the Council:

- Designs an effective financial control environment to, wherever possible, prevent fraud;
- Establishes an effective Anti-Fraud Policy and Fraud Response Plan, commensurate with the level of fraud risk identified, including establishing appropriate mechanisms for:
 - staff to report suspected fraud risk issues;
 - reporting significant incidents of fraud to the Chief Executive, and where appropriate the relevant Executive Director; and
 - co-ordinating assurances about the effectiveness of anti-fraud arrangements to support the Council's Annual Governance Statement;
- Disseminates the Council's Anti-Fraud Policy to all staff to ensure that they are aware of their responsibilities in relation to preventing and combating fraud;
- Liaises on fraud matters with other relevant stakeholders, including the Monitoring and Audit Committee;
- Ensures that vigorous, prompt and proportionate investigations are carried out where a fraud occurs or is suspected;

Head of Legal Services

5.6. The Head of Legal Services is the Monitoring Officer for the Council. The Monitoring Officer is available for relevant Officers to consult on issues relating to the Council's legal powers in respect of actions taken in the investigation of fraud.

Head of Human Resources and Performance

5.7. The Head of Human Resources (HR) and Performance shall advise on the Council's Disciplinary Policy and Procedures. These set out the disciplinary procedures which define the types of misconduct deemed to be gross misconduct and which may be of a kind to justify summary dismissal. These include theft and dishonest or fraudulent acts. The Council's disciplinary procedures sit separately from this Corporate Anti-Fraud Policy and the disciplinary process does not form part of any fraud investigation. Any disciplinary implications arising from fraud

investigations will be addressed by the relevant Head of Service or Executive Director in consultation with the Head of HR and Performance.

Council Managers

5.8. All Council managers are responsible for:

- Assessing the types of risk involved in the areas for which they are responsible;
- Attempting to prevent and detect fraud in their areas of responsibility;
- Ensuring that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively;
- Regularly reviewing the control systems for which they are responsible;
- Ensuring that controls are being complied with and that systems continue to operate effectively;
- Learning relevant lessons from any fraud occurrences within their areas of responsibility and implementing new or additional controls, where appropriate where frauds have taken place, with a view to reducing the risk of similar frauds occurring in future;
- Where appropriate, ensuring that staff are aware of the Council's Contract Standing Orders, Financial Regulations and Scheme of Delegation and that the requirements of these documents are being adhered to; and
- Ensuring that any fraud or suspected fraud is reported to the relevant Head of Service or Executive Director. If preferred, managers may report the matter directly to the Head of Finance or the Chief Internal Auditor, in order to allow the matter to be investigated.

The Chief Internal Auditor

5.9. The Chief Internal Auditor is responsible for:

- Assisting in the deterrence and prevention of fraud by examining and evaluating the effectiveness of controls in line with the Internal Audit Charter;
- Investigating reported instances or suspicions of fraud or irregularity within the Council on behalf of the Head of Finance. Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with relevant managers and other agencies, such as Police, to ensure that all allegations and evidence are properly investigated and reported. Where Internal Audit considers that the involvement of the Police is necessary, the Chief Executive and the Head of Finance will be consulted and their approval obtained before a referral is made. The Monitoring Officer will be contacted for advice on any legal obligation to report the matter to the Police.
- Depending on the circumstances, where the Council's disciplinary procedures are being followed, acting as an Adviser to the Investigating Officer;
- Ensuring that relevant managers have reviewed risk exposures to services and have, where appropriate, identified the possibility of fraud as a business risk;

- Delivering an opinion to the Head of Finance on the adequacy of arrangements for managing the risk of fraud and fostering an anti-fraud culture within the Authority;
- Advising the Monitoring and Audit Committee, which has an overseeing and monitoring role regarding the Council's risk management and internal control arrangements, of all work carried out on significant frauds on a periodic basis;
- Notifying the Council's External Auditors on a periodic basis regarding all frauds to allow the external auditors to discharge their responsibility to provide information regarding fraud perpetrated against the Council to Audit Scotland.

Council Staff

5.10. Every member of Council staff is responsible for:

- Complying with the Council's Scheme of Delegation, Contract Standing Orders and Financial Regulations and other codes of conduct and policies such as health and safety and information security policies;
- Dealing with gifts other than those of a trivial nature in accordance with the Council's Code of Conduct for Employees;
- Refusing any fee, commission or other payment arising in any way from or through their Council employment;
- Declaring any possible conflicts of interest which they may have, whether in contracts entered into by the Council or otherwise, in accordance with the Employees' Code of Conduct;
- Acting with propriety in the use of official resources and the handling and use of public funds, whether involved with cash, payments systems, receipts or dealing with suppliers;
- Conducting themselves with integrity and honesty;
- Complying fully with any relevant Code of Conduct or Code of Ethics related to their personal professional qualifications;
- Being alert to the possibility that unusual events or transactions could be indicators of fraud;
- Reporting details immediately to their Line Manager or to others using the Council's Whistle-blowing Policy, if appropriate, if they suspect a fraud; and

Co-operating fully with fraud investigations.

5.11. The Council has a Corporate Protection Group whose remit is to reduce organisational vulnerabilities across all services and functions through prevention. Membership of the Group includes senior officers with organisational responsibility for areas at risk from fraud. All members of the group are expected to highlight emerging threats, vulnerabilities, risks, opportunities and action they are taking to address issues that may impact on the organisation.

Elected Members

5.12. As elected representatives, all members of the Council have a duty to citizens to protect the Council from all forms of abuse. This is done through this policy, compliance with the Councillors' Code of Conduct as prepared by the Standards Commission, the Council's Financial Regulations and Standing Orders, and relevant legislation.

5.13. The adequacy and effectiveness of the Council's financial systems is also independently monitored and assessed annually by the Council's External Auditors.

5.14. The Council is an active member of the National Anti-Fraud Network (NAFN) and liaises closely with other public sector bodies and anti-fraud professionals to share up-to-date information and knowledge regarding common fraud risks.

6. Conclusion

6.1. The Council recognises the importance of making best use of public resources and of demonstrating high standards of corporate governance. The Council takes fraud very seriously and all cases of actual or suspected fraud will be vigorously and promptly investigated and appropriate action taken.

6.2. The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative, deterrent and detection techniques regarding fraudulent or corrupt activity that may affect its operation.

6.3. This policy will be subject to review on a 3 yearly basis, or sooner should there be any relevant legislative changes, to ensure continued relevance and consistency in application.

6.4. The Council has a Fraud Response Plan which sets out how to report fraud or suspicion of fraud and how investigations will be instigated, conducted and concluded. This plan forms part of the Council's Anti-Fraud Policy and is included at Appendix A.

6.5. The steps of reporting and responding to fraud are illustrated at Appendix B.

6.6. A list of related documents is included at Appendix C for information.

Appendix A

Orkney Islands Council Fraud Response Plan

1. Introduction

This plan details the process which will be followed in the event of any fraud or suspected fraud being identified.

The plan shall be invoked by the Head of Finance or in their absence the Chief Internal Auditor and shall involve reporting the fraud or suspected fraud to the Fraud Response Team and agreeing as a team the detailed response required. The Chief Executive should be informed immediately by the Head of Finance and/or the Chief Internal Auditor. The Head of Finance and the Chief Internal Auditor should also ensure the relevant Executive Director is made aware as appropriate.

The Fraud Response Team consists of the Head of Finance, the Chief Internal Auditor, Head of Legal Services and the Head of HR and Performance.

The nature and circumstances of individual frauds may vary (e.g. obtaining money, assets, contracts, benefits or advantages through deliberate deceit, (whether active or passive)) but all reported frauds/suspected frauds will be investigated thoroughly and timeously and appropriate action taken.

2. Stage 1: Discovery

Concerns regarding suspected fraud may be raised by any employee or elected member. Employees and elected members can raise concerns without fear of recriminations, and be assured that concerns will be treated seriously and will be properly investigated. The Council will, wherever possible, observe the wishes of an employee or elected member raising concerns who does not wish his/her identity to be disclosed.

On discovery or suspicion of fraud the reporting procedure to be followed is: -

- **The employee should report the suspected fraud to their line manager: this may be their immediate manager, Head of Service or Executive Director; or**
- **Alternatively, employees can report the suspected fraud directly to the Head of Finance or the Chief Internal Auditor.**
- **Elected members should report suspected fraud to the Chief Executive, any Executive Director, Head of Finance or Chief Internal Auditor as considered appropriate.**

Where the concern has been reported to an employee's Line Manger, the Line Manager who has received the concern must report the matter immediately to the Head of Finance and/or the Chief Internal Auditor. The Head of HR and Performance should also be informed in order that Council Disciplinary Procedures are followed.

The Head of Finance or the Chief Internal Auditor shall notify the Chief Executive and the Head of Legal Services of the suspected fraud. Relevant Executive Directors shall also be informed as appropriate.

Where any matter of suspected fraud or other financial misconduct is identified and is being considered for investigation under the disciplinary procedures, the Head of Finance and Chief Internal Auditor must be advised prior to the start of any investigation.

Suspected frauds may be reported via the Council's 'Whistleblowing' procedures, in which case, the requirements of the Whistleblowing Policy shall be adhered to whilst also following the Corporate Ant-Fraud Policy and the Fraud Response Plan.

The Council encourages members of the public who suspect fraud, bribery or corruption in the Council to contact the Head of Finance or the Council's Chief Internal Auditor.

Stage 2: Safeguard Evidence

It is not the duty of individual employees to investigate suspected fraud. However, it is essential that evidence is safeguarded.

As soon as a fraud or irregularity is suspected, every effort must be made to ensure that all relevant documentation has been secured and the necessary steps have been taken to preserve the evidence (for example, records should be retained of persons handling the evidence and no marks should be made on original documentation). Where evidence is suspected to be held on a pc/laptop etc., the device should not be switched on and advice should be sought from Internal Audit as to the necessary course of action. Internal Audit will liaise with IT Services as required.

Stage 3: Investigation Process

The Chief Internal Auditor may make initial enquiries for the purposes of determining the likely level of investigation, and in particular for determining at the outset whether Police involvement is required.

The Fraud Response Team shall then, depending on the nature of the suspected fraud, agree the investigation process.

The audit approach to the investigation of a potential fraud is likely to vary depending on the nature and complexity of the fraud, the number and seniority of employees involved and the nature of the Service in which the suspected fraud has occurred etc.

The approach taken generally falls into four main categories, namely:

- After appropriate consultation with the Chief Executive, the case is passed immediately to the Police who will carry out the investigation; or
- The investigation is commenced by Internal Audit. However if during the investigation it is determined that Police involvement is required the Chief

Internal Auditor shall immediately notify the Head of Finance who shall make the necessary contact with the Chief Executive and Fraud Response Team; or

- The investigation is carried out by Internal Audit with the assistance of the Service involved on request by Internal Audit as part of the evidence gathering process; or
- An HR disciplinary investigation takes place which may run in parallel and be linked to the Internal Audit investigation. Depending on the circumstances, where the Council's disciplinary procedures are being followed, Internal Audit may act as an Adviser to the Investigating Officer or they may simply be advised of the outcome of the investigation and provided with a copy of the investigation report and appendices for information.

The Head of HR shall advise on any required disciplinary procedures. Circumstances may require the temporary relocation or suspension of an employee. Such decisions rest with the appropriate Executive Director or Head of Service and must be in accordance with relevant Council policies including disciplinary procedures. In instances where a precautionary suspension is being considered, advice should be sought from HR. In circumstances where an employee is suspended, he or she should be escorted from the premises immediately, only being allowed to remove personal belongings under supervision.

The Chief Executive and relevant Executive Director will be kept informed by the Head of Finance of all allegations of major frauds and any subsequent developments which may have a significant impact or affect the Council's reputation.

The approval of the Chief Executive and the Head of Finance shall be obtained prior to contacting the Police in respect of any allegations of fraud or other financial misconduct. The Monitoring Officer will be contacted for advice on any legal obligation to report the matter to the Police.

Internal Audit Officers shall act as independent investigators to establish whether there is any substance to allegations made. Internal Audit Officers shall seek to establish the facts as far as possible by obtaining sufficient, relevant, reliable evidence, quantifying any loss, identifying any control weaknesses or failures and recommending improvements to address control weaknesses.

In terms of Financial Regulation 16.3, the Chief Internal Auditor or their authorised representative shall have authority to examine all Council records, cash, stores and other property, obtain such explanations as deemed necessary and to enter at all reasonable times any Council premises or land.

If at any time during the investigation the Internal Audit Officers are of the opinion that the Police should be notified, the Chief Internal Auditor shall inform the Chief Executive and Head of Finance.

If at any time during the investigation the Internal Audit Officers are concerned about the continued presence of an employee within the workplace, the Chief Internal Auditor shall inform the Head of HR and Performance and the Head of Finance.

As part of any fraud investigation Internal Audit may require to interview Council employees.

Stage 4: Conclusion of Investigation and Subsequent Action

Once the investigation has been concluded, a written factual report will be issued by the Chief Internal Auditor in consultation with the Head of Finance. The report shall be issued to the Chief Executive, members of the Fraud Response Team and to the relevant Executive Directors and Managers. The report shall detail the findings of the investigation and where required include recommendations to improve controls, thus mitigating the threat of similar frauds in the future.

It is the responsibility of the relevant Head of Service and/or Executive Director, in consultation with Human Resources staff, to consider whether any disciplinary process is required as a result of the investigation.

The Chief Internal Auditor, or Lead Auditor who conducted the fraud investigation, will attend any subsequent disciplinary hearing, if requested, to act as a witness. Alternatively, Internal Audit may act as an Adviser to the Investigating Officer or they may simply be advised of the outcome of the investigation and provided with a copy of the investigation report and appendices for information.

Internal Audit officers shall attend any subsequent disciplinary proceedings, where appropriate, in the role of witness.

The Corporate Protection Group shall be advised as required, on an anonymised basis, of the outcome of any fraud investigation. This shall be in accordance with the remit of the Corporate Protection Group.

Media Control

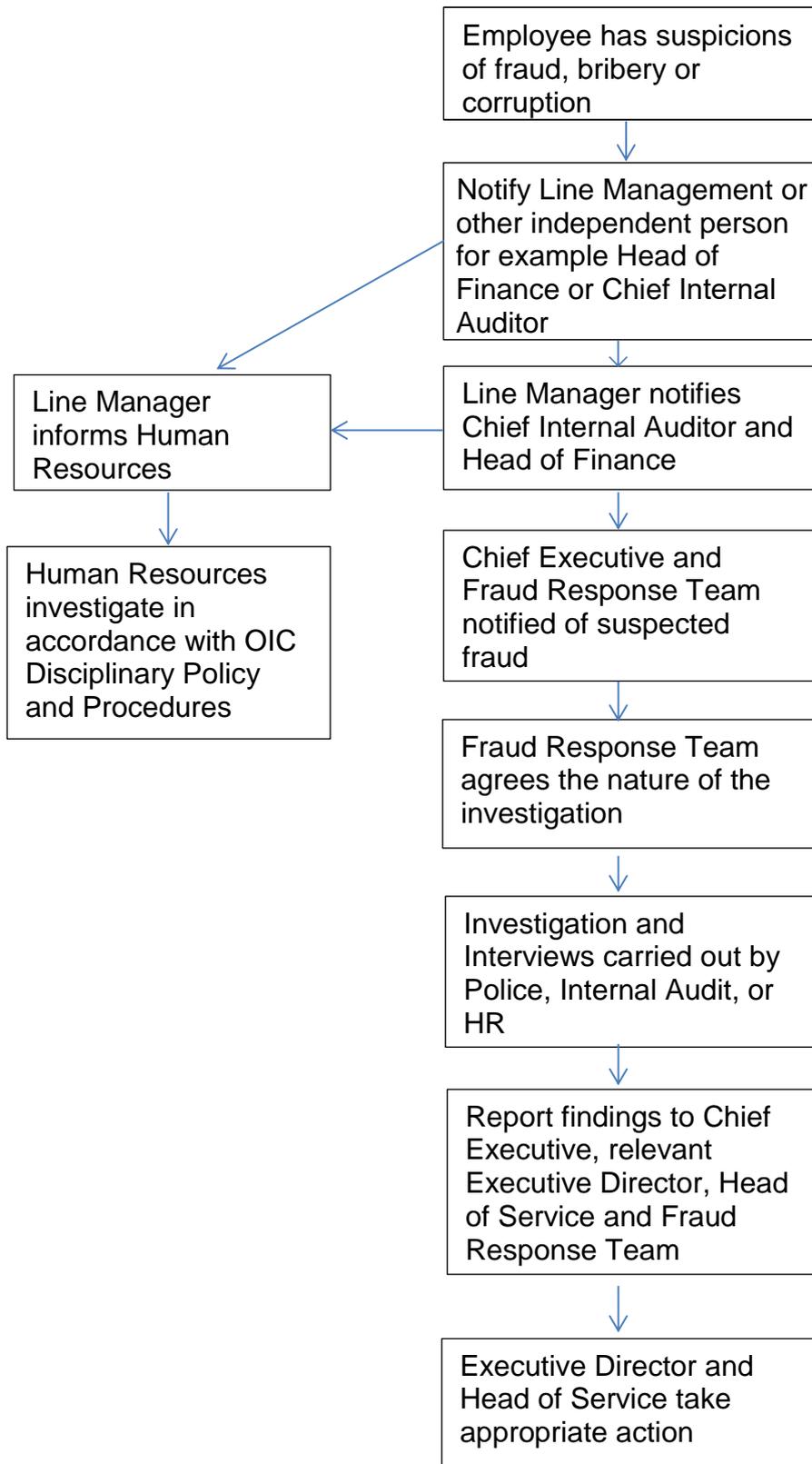
The Council's Communications Team Leader has been designated by the Chief Executive as the appropriate officer to manage all contact with the media (should media involvement be likely) to ensure that the release of information is both consistent and controlled. No statements should be given or made to the press by any member of staff unless through the Communications team, who will liaise with the appropriate Executive Director, the Chief Executive, members of the Fraud Response Team and the Head of HR and Performance if a disciplinary investigation is underway or has been undertaken.

The release of information to the media should aim to publicise the Council's intolerance of fraud or corruption both within the Council and by users of its services, it also serves to publicise action taken against those who would perpetrate such fraud or corruption against the Council.

Appendix B

Orkney Islands Council Corporate Anti-Fraud Policy

Reporting and Responding to Fraud



Appendix C

LIST OF RELATED DOCUMENTS

The following list of documents includes other existing policies, procedures and guidance notes which touch upon issues which are of relevance, or are closely related, to fraud matters. The list is not exhaustive and will be subject to periodic update without requiring a formal review of this policy.

- Scheme of Delegation
- Scheme of Administration
- Contract Standing Orders
- Financial Regulations
- Whistleblowing Policy and Procedure
- Disciplinary Policies and Procedures
- Employees' Code of Conduct
- Acceptable Use of ICT Policy
- ICT Security Policy
- Housing Benefit and Council Tax Reduction – Anti-Fraud Policy
- Housing Benefit – Prosecution Policy