



Leicester
City Council

**Wards affected:
All Wards (Corporate Initiative)**

CABINET

25 March 2002

PROSECUTIONS POLICY

Report of the Town Clerk

1. Purpose of Report

- 1.1 The report asks Cabinet to consider and approve the attached Prosecutions Policy for formal adoption by the Council.

2. Summary

- 2.1 The attached Prosecutions Policy is in part the result of a view expressed by the District Auditor in his management letter that the Council puts in place a revised and comprehensive Prosecutions Policy primarily to link in with action the Council is taking to combat fraud. Legal Services and Audit staff have worked closely to produce a policy which has been widened to encompass a policy to apply with regard to all prosecutions instituted by the Council and also referral of matters to the police where the Council has no power to prosecute.

3. Recommendations

- 3.1 Cabinet is asked to agree the policy so that it can be adopted. Cabinet is asked to note in agreeing the policy that it also includes a specific departmental enforcement policy from Environment, Development and Commercial Services.
- 3.2 Cabinet is also asked to authorise the Town Clerk, in consultation with the relevant Cabinet Lead, to keep the Prosecutions Policy under regular review and to deal with further development of the policy and any consequential changes.

4. Background

- 4.1 Reference is made in the summary to the requirements of District Audit. With an eye to Best Value, particularly in relation to enforcement (Environment and Development and Legal Services) a wider prosecutions policy has been prepared.
- 4.2 As stated above, it covers prosecutions that can be instituted by the Council as part of its enforcement role in connection with the services it provides. As also stated, it covers

non-Council prosecutions (for example, assaults on staff) where the Council has no statutory power to prosecute, such matters being investigated by the police prior to referral to the Crown Prosecution Service.

4.3 Initially the policy was part of a wider document also encompassing an investigations policy. An investigations policy is required because of the provisions of the Regulation of Investigatory Powers Act. Work is still continuing on finalisation of the investigations policy, particularly in view of the fact that final guidance from central government is still awaited. Once the policy has been finalised, it will be the subject of a separate report.

4.4 The rationale with regard to the Environment, Development and Commercial Services Department's enforcement policy is contained at Appendix 3.

5. Financial and Legal Implications

5.1 There are financial incentives available to the Council as regards prosecutions instituted in respect of some types of fraud, eg, housing benefit.

5.2 Implementation of the policy, with relevant departmental enforcement policies, will generate an audit trail showing the various issues that are required to be considered before a prosecution may be instituted.

6. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph references within Prosecutions Policy
Equal opportunities	No	
Policy	No	
Sustainable and environmental	No	
Crime and disorder	No	
Human Rights Act	No	
Elderly/people on low income	Yes	3.4 of Prosecutions Policy (page 4)

7. Background Papers

- 7.1 The Assistant Head of Legal Services' internal file containing, in part, exempt information.
- 7.2 The report of the Town Clerk to Finance, Resources and Equal Opportunities Scrutiny Committee in connection with the District Auditor's management letter.

8. Consultation

- 8.1 All departments have had a copy of the draft policy. As part of the consultation, in terms of non-Council prosecutions, Directors were asked to ensure personnel managers were aware of it. A copy has also been sent to the Assistant Director (Human Resources). There has been considerable dialogue between Legal Services and Internal Audit and between Legal Services and Environment and Development. It is estimated that to date round about 95% of Council prosecutions relate to instructions from these departments. Of the remaining 5% a significant proportion relates to Education Welfare prosecutions in respect of non-attendance of children at school.

9. Report Author / Officer to Contact

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