

Report to the Cabinet

Report reference: C/104/2005-06.
Date of meeting: 6 February 2006.



Portfolio: Finance and Performance Management.

Subject: Benefits Division – Revision of Prosecution Policy.

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Recommendations:

That the following revisions to the Prosecution Policy for Benefit offences be approved and adopted:

(a) That the overpayment amount, above which prosecution is the most appropriate course of action, be increased from £1500 to £2000 in line with the advice from the Department of Work and Pensions; and

(b) That, in order to comply with Directive 2000/78/EC due to come into effect on 1 October 2006 in the United Kingdom, the exemption from prosecution for all persons aged 75 years or over be rescinded.

Report:

1. The Prosecution Policy used by officers in the Benefits Division was adopted by Members several years ago.
2. Recent financial guidance from the Department for Work and Pensions advises that the overpayment amount, above which prosecution is the most appropriate course of action, should be increased from £1500 to £2000. They also advise that a lower overpayment limit, used to determine whether an administration penalty or a formal caution is the most appropriate, should be abolished. The DWP issued this new guidance following Counsel's opinion on the appropriateness of the financial guidelines. In view of this guidance, the Prosecution Policy for Benefit offences against the Authority has been revised to reflect the financial recommendations.
3. The European Commission issued an Age Discrimination Directive in 2000 (2000/78/EC) that will come into effect in the United Kingdom on 1 October 2006. Its primary purpose is to ensure that no one is discriminated against on the basis of age in respect of employment and pensions issues, but it is felt that it could potentially have wider application. Hence, the Head of Legal, Administration and Estates has advised that the current exemption from prosecution for Benefits offences by persons aged 75 and over should be removed from the current policy.

Statement in support of recommended action:

4. The financial limits in the existing policies require updating, in line with the recently issued advice from the Department of Work and Pensions. In order to comply with Directive 2000/78/EC, the prosecution policy for the Benefits Division should not discriminate on the basis of age.

Other options for action:

5. To continue with the existing Prosecution Policy which has now become out-dated and contrary to guidance from the Department for Work and Pensions. To persist in discriminating against persons aged 74 years or less by not prosecuting persons aged 75 years or over.

Consultation undertaken:

6. None appropriate.

Resource implications:

Budget provision: Nil.

Personnel: Nil.

Land: Nil.

Community Plan/BVPP reference: N/A.

Relevant statutory powers: Directive 2000/78/EC.

Background papers: None.

Environmental/Human Rights Act/Crime and Disorder Act Implications: None.

Key Decision reference (if required): N/A.