

Blaby District Council **Policy**

Civil Penalties Sanction and Prosecution Policy (Council Tax)

Original Publish Date	01/04/2018	Review Frequency	Every 3 Years	Current Version Publish Date	19/09/23
Approved By*	Group Manager / Portfolio Holder	Approval Date*	08/08/23	Version Number	002
Author Job Title	Council Tax and Benefits Service Manager	Service Area	Council Tax and Benefits – Finance Group	Document Register Reference	A 905

*'Approved by' and 'approval date' are in relation to the most recent version.

Review History			
Version*	Reviewed By (Job Title)	Review Completion Date	Brief Description of Changes (add 'no changes required' if applicable)
1	Council Tax and Benefits Manager and Executive Director, 151 Officer	April 2018	None – initial introduction of policy
2	Council Tax and Benefits Manager and Finance Group Manager	September 2023	<ul style="list-style-type: none"> • Delegation of decisions and appeals will be made at a different officer level • A change in the number of days delay before a penalty will be considered • A change in the exemption categories • A process change as to when the bill to include the £70 penalty is issued • Removal of one officer name from the policy

*Version number remains the same if no significant changes are made upon review.

Document Definition / Approval & Review

Defining the document type and how it is approved and reviewed

Blaby District Council policies ‘**outline a set of rules or principles that govern how the council (or services within the council) will operate**’.

Key published documents are approved for publication in line with the approval matrix illustrated in the Key Published Document Procedure.

Unless agreed by exception, key published documents must be reviewed at least **every 3 years** from the date of approval.

Significant updates/changes must also seek reapproval in line with the approval matrix.

Scope

To what and to whom this policy applies

Potentially all Blaby resident council taxpayers (including landlords or property owners living elsewhere with a liability who need to report a change).

Terms & Definitions

Definition of any acronyms, jargon, or terms that might have multiple meanings.

Term	Definition
None found / not applicable	

Policy Sections

Section 1 Introduction – The purpose and reason for the Policy

The Council Tax and Benefits Service is committed to a pro-active approach in preventing and reducing the risks associated with fraud, error, and other irregularities in the administration of council tax. Legal statutory powers already exist which allow the Council to impose civil penalties in several circumstances.

The powers are:

- The Welfare Reform Act 2012 introduced a number of measures to help tackle fraud and error in the benefit and tax credit systems.
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 allow councils to impose a civil penalty of £70 in those cases where a claimant fails, without reasonable excuse, to supply information (or negligently supplies incorrect information) which results in a council tax reduction overpayment.
- Schedule 3 of the Local Government Finance Act 1992 allows councils to impose a civil penalty of £70 in cases where a resident fails, without a reasonable excuse, to supply information (or negligently supplies incorrect information). Where a £70 penalty has been imposed and a further request to supply information is made, additional penalties of £280 may be imposed for each subsequent failure to provide the requested information.
- Councils can prosecute Council Tax and Council Tax Reduction fraud. Fraud is where a person whilst applying for, or in receipt of a council tax discount, exemption or reduction makes a false statement, produces a false document and/or fails to notify of a relevant change in circumstances which the person knows will affect the discount, exemption or reduction they are entitled to, or are in receipt of. Most local taxation fraud offences can be prosecuted under the Fraud Act 2006. Council Tax Support offences can also be prosecuted under section 14B of the Local Government Finance Act 1992.
- This policy, along with associated policies (such as any Corporate Collection Policy or Anti-Fraud and Corruption Policy) and procedures will ensure a consistent approach to the detection, investigation, sanctions and recovery of losses as a result of fraud and corruption activity.

Section 2 – Benefits of the Policy

- A penalty scheme will encourage all taxpayers to report relevant changes in their circumstances including where they are in receipt of discounts, exemptions or reliefs and will act as a deterrent.
- The regular reporting of changes in respect of council tax discounts and exemptions will mean that the local authority will be able to set a more accurate council tax income base, and this will result in fairer council tax bills for all residents.

Section 3 – Civil Penalty Policy for Council Tax

- The existence of a sanction/prosecution policy will reinforce the message that the authority will take positive action against abuses of these public schemes.
- The policy underlines the authority's zero tolerance to all forms of fraud and corruption within public finances.

Section 4 – Financial implications

Civil penalties will generate an additional general fund income, but the primary intention of this policy is for penalties to be used as a deterrent against fraud and error, not a regular source of income.

Section 5 – Legal implications and risk assessment issues

Under Section 151 of the Local Government Act 1972, the Section 151 officer has a statutory duty to implement appropriate measures to prevent and detect fraud and corruption. The perceived risks associated with the introduction of civil penalties are:

- An increase in complaints
- An increase in appeals to the Valuation Tribunal
- An impact on resources
- An increase in enquiries asking for explanations when a penalty has been applied

Section 6 – Exceptions

A local list of exceptions to the penalty regime has been introduced. This is based on a customer's ability to be able to handle financial affairs and their vulnerability. Each case will be considered on its own individual merits.

Examples where such exemption consideration may be applied:

- Severe mental or physical impairment/infirmity (severe clinical depression, hearing/sight/speech/learning difficulties or frailty).
- Where the delay amounts to less than 12 weeks (84 days).
- Social factors including bereavement, tragedy, serious or significant health conditions, care leavers under 25, domestic violence, or other relevant mitigating family/personal circumstances.

Circumstances will be considered on a case-by-case basis and the final decision will be at the discretion of the Council Tax and Benefits team.

Section 7 – Instances where a penalty can be imposed

The law allows councils to impose a £70 penalty to any taxpayer or person who:

- Fails to notify the council that an exemption or discount on a dwelling should have ended.
- Fails to notify the council of a change of address or change in liable party.
- Fails to provide information requested to identify liability/correct liability.
- Fails to provide information after a liability order has been obtained.
- Has negligently supplied incorrect information.
- Has supplied information about a liable person that is materially inaccurate or deliberately misleading.

Where a penalty has already been imposed on their council tax account and a further request to supply the same information is made, a further penalty of £280 may be imposed for each subsequent failure provided that:

- The information is in the taxpayer's possession.
- The authority has requested the information to be provided.
- It falls within a prescribed description of information.

An example of when a further penalty may apply would be a large landlord or estate agent who continually fails to notify of a new tenant moving in to or out of their property, or of a property they manage.

Section 8 – Factors taken into account in deciding if a penalty is appropriate

- A false statement
- Collusion with another person (landlord or employer)
- The period of the irregularity (length of delay)
- Previously recorded offences that are similar or same in nature, or a persistent offender
- A position of trust
- Claim/discount/exemption being false from the outset

Section 9 – Decision making

The Council Tax and Benefits team will determine which cases are suitable for a civil penalty. A written decision notification explaining that a civil penalty has been charged and include information on how to appeal (and the date they must appeal by) will be sent to the resident/taxpayer together with a council tax bill showing the amended amount following the decision to include a civil penalty.

Section 10 – Application of the penalty

The council tax bill shows that we have awarded discounts and/or exemptions. It makes clear on the reverse side of bills that the taxpayer must tell us straight away about any change in their circumstances that could affect their liability, or a penalty could be imposed. A council tax penalty will be collected by applying the penalty to the council tax account for collection via the normal billing process. This is shown as a separate line on the bill.

Section 11 to end – Appeals and Implementation date

If a customer disagrees with the imposition of a civil penalty, they may ask the Council to review the decision. The request must be made in writing to the Council Tax and Benefits team. Reasons or circumstances should be provided.

Recovery of the penalty will be suspended until the appeal is decided.

A right of appeal directly to the Valuation Tribunal is available should the resident/taxpayer remain unsatisfied with the outcome of the Council's internal review process. A taxpayer has two months in which to appeal to a Valuation Tribunal after a penalty is imposed.

There is no right of appeal to a higher court if the resident/taxpayer disagrees with the Valuation Tribunal's decision.

Civil penalties were first introduced from 1 April 2018. This revised policy is implemented from 18 September 2023, but may include penalties for periods prior to the September 2023 date but identified afterwards.

Related documents and other references

- Schedule 3 of the Local Government Finance Act 1992
- Section 151 of the Local Government Act 1972
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013
- Section 14B of the Local Government Finance Act 1992
- Fraud Act 2006
- Welfare Reform Act 2012

Appendices

None