

# **CIVIL PENALTY POLICY FOR COUNCIL TAX**

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## **1 Introduction and background**

The Revenues 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 a number of circumstances but at present these powers are not used. 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 the Corporate Collection Policy & 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.

## **2 Benefits of the Policy**

- The introduction of a penalty scheme will encourage all tax payers to report relevant changes in their circumstances when they are in receipt of appropriate discounts, exemptions or reliefs and 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 incomes base and this will result in fairer Council Tax bills for all residents.

- 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.

### **3 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.

### **4 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
- The authority has no/little experience in introducing such a policy previously in a Finance environment

### **5 Exceptions**

A list of exceptions to the penalty regime would be introduced. This will be based on a customer's ability 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 resident is elderly (>75 years old)
- Where the amount of reduced liability gained is less than a minimum amount (£500) or for a period of less than 3 months (90 days)
- Social factors (bereavement, tragedy, under 21, serious or significant health conditions, relevant mitigating family/personal circumstances).

However, falling into one of the above categories does not mean that an exception will automatically be applied. Circumstances will be considered on a case by case basis and the final decision will be at the discretion of the Revenues and Benefits Manager.

## **6 Council Tax Penalties (instances where a penalty can be imposed)**

The law allows Councils to impose a £70 penalty to any 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.

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 debtors possession
- The authority requests him to provide it
- 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.

## **7 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
- The overpaid element value (must be elapsed periods)
- Previous recorded offences of same or similar nature or persistent offender
- Position of trust
- Claim/discount/exemption being false from the outset

## **8 Decision making**

The Council Tax Income and Debt Manager (CTIDM) and Revenues and Benefits Manager (RABM) will meet on a regular basis to determine which cases are suitable for a civil penalty. A written decision notification explaining why 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/tax payer together with a Council Tax bill showing the amended amount following the decision to include a Civil Penalty.

## **9 Application of the Penalty**

The Council Tax bill shows that we have awarded discounts and/or exemptions. It makes clear that the taxpayer must tell us straight away about any change in their circumstances that could affect their bill 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 will be shown as a separate line on the bill.

## **10 Appeals**

If a customer disagrees with the imposition of a Council Tax penalty they may ask the Council to review the decision.

The request must be made in writing to the Council to the Senior Team Leader in Revenues & Benefits.

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. They have two months in which to appeal 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.

## **11 Implementation Date**

1<sup>st</sup> April 2018

## **12 Relevant legislation**

- 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