

**CHELTENHAM BOROUGH COUNCIL**

**BENEFIT POLICY**

**Housing and Council Tax Benefit – Sanctions Policy**

**Updated March 2010**

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1. Cheltenham Borough Council is committed to making prompt payment of housing and/or council tax benefit to those who are entitled, and is equally committed to preventing and detecting fraudulent claims.
2. A range of measures designed to identify and reduce benefit fraud have been adopted by the council such as review visits, data matching and an anonymous hotline number. There is a fraud investigation team which is responsible for investigating cases where fraud is suspected.
3. When deciding whether to sanction someone, the council must consider relevant legislation such as the Theft Act 1968, the Social Security Administration Act 1992, the Human Rights Act 1998 and the Fraud Act 2006. All files are reviewed by a member of the One Legal services to ensure that the necessary criteria have been met.
4. The council can either use our One Legal services or SOLP (the DWP legal team) to prosecute alleged offenders. Where appropriate the council's investigation team will work with the DWP investigation teams on joint cases and when this happens each party's manager will need to authorise a prosecution by the other persons legal team.
5. The council's investigation team will interview under caution anyone suspected of committing a benefit offence. Once the case has been investigated there are four possible outcomes: no further action, prosecution, formal caution or administrative penalty. The latter two will **not result** in a criminal record although a record of the sanction must be passed to the DWP to be added to their national database.

In addition since April 2010 any person who has been prosecuted, cautioned or accepted an administrative penalty may also be subject to a one strike loss of benefit for four weeks.

A two Strike loss of benefit was introduced in 2002 for anyone convicted of benefit fraud in two separate proceedings within a five year period and if this applies their benefit will be reduced for 13 weeks.

6. The caution and the Administrative penalty are alternatives to prosecution and should only be recommended if there is sufficient evidence to support criminal proceedings, but it is not in the interest of the council to initially consider a prosecution. DWP guidelines state that if someone is offered an alternative and refuse it, then they should be taken to court.

7. The aim of this policy is to ensure fairness and consistency in the council's action following the detection of benefit fraud. The decision to prosecute or impose a formal caution or administrative penalty will be made by either the benefit Manager or the Senior Investigation officer under delegated powers taking into account the following factors, and in consultation with the One Legal Services.

- There is sufficient evidence to pursue the case
- The size of the overpayment
- Previous sanction issued – check must be made via DWP
- The duration of the offence
- Physical/mental condition of the customer
- Social factors (age, stress, tragic domestic situations)
- Collusive landlord or employer
- Internal procedures or delays
- Voluntary disclosure – this will only be taken into account where the customer, of their own free will, reveals a fraud of which the council had been unaware ie not as a result of disclosure prompted by:
  - A belief that the fraud would have been discovered
  - The customer discovered they were being investigated
  - Review visit

### **Commitment**

All customers will be treated in accordance with the council's customer service standards and the council will consider every case on its merits in accordance with all relevant legislation, policies and procedures.