

Cheltenham Borough Council
Cabinet – 7 November 2017
Council Tax, Housing Benefit and Council Tax Support Penalty
and Prosecution Policy

Accountable member	Cabinet Member Corporate Services, Councillor Roger Whyborn
Accountable officer	Paul Jones, Chief Finance Officer
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>This Policy has been drafted on behalf of Revenues and Benefits Teams within a number of the Gloucestershire Authorities and replaces the Housing and Council Tax Benefit Sanctions Policy dated March 2010.</p> <p>The Policy reflects the position following the introduction of the Council Tax Reduction Scheme which replaced Council Tax Benefit in 2013. In addition the Policy outlines the changes brought about by the creation of the Single Fraud Investigation Services (operated by the Department for Work and Pensions) which subsumed the council's responsibilities for investigating Housing Benefit Fraud.</p> <p>The Policy sets out the options available to the Local Authority in relation to falsely claimed Council Tax exemptions and discounts.</p> <p>The Policy provides legislative guidance and will assist with decision making in the application of appropriate sanctions and provide a uniform basis for action across the County.</p>
Recommendations	<p>That Cabinet:</p> <ol style="list-style-type: none"> 1. Approves and adopts the Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy. 2. Authorises the Chief Finance Officer to approve future minor amendments to the Policy in consultation with appropriate Officers, Cabinet Member Corporate Services and One Legal.
Financial implications	<p>The adoption of this policy will help to support the prevention and detection of misuse of public funds and fraud therefore reducing potential financial loss to the council.</p> <p>The Policy generates fines for further prevention work to be undertaken.</p> <p>Contact officer: Paul Jones, S151 Officer, Cheltenham BC</p> <p>Paul.Jones@cheltenham.gov.uk</p>

Legal implications	<p>The council must comply with all legislative requirements, as set out within the Policy. The legislation to be utilised by Revenues and Benefits staff and the Counter Fraud Unit are identified within it.</p> <p>In general terms, the existence and application of an effective fraud risk management regime assists the council in effective financial governance which is less susceptible to legal challenge.</p> <p>Contact officer: Vikki Fennell, One Legal</p> <p>Vikki.Fennell@teWKesbury.gov.uk</p>
HR implications (including learning and organisational development)	<p>There are no direct HR implications.</p> <p>Contact officer: Julie McCarthy, Strategic HR Manager</p> <p>Julie.McCarthy@cheltenham.gov.uk 01242 264355</p>
Key risks	<p>If the council does not have effective counter fraud and corruption controls it risks both assets and reputation.</p> <p>The council requires a Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy to ensure legislative powers and regulations are applied fairly and in accordance with the law.</p>
Corporate and community plan Implications	<p>In administering its responsibilities; this council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the council such as another organisation, a resident, an employee or Councillor.</p> <p>The council is committed to an effective counter fraud and corruption culture, by promoting high ethical standards and encouraging the prevention and detection of fraudulent activities using robust enforcement techniques, thus supporting corporate and community plans.</p>
Environmental and climate change implications	<p>None directly arising from the report.</p>
Property/Asset Implications	<p>None directly arising from the report.</p> <p>Contact officer: David Roberts, Head of Property Services</p> <p>david.roberts@cheltenham.gov.uk</p>

1. Background

- 1.1. The Counter Fraud Unit are undertaking a review of a number of Policies and Procedures, in support of each service area, to enable criminal investigations to be legally undertaken and appropriate sanctions to be applied. This Policy has been requested for use within the Revenues and Benefits Teams, and is attached at **Appendix 2**.
- 1.2. The Council Tax Reduction Scheme was introduced in 2013 to replace Council Tax Benefit which was abolished. The scheme is locally agreed with some set parameters and the responsibility to enforce any fraud or abuse of the scheme rests with the Local Authority.
- 1.3. The Policy also outlines the changes brought about by the creation of the Single Fraud Investigation Services (operated by the Department for Work and Pensions) which subsumed the council's responsibilities for investigating Housing Benefit Fraud.

- 1.4. The council has a responsibility to ensure that Council Tax is billed correctly and that there is no abuse of exemptions and discounts. The Policy seeks to set out the action that the council may take in relation to fraud or misinformation in relation to this.
- 1.5. The Policy is being introduced and it replaces the Housing and Council Tax Benefit Sanctions Policy dated March 2010, **Appendix 3**. The recommended Policy has been drafted for all participants in the Counter Fraud Unit and will provide consistency to the application of penalties and prosecution across the county.
- 1.6. It should be noted that legislation outlines that to incur a Civil Penalty for a Housing Benefit overpayment, the value needs to exceed £250 however the draft Policy attached details that for decisions at Cheltenham Borough Council, this figure will be £1000. It can be amended in line with local decision making.

2. Consultation

- 2.1. The Policy has been prepared and drafted by the Counter Fraud Unit and was compiled from a review of all policies across the region and current legislation.
- 2.2. Following the initial drafting of the policy, the document was then circulated to Senior Managers within the Revenues and Benefits Teams at all partner sites (Gloucestershire Districts and West Oxfordshire District Council) for review.
- 2.3. The draft Policy was subject to consultation with One Legal and the Senior Leadership Team.
- 2.4. Audit Committee considered the original policy on 20 September 2017 and requested that section 6.26 be revised. The original section read as follows, the sentence under scrutiny is underlined:

'If a customer is not satisfied with the decision to impose a civil penalty in relation to Housing Benefit or Council Tax Support, they can write to the Council within one calendar month of the date of their letter in which the civil penalty is issued, and ask for a reconsideration of the decision. The reconsideration will be carried out by a Senior Manager within the Local Authority. The outcome of the reconsideration is final and there is no further appeal process. The customer will need to state and provide evidence where appropriate, why they feel the decision is wrong.'

- 2.5. The Policy has been updated and section 6.26 now reads:

'If a customer is not satisfied with the decision to impose a civil penalty in relation to Housing Benefit or Council Tax Support, they can write to the Council within one calendar month of the date of their letter in which the civil penalty is issued, and ask for a reconsideration of the decision. The reconsideration request may be made to a Statutory Officer, who is not in the direct line of management of those who are responsible for the original decision, or to the Chief Executive Office. The outcome of the reconsideration is final and there is no further appeal process. The customer will need to state and provide evidence where appropriate, why they feel the decision is wrong.

- 2.6. This may need to be monitored depending on the number of reconsideration decisions received. Considering the low value of the fines and the fact that the penalties should only be applied where there has been clear wrongdoing on the part of the person claiming the Housing Benefit or Council Tax Support, the need for escalation should be minimal.
- 2.7. Cabinet is asked to consider the Policy and to approve and adopt the same.

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Appendices	<ol style="list-style-type: none">1. Risk assessment2. Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy3. Housing and Council Tax Benefit Policy
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The risk				Original risk score (impact x likelihood)			Managing risk					
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
1	If an appropriate Policy is not in place the Counter Fraud Unit and other Council Departments are unable to take effective and efficient measures to counter fraud, potentially resulting in authority suffering material losses due to fraud	Chief Finance Officer	11/12/14	3	3	9	Reduce	Introduce a suitable policy that enables effective and efficient mitigation of fraud risk.	Ongoing	Counter Fraud Manager		
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>												