

Cheltenham Borough Council

Cabinet

7 November 2023

Council Tax, Housing Benefit and Council Tax Support

Penalty and Prosecution Policy

Accountable member:

Cabinet Member Finance and Assets, Councillor Peter Jeffries

Accountable officer:

Paul Jones, Executive Director Finance, Assets and Regeneration

Ward(s) affected:

All indirectly

Key Decision: No

Executive summary:

To present Cabinet with an updated Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy for approval.

The Policy has been reviewed to ensure the content reflects current legislation and the Council's Policies and Procedures. The Policy will replace the existing Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy.

Recommendations: That Cabinet:

1. **adopts the Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy.**

- 2. delegates to the Executive Director Finance, Assets and Regeneration to approve future minor amendments to the Policy in consultation with the Head of Revenues and Benefits and the Head of Service Counter Fraud and Enforcement Unit.**
-

1. Implications

1.1. Financial, Property and Asset implications

The Policy provides Officers with a framework that can be followed when dealing with matters arising from cases of fraud and error. This allows for financial penalties to be charged however, the intention of the Policy is not primarily for revenue raising purposes but to ensure the proper use and protection of public funds.

Signed off by: Gemma Bell, Director of Finance and Assets (Deputy S151 Officer), Gemma.Bell@cheltenham.gov.uk

1.2. Legal implications

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.

The legislation utilised by the Counter Fraud and Enforcement Unit and other service areas within the Council is identified within the Policy and the Council must comply with all legislative requirements.

Signed off by: One Legal, legalservices@onelegal.org

1.3. Environmental and climate change implications

Not applicable.

1.4. Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Being a more modern, efficient and financially sustainable council

1.5. Equality, Diversity and Inclusion Implications

The CFEU seeks to ensure that public authorities' actions are consistent with the Human Rights Act 1998 (HRA). It balances safeguarding the rights of the individual against the needs of society as a whole to be protected from crime and other public safety risks.

2. Background

- 2.1. The Counter Fraud and Enforcement Unit is tasked with reviewing the Council's Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy. It is recommended good practice that the Policy is updated and reviewed at least every few years in line with any legislative changes.
- 2.2. In administering its responsibilities the 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 a Councillor.

3. Reasons for recommendations

- 3.1. The Policy, attached at Appendix ii, has been updated in accordance with the review period. Review frequency is as required by legislative changes or every three years. This has been delayed due to events over the last three years.
- 3.2. The Policy and fines set out therein are legislative and have not been altered since the Policy was originally drafted several years ago.
- 3.3. The Council's existing Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy was developed to reflect (i) latest legislation and (ii) the changes following 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.
- 3.4. The Council Tax Support Scheme was introduced in 2013 and replaced Council Tax Benefit. The scheme is locally agreed with some set parameters and the responsibility to enforce any fraud or abuse of the scheme rests with the Council.
- 3.5. 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 and misinformation in relation to this.
- 3.6. It should be noted that legislation outlines that to incur a Civil Penalty for a Housing Benefit overpayment, the value of the overpayment needs to exceed £250 however, the Policy details that for decisions across the Counter Fraud and Enforcement Unit Partnership, this figure will be £500. When setting this figure, consideration was given to current cost of living pressures and the vulnerabilities of the demographic this particular Policy impacts.
- 3.7. The Policy has been reviewed and drafted for the participants within the Counter Fraud and Enforcement Unit Partnership and will provide consistency to the application of penalties and legal action across Gloucestershire and West Oxfordshire.
- 3.8. Cabinet last considered the Policy in November 2017.

- 3.9. The changes are minor, to reflect changes to departmental names within the Councils and duties and responsibilities within the Department for Work and Pensions. Amendments also ensure continuity across the Counter Fraud and Enforcement Partnership as the Counter Fraud and Enforcement Unit is charged with investigation in this area for six Councils.
- 3.10. As part of the consultation process, the Policy has been reviewed by the Head of Revenues and Benefits, the Deputy Revenues and Benefits Manager and One Legal. The Audit, Compliance and Governance Committee considered and endorsed the Policy in September 2023.
- 3.11. Awareness will be raised with all staff following the approval of the Policy.

4. Alternative options considered

- 4.1. None.

5. Consultation and feedback

- 5.1. Any Policies drafted or revised by the Counter Fraud and Enforcement Unit have been reviewed by One Legal and have been issued to the relevant Senior Officers, Governance Group and Executive Leadership Team for comment.

6. Key risks

- 6.1. The Council is required to proactively tackle fraudulent activity in relation to the abuse of public funds.
- 6.2. Failure to undertake such activity would accordingly not be compliant and expose the authority to greater risk of fraud and/or corruption. If the Council does not have effective counter fraud and corruption controls it risks both assets and reputation.

Report author:

Emma Cathcart, Head of Service Counter Fraud and Enforcement Unit,
Emma.Cathcart@cotswold.gov.uk

Appendices:

- i. Risk Assessment
- ii. Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy

Background information:

N/A.

Appendix 1: Risk Assessment

| Risk ref | Risk description | Risk owner | Impact score (1-5) | Likelihood score (1-5) | Initial raw risk score (1 - 25) | Risk response | Controls / Mitigating actions | Control / Action owner | Deadline for controls/ actions |
|----------|---|---|-----------------------|---------------------------|------------------------------------|---------------|---|---|--------------------------------|
| 1 | The authority suffers material loss and reputational damage due to fraud | Executive Director Finance, Assets & Regeneration | 3 | 3 | 9 | Reduce | Maintain a Counter Fraud Team to reduce the likelihood of the risk materialising and also to help recover losses, thus reducing the impact. | Head of Service, Counter Fraud and Enforcement Unit | Ongoing |
| 2 | Without dedicated specialist staff in place, the Council may be unable to take effective and efficient measures to counter fraud, potentially resulting in authority suffering material losses due to fraud and error | Executive Director Finance, Assets & Regeneration | 3 | 4 | 12 | Reduce | Retain a specialist Counter Fraud Team to tackle the misuse of public funds on behalf of the Council. | Head of Service, Counter Fraud and Enforcement Unit | Ongoing |