

Council Tax, Council Tax Reduction Scheme & Housing Benefit Civil Penalty Policy

1. Introduction

- 1.1 The administration of Council Tax and a Council Tax Reduction Scheme are statutory Local Government functions.
- 1.2 The Council administers Housing Benefit on behalf of the Department for Work and Pensions. The Council receives funding from Government for the Housing Benefit it pays out.
- 1.3 Council Tax administration requires charge payers to advise the Council on issues relating to liability, discounts, and exemptions. Failure to notify the Council promptly of any change will have an impact on the income to the Council, and could cause increased Council Tax liability for the charge payer
- 1.4 Where a late or unreported change results in an overpayment of Housing Benefit the Council only receives 40% of the benefit paid in error. At least 60% of the overpayment needs to be recovered so that the Council does not suffer a financial loss. As with all debt there is a risk of non-collection and therefore a potential loss for the Council.
- 1.5 Failure to keep benefit claims or Council Tax accounts up to date can result in the imposition of a penalty(s), or in more serious cases, prosecution action.
- 1.6 Penalties and prosecutions can act as a deterrent to fraudsters.
- 1.7 When deciding whether a penalty or prosecution is appropriate, each case should be judged on its own merits.
- 1.8 Suspected Housing Benefit fraud is referred to the Department of Work and Pensions Single Fraud Investigation Service for investigation and prosecution by the Crown Prosecution Service. Cases of suspected fraud which apply to both Housing Benefit and Council Tax Reduction will be jointly investigated by the Department of Work and Pensions and the Council's Corporate Investigations Team.
- 1.9 The purpose of this document is to set out the Council's policy on administering penalties and undertaking prosecution action in circumstances where there has been a failure to report a change in circumstance in respect of Council Tax discount, Council Tax exemption, Council Tax Reduction, or Housing Benefit. The policy also covers those instances where we have requested information to

help identify the person liable for Council Tax, which have failed to be responded to or when there is enough evidence to suggest fraudulent activity.

1.10 This policy seeks to clarify when such actions may be appropriate and how the Council will deal with those who either:

- Knowingly make incorrect statements, or without reasonable excuse fail to give a prompt notification of a relevant change in circumstance affecting their entitlement to a Council Tax discount, exemption, Council Tax Reduction or Housing Benefit; or
- commit Council Tax, Council Tax Reduction or Housing Benefit fraud through an intentional act or omission; or
- Fail to respond to requests for information regarding liability for Council Tax

1.11 The most effective way to minimise potential loss both in Council Tax and Housing Benefit funding is to encourage the timely reporting of changes in circumstance that affects entitlement to discounts, exemptions and Housing Benefit. Penalising those who fail to carry out their legal duty to notify the Council of such changes is designed to bring about future behavioural changes.

2. Areas of Responsibility

2.1 The Revenues and Benefits service, and Corporate Investigations Team are responsible for administering this policy. Effective publicity of this policy and its contents will ensure charge payers and claimants are aware of their responsibilities and will also act as a deterrent to those who are contemplating action which would bring the policy into effect.

2.2 The Council has the responsibility to investigate and sanction Council Tax Reduction Scheme cases, Council Tax discounts and exemptions.

2.3 The Council has the responsibility for applying civil penalties in respect of Council Tax, Council Tax Reduction and Housing Benefit.

3. Civil Penalties for Council Tax Registration, Discounts and Exemptions (including Council Tax Reductions)

3.1 We are legally entitled to request information from residents, owners or managing agents to help identify the person liable for payment of the Council Tax.

3.2 Where a person fails to supply information requested within 21 days, fails to notify us within 21 days of a change which affects entitlement

to a discount or exemption (including a Council Tax Support Reduction), or knowingly supplies inaccurate information in purported compliance with such a request, a penalty of £70 may be imposed. Depending on the circumstances, the matter could be referred to the Council's Investigations Team as a criminal matter.

- 3.3 Where a penalty has been imposed and the same information requested again, we may impose a further penalty of £280, and continue to do so until the recipient fully complies. There is no limit to the number of times a £280 penalty can be imposed.

4. Application of a penalty

- 4.1 The Council Tax bill clearly shows that we have awarded discounts, exemptions and/or a Council Tax Reduction. It makes clear that the charge payer must tell us straight away about any change in their circumstances that could affect their bill, or a penalty could be imposed.
- 4.2 A Council Tax penalty will be collected by applying the penalty to the Council Tax account for collection via the normal billing process.
- 4.3 Failure to pay a penalty will result in recovery via the general Council Tax procedures.
- 4.4 If the penalty recipient does not have a Council Tax account, an invoice will be raised for repayment.
- 4.5 A letter will be sent in all cases advising of the application of the penalty and the reason.

5. Civil Penalties for Housing Benefit

- 5.1 A £50 Civil Penalty may be imposed in relation to Housing Benefit overpayments caused by either:
- Negligently making incorrect statements, or
 - Failing without reasonable excuse to provide information or disclose changes in their circumstances
- 5.2 A Civil Penalty can be added to the amount of an overpayment of benefit if the overpayment (after underlying entitlement) is more than £65.00 and where the claimant is viewed as being at fault.
- 5.3 It is the Council's policy not to apply a Civil Penalty if the Housing Benefit overpayment (after underlying entitlement) is less than £100.

5.4 A Civil Penalty will not be applied if the Housing Benefit overpayment is referred to the Department for Work and Pensions to consider prosecution.

5.5 A Civil Penalty cannot be applied where the claimant has, in respect of the overpayment, been charged with an offence, been cautioned or been subject to a penalty as an alternative to prosecution under section 115A of the Social Security Administration Act 1992. (Fraud cases)

6. Cases where a penalty may not be imposed

6.1 It is the Council's policy to exclude those who can demonstrate mitigating family or personal reasons such as death or serious illness, from the imposition of penalties.

6.2 Customers who are entitled to the Severe Mental Impairment exemption or Severe Disability Premium will be excluded from the penalty scheme.

6.3 It is at the discretion of the Council to exclude those from the imposition of penalties in cases where the customer or their partner;

- Has a significant degree of mental or physical infirmity, such as a terminal illness, severe clinical depression or learning difficulties
- Has made a voluntary disclosure of the alleged offence before the Council had any suspicions regarding the validity of their entitlement.

6.4 In cases where a penalty has not been applied due to personal circumstances such as those stated, it may be appropriate for the customer to be made aware that a penalty was considered but not applied in this instance.

7. Prosecution - Council Tax Discounts and Exemptions

7.1 The Fraud Act 2006 provides general powers to authorised Investigating Officers to investigate Council Tax Discounts and Exemptions (excluding Council Tax Reduction).

7.2 Any case referred to the Council's Corporate Investigations Team will be investigated and then reviewed by our Legal Team. A decision will then be made on the next or appropriate action(s) to be taken.

8. Prosecution - Council Tax Reduction Scheme

8.1 The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulation 2013 makes provision for powers to require information, the creation of offences and powers to impose penalties in connection with Council Tax Reduction schemes.

8.2 The offences which can be considered are:

- Delay, obstruction, refusal or failure to comply with requests for information from an Authorised Officer of Reading Borough Council - When found guilty of such an offence, the tax payer will be liable to a fine not exceeding level 3 on the Magistrates Court standard scale and where they are convicted and the taxpayers refusal or failure to comply continues, they will be guilty of a further offence and liable on summary conviction of a fine not exceeding £40 for each day on which it is continues.
- False representations for obtaining a reduction - If a taxpayer, for the purpose of obtaining council tax reduction makes a false statement or representation which the tax payer knows to be false; or provides, or knowingly causes or knowingly allows to be provided, any document or information which they know to be false in a material particular, they shall be guilty of an offence. A taxpayer guilty of such an offence shall be liable, on summary conviction to a fine not exceeding level 4 on the Magistrates Court standard scale, or to imprisonment for a term not exceeding 3 months, or to both.
- Failure to notify a change of circumstances - If a person who is entitled to a reduction and has a change in circumstances which they know changes their entitlement to a reduction and fails to give prompt notification of that change if found guilty of this offence will be liable on summary conviction to a fine not exceeding level 4 on the Magistrates Court standard scale, or to imprisonment for a term not exceeding 3 months, or to both.
- Penalty as alternative to prosecution - As an alternative to prosecution where there are grounds for instituting proceedings against a tax payer, the Council may write to the person inviting them to agree to pay a penalty instead of prosecution action starting. The amount of the penalty is to be 50% of the amount of the excess reduction of Council Tax Reduction which has been overpaid to the customer subject to:

A minimum amount of £100; and

A maximum amount of £1,000.

If the penalty is accepted by the customer and an agreement for repayment is made no further action will be taken against the

customer for this offence. The customer can withdraw their acceptance within 14 days of their agreement.

9. Civil Penalties Appeal Process

9.1 If the recipient disagrees with the decision to impose a Civil Penalty they can, within one month of the decision, ask for a reconsideration of the decision. The decision will be reviewed by another officer. If the appeal is not successful, the customer may appeal to the Valuation Tribunal or Her Majesty's Courts and Tribunals Service

10. Table of Civil Penalties

Service	Amount of Penalty	Criteria	Appeal Method
Council Tax Support	£70.00	1. Negligently or carelessly giving incorrect information, or 2. Failing to provide without reasonable excuse, information in respect of a claim or payment of council tax support, or 3. Failing to notify, without reasonable excuse, a relevant change in circumstances	The Council and then the Valuation Tribunal
Council Tax	£70.00	1. Negligently or carelessly giving incorrect information, or 2. Failing to provide without reasonable excuse, information in respect of a claim or payment of council tax support, or 3. Failing to notify, without reasonable excuse, a relevant change in circumstances	The Council and then the Valuation Tribunal
Council Tax	£280.00	1. Where a penalty has been imposed and a further request to supply the same information is made again and is not properly complied with and may do so each time it repeats the request and the person concerned does not properly comply with it. There is no limit to the number of times this penalty can be imposed.	The Council and then the Valuation Tribunal
Housing Benefit	£50.00	1. Negligently or carelessly giving incorrect information, or 2. Failing to provide without reasonable excuse, information in respect of a claim or payment of benefit, or 3. Failing to notify, without reasonable excuse, a relevant change in circumstances	The Council and then the Appeals Tribunal

11. Legislation

11.1 Legislation governing the application of penalties:

- Local Government Finance Act 1992.
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.
- The Council Tax (Administration and Enforcement) Regulations 1992 (S.I 1992/613)
- The Valuation Tribunal for England (Council tax and Rating Appeals)(Procedure) Regulations 2009 SI 2009/2269
- The Social Security (Civil Penalty) Regulations 2012 (SI 2012/190)
- The Social Security Act 1992
- Welfare Reform Act 2012
- Fraud Act 2006