

CIVIL PENALTIES FOR COUNCIL TAX, HOUSING BENEFIT AND COUNCIL TAX REDUCTION, AND SANCTIONS & PROSECUTION POLICY FOR COUNCIL TAX AND COUNCIL TAX REDUCTION

Finance Advisory Committee - 28 March 2017

Report of Chief Finance Officer

Status: For Decision

Also considered by: Cabinet - 20 April 2017

Key Decision: Yes

Portfolio Holder Cllr. John Scholey

Contact Officer Glen Moore Ext. 7471

Recommendation to Finance Advisory Committee:

That the Committee advise Cabinet to approve the introduction of civil penalties and the associated guidelines at Appendix A and approve the proposed revised Sanctions & Prosecutions Policy detailed at Appendix B.

Recommendation to Cabinet:

That Cabinet consider and approve the introduction of civil penalties and the associated guidelines at Appendix A and approve the proposed revised Sanctions & Prosecutions Policy detailed at Appendix B.

Introduction and Background

- 1 The Revenues and Benefits Service is committed to a proactive approach in preventing and reducing the risks associated to fraud, error and other irregularities in the administration of Council Tax, Housing Benefit and Council Tax Reduction.
- 2 In law, statutory powers already exist which allows the Council to impose civil penalties in a number of circumstances but, at present, these powers are not used. The powers are:
 - i) The Welfare Reform Act 2012 introduced a number of measures to help tackle fraud and error in the benefit and tax credit systems. Under these new measures, councils can now impose a civil penalty of £50 in those cases where a claimant fails, without reasonable excuse, to supply information (or

negligently supplies incorrect information) which results in a housing benefit overpayment of more than £65.

- ii) The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, allows 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.
- iii) 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) which affects their liability or entitlement to a council tax discount or exemption.

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.

- iv) Section 11 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement)(England) Regulations 2013 allows Councils, in cases of proven fraud, to issue a financial sanction as an alternative to prosecution. The penalty amounts to 50% of the gross overpayment (with a minimum of £100, up to a maximum of £1000).
- v) Councils can prosecute Council Tax and Council Tax Reduction fraud. Fraud is where a person, dishonestly, or not, 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 Reduction offences can also be prosecuted under section 14B of the Local Government Finance Act 1992.

Financial Impact on Council Tax income caused by fraud

- 3 In February 2016 responsibility for the investigation of welfare benefits moved to the Department for Work & Pensions and following a review of the Council's anti-fraud service, a new Fraud & Compliance Team was created within the Revenues and Benefits service. With the support of the Council Tax major preceptors the latest credit reference technology has been purchased and has recently been introduced into the day-to-day working procedures to help protect the public pursue and police the award of discounts, exemptions and reliefs in order to increase the tax base.

- 4 Work conducted so far in 2016/17 by the Fraud & Compliance Team in respect of Council Tax accounts in the Sevenoaks area has successfully adjusted 178 incorrect Single Person Discounts and 5 exemptions. The table below shows the actual loss to the public purse as well as an indication of the projected losses going forward if the award was not corrected for a relevant time period:

	Actual Loss	Projected Additional Loss					
		1 Month	2 months	3 months	6 months	12 months	24 months
Council Tax Single Person Discounts	£76,416	£6,035	£12,070	£18,105	£36,210	£72,420	£144,840
Council Tax Exemptions	£11,838	£542	£1,084	£1,626	£3,252	£6,504	£13,008

As the table demonstrates substantial levels of public money are being lost to fraud within tax collection systems and if it were not for the anti-fraud measures being applied the losses would continue to grow.

It is hoped that as the credit reference data match work becomes fully established and initiatives such as the Kent Fraud Hub start to yield higher levels of referrals that more and more incorrect awards can be adjusted and more public money saved.

- 5 Sevenoaks District Council has a zero tolerance of all forms of fraud & corruption. The imposition of civil penalties and the adoption of the revised Sanctions and Prosecution Policy will hopefully give the Revenues & Benefits Service the necessary tools to enable appropriate action to be taken against those persons who purposely abuse the discounts and reliefs systems available.

Benefits of the Policies

The perceived benefits of the introduction of a civil penalty scheme/sanction & prosecution policy are as follows:

- i) The regular promotion of the existence of a penalty scheme will encourage all tax payers and benefit claimants to report relevant changes in their circumstances when they are in receipt of appropriate discounts, exemptions, reliefs etc.
- ii) The regular reporting of changes in respect of Council Tax discounts and exemptions will mean that the local authority will be able to set the true

Council Tax income base and this will result in fairer Council Tax bills for all residents.

- iii) The regular reporting of changes in respect of Housing Benefit claims, will not only have a beneficial effect on the accuracy of Housing Benefit claims administered by the authority, but also have a corresponding beneficial effect on the accuracy of linked Council Tax Reduction claims.
- iv) The existence of a sanction/prosecution policy will re-inforce the message that the authority will take positive action against abuses of these public schemes and this may result in a criminal conviction.
- v) These policies underlines the authority's zero tolerance to all forms of fraud and corruption within public finances.

Key Implications

Financial

- 6 Civil penalties will generate an additional General Fund income but the primary intention of this proposal is for penalties to be used as a deterrent measure, not a regular source of income.

Legal Implications and Risk Assessment Statement.

- 7 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 risks associated to the introduction of civil penalties are perceived to be:

- i) Increase in customer complaints

Experience of authorities in Kent and Essex who have already adopted these powers indicate that very few complaints are received from customers who have a penalty levied against them. This is primarily because the decision to impose a penalty is supported and justified by conclusive evidence that the customer is rarely able to dispute and disagree with.

For information, authorities in Kent who currently adopt the civil penalty regime are Gravesham, Tonbridge & Malling and Shepway.

It should also be noted that whilst we do not currently impose penalties, customers are already advised of the potential to receive a penalty in certain circumstances through a variety of literature including council tax bills, housing benefit letters and the Council's website. However, if the

recommendation is approved we will undertake further publicity to raise awareness of the new practice and, at the same time, encourage benefit claimants and council tax payers to be fully aware of their responsibilities.

ii) Increase in appeals to the Valuation Tribunal

Again, based on the experience of penalty levying authorities this is considered to be little or no risk. However, in addition to the appeals procedure detailed in part 4 of the guidelines, penalties can be withdrawn at the discretion of the decision makers detailed in part 6.

iii) Impact on current resources

The cost of administering and collecting penalties would be minor and therefore there would be no impact on existing budgets.

Equality Assessment

- 8 Part 5 of the draft guidelines detail exceptions to the penalty regime based on a customer's vulnerability. As stated, it is not a definitive list and each case will be considered on its own individual merits.

Conclusions

- 9 This report requests that Cabinet consider and approve the introduction of civil penalties and the associated guidelines at Appendix A and approve the proposed revised Sanctions & Prosecutions Policy detailed at Appendix B.

Appendices

Appendix A - Council Tax, Council Tax Reduction and Housing Benefit (Council Tax Benefit) Civil Penalties Guidelines.

Appendix B - Sevenoaks District Council Local Taxation/Council Tax Reduction Sanction & Prosecution Policy 2016-2017

Background Papers

None.

**Adrian Rowbotham
Chief Finance Officer**