

**TO: EXECUTIVE
22 SEPTEMBER 2015**

**COUNCIL TAX PENALTIES
Director of Adult Social Care Health and Housing
Director of Corporate Services**

1 PURPOSE OF REPORT

- 1.1 To seek Executive consideration for imposing Council Tax Penalties and as such to agree consultation on the changes.

2 RECOMMENDATIONS

- 2.1 **That the Executive agree that consultation takes place on the implementation of a fixed penalty of £70 to Council tax charge payers, permitted under the provisions of the Local Government Finance Act 1992, who intentionally or knowingly fail to notify the Council of any change affecting Council Tax Liability or Local Council Tax Benefit Scheme (LCTBS) without reasonable excuse.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 The Council has powers under the Local Government Finance Act 1992 (Schedule 3) to impose civil penalties to those charge payers who wilfully neglect to inform the Council of changes which affect their Council Tax liability.

The Council aims to deliver value for money. Introduction of a penalty scheme will encourage customers to inform the Council of changes as soon as possible thus reducing collection costs.

These penalties would be applied using a consistent approach to those already in receipt of Housing Benefit where Civil Penalties are already imposed.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 An alternative to the proposed approach would be for the Authority to undertake a fraud investigation under Detection of Fraud and Enforcement regulations. This course of action would require investigation where it is evident that the behaviour of the charge payer warrants a criminal investigation. In order for these investigations to take place, the Council would need to employ an authorised officer or buy in a specific fraud service. The Authority still reserves the right where it is found that the evidence is strong enough for a prosecution, a fine could be imposed of 50% of the excess discount applied to the Council Tax levy, up to a value of £1000. However, the cost of this approach is likely to be in excess of the discount that has been fraudulently claimed and so the approach will not be cost effective in the majority of cases despite the deterrent effect.
- 4.2 In respect of Council Tax liability, in the most serious of cases only, where a person presents information that they know to be false with a view to obtaining a financial benefit to which they are not entitled, the person may be subject to prosecution under the Theft Act 1968 for obtaining a pecuniary advantage by deception.

- 4.3 A fraud investigation or prosecution under the Theft Act would only be used in those cases where it is established that a false statement or negligence by the charge payer justifies this approach.

5 SUPPORTING INFORMATION

- 5.1 It is proposed the Council would impose a penalty when a charge payer fails to report a change in their circumstances or provide information requested within one month, and has not provided a reasonable explanation for the delay in reporting the change resulting in excess discount or incorrect Council Tax liability.
- 5.2 The penalty could be applied in any of the following circumstances:
- Failure to notify the Council that Single Person Discount should no longer apply to the Council Tax charge;
 - Failure to notify the Council that an exemption on a dwelling should have ended;
 - Failure to notify the Council that any other discount applied is no longer applicable;
 - Failure to notify the Council of a change of address within 21 days or as soon as practicable. For Local Council Tax Benefit Scheme 1 calendar month is permissible. The timescale is different to that of Housing Benefit and implementing these changes we will extend this time limit to align with the one calendar month used in Housing Benefit;
 - Failure to notify the Council of a change in liable party;
 - Failure to provide information requested to identify liability, by a third party.
 - Failure to provide information requested after a liability order had been obtained;
 - A false application for Local Council Tax Benefit, or failing to report a change in circumstances which results in the person no longer being entitled to receive the reduction or a reduced amount.
- 5.3 Guidelines for the application of penalties and an internal review procedure for dealing with any appeals will be drawn up to ensure consistency between the officers responsible for imposing the penalties for both Council Tax and Local Council Tax Benefit Scheme.
- 5.4 When a penalty has already been applied and further requests for the same information are made, additional penalties of up to £280 may be imposed.
- 5.5 Penalties are payable directly to the authority that imposed them, and can be collected by adding the penalty to the person's Council Tax liability and detailing it on their Council Tax bill. The authority may quash a penalty that it has imposed if it sees fit. It may not impose a penalty in respect of incorrect liability caused by a member of staff having administered the account inaccurately.
- 5.6 A charge payer may appeal to the Valuation Tribunal for England if aggrieved by the imposition of a penalty and they are unsatisfied with the council's internal review. An appeal would be dismissed if it is not initiated within two months of the date of service of the penalty notice, unless the tribunal is satisfied the delay was caused by circumstances outside the appellant's control and authorises the appeal to be

entertained. It is anticipated that the number of appeals, should there be any, will be minimal.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The legal power to impose a civil penalty arises where a person fails to supply the information requested as well as where in purported compliance with a request he knowingly supplies information which is inaccurate. The consultation process should reflect Cabinet Office Good Practice Guidance which stresses the need for the information that is provided as part of the consultation to be useful and accessible. The timeframe should be proportionate (up to 12 weeks) and consideration should be given to informal forms of engagement such as email or web based forums, public meetings, working groups, focus groups and surveys.

Borough Treasurer

- 6.3 The purpose behind introducing council tax penalties is to encourage council tax payers to notify the Council of changes to their circumstances promptly. This will ensure their liability to council tax is correct. The Council does not expect to use this sanction frequently and it is not considered to be an income generating policy. No additional income should, therefore, be built into the Council's budget at this stage. The amount of income actually generated through penalties, together with changes to council tax income will continue to be monitored on a monthly basis and should sustainable changes to income levels be identified these will be brought forward as future budget proposals.

Strategic Risk Management Issues

- 6.4 There is a potential risk to the Council's reputation should any penalties be applied inconsistently or unfairly, however this risk will be managed by the drafting of a robust policy that will provide clear guidelines to staff making such decisions and allow an element of discretion in exceptional circumstances.

Other Officers

- 6.5 Chief Officer: Customer Services

It is important that any penalty scheme introduced is implemented fairly and consistently, and that information provided to residents on when penalties will be applied is very clear. Digital access channels need to be developed so that residents can notify the Council of changes using their preferred channel, and at a time that is convenient for them.

- 6.6 Chief Officer: Housing

It is logical that the design of a penalty scheme where customers fail to inform the Council in a change of circumstances that affects their Council tax liability is consistent with the existing scheme for civil penalties for housing benefit. Customers face the prospect of being faced with a total of £120 of penalties across both schemes. This is likely to be a significant incentive to ensure customers inform the Council of changes in a timely way.

6.7 Equalities Impact Assessment

A screening has been carried out and the results are attached.

7 CONSULTATION

Principal Groups Consulted

- 7.1 Consultation will take place with taxpayers of the borough and interested groups such as Citizens advice Bureau.

Method of Consultation

- 7.2 Consultation will take place via the council's online consultation portal.

Representations Received

- 7.3 To be reported following consultation.

Background Papers

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