

Report To:	CABINET	Date:	10 SEPTEMBER 2018
Heading:	CIVIL PENALTIES FOR COUNCIL TAX AND FOR THE COUNCIL TAX REDUCTION SCHEME		
Portfolio Holder:	COUNCILLOR ROBERT SEARS-PICCAVEY – CABINET MEMBER (INWARD)		
Ward/s:	N/A		
Key Decision:	NO		
Subject to Call-In:	YES		

Purpose of Report

Local Authorities currently have the power to impose civil penalties for Council Tax and for the Local Council Tax Reduction scheme in a number of circumstances, however at present these powers are not used by Ashfield District Council.

The purpose of this report is to seek member's agreement to allow the council tax service to apply the Civil Penalty in those cases where it is deemed appropriate to do so.

Civil penalties may generate some additional General Fund income but the primary intention of this policy is for penalties to be used as a deterrent against fraud and error, not a regular source of income. It should also be considered that the successful collection of the civil penalties imposed is difficult therefore the level of additional income likely to be achieved is negligible.

Recommendation(s)

For Cabinet to agree to allow Council Tax Civil Penalties to be applied when appropriate to do so.

Reasons for Recommendation(s)

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.

In this context, fraud is where a person 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.

Local Authorities also have powers to impose civil penalties for Council Tax and for the Local Council Tax Reduction scheme where a council tax payer who is receiving a Council Tax reduction, discount or exemption, has failed to notify the council within a reasonable period of time, of a change of circumstances which would have resulted in a reduction or removal of the council tax reduction, discount or exemption they have been receiving.

At present these powers are not used here at Ashfield District Council.

A recent recommendation in the Anti-Fraud & Corruption audit undertaken by CMAP identified that the Council was not utilising the Council Tax enforcement powers by choosing not to issue Civil Penalties. The audit recommendation was that the Council should consider utilising Council Tax enforcement powers by issuing Civil Penalties as and when necessary.

Why should the council apply Civil Penalties?

The introduction of civil penalties will help to encourage all taxpayers to report relevant changes in their circumstances when they are in receipt of appropriate discounts, exemptions or reliefs. We will ensure that all related correspondence clearly explains that a Civil Penalty may be applied where it is deemed appropriate.

Improved reporting of changes in respect of Council Tax discounts and exemptions will mean that the local authority should be able to set a more accurate Council Tax income base and this will result in fairer Council Tax bills for all residents.

Alternative Options Considered

Currently, the Council Tax Service uses the “threat” of a civil penalty being applied in order to emphasise that council tax account holders who are receiving a council tax reduction, discount or exemption based on certain qualifying factors, are encouraged to report any changes to the council tax office so that their council tax account can be amended and a corrected council tax bill issued accordingly.

Detailed Information

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 explanation, to supply information (or negligently supplies incorrect information). Details below:-

- **Regulation 3** of the Council Tax (Administration and Enforcement) Regulations 1992 allows the Local Authority to request information from the Householder. This is required to ensure that Council Tax is being correctly calculated. If a request for information is made to the householder under these regulations then that information must be provided to the council within 21 days. This regulation includes landlords and managing agents (a managing agent is anyone who is authorised to arrange lettings of the property).
- **Regulation 11** of the Council Tax (Administration and Enforcement) Regulations 1992 requires a liable person to advise a Local Authority if an exemption is incorrect. Notice should be provided within 21 days of becoming aware of this belief.
- **Regulation 12** of the Council Tax (Administration and Enforcement) Regulations 1992 allows the Local Authority to request information. This is required for them to ensure that an exemption is being correctly calculated. If notice is served under these regulations it must be provided within 21 days.
- **Regulation 16** of the Council Tax (Administration and Enforcement) Regulations 1992 requires a liable person to advise a Local Authority if a discount is incorrect. Notice should be provided within 21 days of becoming aware of this belief.

If the information is not provided within the 21 days specified in the Regulations, then if a further request has to be made for the information already requested (under the above) then a second, higher, penalty (currently £280.00) may be issued. This higher penalty can be applied each time the request is repeated.

Local Council Tax Reduction Scheme (CTR)

The Council also has powers under the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 to prosecute cases of fraud in Local Council Tax Support schemes.

A local authority may prosecute a claimant for deliberately giving wrong information when they apply for Council Tax Reduction (CTR), either the claimant or someone acting on their behalf. The Council may also prosecute where someone encourages someone else to give wrong information on their behalf.

Also, a current claimant of CTR can be prosecuted or a civil penalty can be imposed, if they fail to tell the Council about any change in circumstances which they know affects their entitlement to CTR or the amount of CTR they receive.

However as an alternative to prosecution the Council may choose instead to impose a Civil Penalty under the same regulations. A civil penalty of £70 can be imposed in those cases

where a claimant fails, without reasonable explanation, to supply information (or negligently supplies incorrect information) which results in a council tax reduction overpayment.

Implications

Applying and withdrawing civil penalties

A Local Authority may withdraw the civil penalty at any time where it would be appropriate to do so for reasons such as vulnerability or extreme hardship for example.

The power to apply and withdraw civil penalties would normally be retained within the Council Tax service to ensure efficient and effective use of these powers. This would form part of the normal administration of council tax and the council tax reduction scheme.

Collection of a Civil Penalty

A civil penalty can be collected by adding it to an existing Council Tax bill or by issuing a separate notice. The amount can be recovered in the same way as Council Tax but recovery action must be suspended if an appeal is lodged (Regulation 29 of the Council Tax (Administration & Enforcement) Regulations 1992).

Right of Appeal

A normal appeals process would be followed in the event of a dispute:-

- If a council taxpayer disagrees with the imposition of a Council Tax penalty they may ask the Council to reconsider the decision.
- A formal request to reconsider the decision should be submitted to the Service Manager-Revenues and Benefits
- Recovery of the penalty will be suspended until the appeal is decided.
- If the decision remains unchanged by the Service Manager – Revenues and Benefits, then an appeal may be made.
- The appeals decision will be made by the Director-Resources and Business Transformation. The Portfolio Holder to be notified of the decision
- A right of appeal directly to the Valuation Tribunal is available should the council taxpayer remain unsatisfied with the outcome of the Council's appeals process.
- The customer has two months in which to appeal after a penalty is imposed

There is no right of appeal to a higher court if the resident/taxpayer disagrees with the Valuation Tribunal's decision.

Corporate Plan:

The issue of Civil Penalties was raised in a Corporate Fraud report, with a recommendation that the authority look to allow the penalties to be imposed as outlined in this report.

Legal:

The relevant legislation is set out above in detail. The Council in order that it does not fetter its discretion, should always consider each case on its merits as suggested above.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	Potential for a small amount of additional income to the general fund.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
There is likely to be an increase in complaints challenging the decision to impose a civil penalty.	Any additional work generated would be absorbed within existing resources.
There is likely to be a small increase in appeals to the Valuation Tribunal.	Current senior staff are sufficiently knowledgeable to deal with appeals and we have sufficient capacity to handle any small increase in appeals lodged.

Human Resources:

There are no HR implications contained within the report.

Equalities:

There are no adverse equality/diversity implications contained in the report

Other Implications:

None.

Reason(s) for Urgency

N/A

Reason(s) for Exemption

N/A

Background Papers

None.

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