

# Gloucester City Council

## Civil Penalty Policy for Council Tax

### **Background**

Council Tax charges are the means by which local residents contribute towards the costs of local services, such as the police, education, fire services and housing.

Gloucester City Council are responsible for the billing, administration, collection and enforcement of Council Tax in the City.

Discounts, reductions and exemptions are available to qualifying local council tax payers based upon a variety of situations. The most common discount awarded is a 'Single Person Discount'. This 25% discount from a council tax account is currently awarded to 19,657\* Gloucester households on the basis that there is only one liable adult in that household.

Whilst the City Council is keen to promote and encourage genuine people to apply for reductions, discounts and exemptions, there must also be a deterrent to discourage the minority who seek to abuse the system by incorrectly claiming discounts, reduction or exemptions. Currently, there is no deterrent for not promptly reporting changes and thus the purpose of the Civil Penalty policy is to encourage residents to promptly report when their circumstances change, and when they are no longer eligible to claim and receive discounts, reductions or exemptions.

### **Fraud**

Council Tax fraud is where a person, dishonestly or not,

- Makes a false statement, declaration or representation; or
- Is involved in a failure to notify a relevant change of circumstances; or
- Omits relevant information

for the purpose of obtaining or retaining a reduction in council tax liability for themselves or others

\*data as at 21.05.2019

## **Policy Purpose**

The introduction of a Civil Penalty policy is to encourage residents to promptly report to the Council when their circumstances change and when they are no longer eligible to receive reductions, discounts and exemptions. The penalty scheme will act as a deterrent.

The regular reporting of changes in respect of council tax discounts, exemptions and reductions will ensure that the Council will be better placed to set the most accurate Council Tax income base. This will result in fairer council tax bills for all City residents.

This policy, along with associated policies (such as the Anti-Fraud and Corruption policy and strategy) and procedures will ensure a consistent approach to the detection, sanction and recovery of losses as a result of fraud and corruption activity.

The policy will reinforce the message that the City Council will act robustly, taking positive action against abuse of funds and underpins this authority's zero tolerance to fraud and corruption within public finances.

## **Civil Penalty Policy**

The Council has a duty to ensure that all applications for council tax reductions, exemptions and discounts are correctly awarded and has a responsibility to prevent and detect fraud and protect public funds. The council will take action, including legal recovery, in order to recover all council tax liability that results from fraudulent action or a person's failure to notify a change of circumstances. This action can include imposing a civil penalty of £70\*\* where a person:

- Makes an incorrect statement or representation, or negligently gives incorrect information or evidence in, or in connection with, an application for a reduction under the Council Tax Reduction Scheme
- Fails to take reasonable steps to correct the error promptly
- By making an incorrect statement or representation is awarded a discount, exemption or council tax reduction, which is greater than the amount to which the person was entitled
- Without reasonable excuse, fails to give prompt notification of a relevant change in circumstances, and that failure results in the award of a discount, exemption or council tax reduction which is greater than the amount to which the person was entitled

### **Factors when considering if a penalty is appropriate**

There are certain factors which could be considered 'aggravating' when considering whether a civil penalty is appropriate:

- A false statement
- Collusion with another person (such as a landlord or employer)
- The period over which the reduced liability occurred
- The monetary amount gained
- Previous recorded offences of same or similar nature or a persistent offender
- Positions of trust
- The discount / exemption being false from the outset

### **Factors when considering if a penalty is not appropriate**

There will be exceptions and each penalty decision will be made in isolation having regard to the customer's ability to handle their own personal and financial affairs and any vulnerability issues. Examples of potential exceptions to the penalty could be:

- The offence is minor
- Health and welfare issues
- The value of the offence is relatively low
- Medical conditions
- Other social factors

\*\*£70 is a statutory amount set within the relevant legislation

### **Applying the policy**

A senior manager in the Revenues and Benefits service will decide which cases are suitable for a civil penalty, having regard to this policy and the circumstances of each individual case. A written decision notice will be issued to the Council Tax Payer explaining why a civil penalty has been imposed. The notice will include information on how to appeal and will be sent with either;

- a revised council tax bill showing the amended amount of council tax now due following the imposition of the civil penalty

- a sundry debtor invoice for the penalty with instruction on how to make payment

This is not a huge demand on available resource and can be absorbed within the current Council Tax framework

### **Application of the penalty**

Currently all council tax bills advise that should a tax payer fail to report changes, then they can face a civil penalty of £70. This appears in print, on the bills, however, the Council have not imposed this penalty.

The council tax bill also clearly shows any discounts, reductions and exemptions made to the bill. It also includes a reminder to the taxpayer that any changes in their circumstances that could affect the bill, must be promptly reported. Any council tax penalty imposed will either be applied to the current council tax bill and will be collected via the normal billing process, or will be invoiced as a sundry debt.

Both of these methods will explain how the penalty can be paid.

### **Appeals**

If a customer does not agree with the imposition of a civil penalty, then they have the right to appeal. An appeal must be made in writing within one month of the penalty being imposed, clearly outlining the grounds for appeal. An appeal will be forwarded to the client officer team for a reconsideration to be made. The outcome of the appeal will be made within 14 days and the customer advised in writing of the appeal decision.

If a customer remains dissatisfied, then they may appeal directly to the Valuation Tribunal.

### **Legal**

Legal statutory powers already exist which allow the Council to impose civil penalties in a number of circumstances - the powers are:

- The Welfare Reform Act 2012 which introduced several measures to tackle fraud and error in the benefit and tax credit systems
- 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 [support] overpayment
- 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). 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 requested information

- Councils can prosecute Council Tax and Council Tax Reduction Scheme fraud. 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 give prompt notification of a relevant change in circumstances which the person knows will affect the discount, exemption or reduction they are entitled to, or are claiming, or are in receipt of. Matters can be prosecuted under The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 and potentially other legislation such as the Fraud Act 2006 dependant on the nature of the offences.

Civil Penalties will generate an additional income fund, however, the primary incentive for introducing this policy is for penalties to act as a deterrent against fraud and error

Regardless of whether or not a penalty is imposed in a case the Council will make every attempt to collect all council tax owed as the result of false applications for reductions, exemptions and discounts. This action will include pursuing all available methods of recovering the debt due, including taking civil action where necessary.