

Meeting:	Cabinet	Date:	10 July 2019
Subject:	Council Tax ~ Civil Penalties		
Report Of:	Cabinet Member for Performance and Resources		
Wards Affected:	All		
Key Decision:	Yes	Budget/Policy Framework:	No
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Appendices:	A – Civil Penalty Scheme for Council Tax		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 The purpose of the report is to recommend the introduction of a Council Tax Civil Penalty Policy for those residents who make incorrect statements or fail to notify a change in their circumstances, fail to provide information or knowingly provide incorrect information therefore obtaining an incorrect council tax discount, reduction or an exemption from their council tax account.

The primary intention of the policy is for penalties to be used as a deterrent against fraudulent and incorrect claims for council tax reduction, discount or exemption

2.0 Recommendations

- 2.1 Cabinet is asked to **RESOLVE** that a Council Tax Civil Penalty Policy is implemented from 17 July 2019 which would see a £70 civil penalty imposed on those residents who knowingly obtain an incorrect discount or exemption from their council tax as outlined in Appendix A.

3.0 Background and Key Issues

- 3.1 Council Tax charges are the means by which local residents make a contribution towards the cost of local services, for example, the police, fire services, education and housing.
- 3.2 Discounts and exemptions are available to qualifying local council tax payers, based upon a variety of situations. The most common discount is a 'Single Person Discount' and currently this is applied to 19,657* households in the city, who declare they are eligible for this 25% discount by being the only adult in the household

- 3.3 The purpose of the Council Tax Civil Penalty Policy is to encourage residents to promptly report when their circumstances change, and when they are no longer eligible to receive discounts and exemptions.
- 3.4 Currently the onus rests with a council tax payer to update the Council should they cease to be entitled to receive a discount or exemption on their council tax account. There is currently no deterrent for not promptly reporting this change and it is often not discovered until much later, when the Council then has to re-issue bills and often bills for retrospective years too.
- 3.5 By way of reference other local authorities in Gloucestershire have a similar policy, which imposes civil penalties of £70** on those residents who make incorrect statements or fail to notify a change in their circumstances, fail to provide information or knowingly provide incorrect information therefore obtaining an incorrect council tax discount, reduction or an exemption from their council tax account.

* Information as at 21.05.2019

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

4.0 Asset Based Community Development (ABCD) Considerations

- 4.1 A minority of people seek to abuse the system by incorrectly obtaining discounts, reductions or exemptions. This policy would deter such negative behaviour and make the system fairer to those who correctly adhere to the council tax rules. In addition, 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.

5.0 Environmental Implications

- 5.1 There are no environmental implications to be considered

6.0 Alternative Options Considered

- 6.1 The alternative is to not impose a penalty for failure to notify of a change of circumstances or making incorrect statements, and for the system to remain as it currently is. By retaining the current approach there is no incentive for council tax payers to promptly report any changes. Should the changes be discovered at a later date, then tax payers will merely be billed for the council tax shortfall without any penalty.

7.0 Reasons for Recommendations

- 7.1 Gloucester City Council is keen to promote and encourage people to apply for reductions, discounts and exemptions, however, there must also be a deterrent to discourage the minority who seek to abuse the system by incorrectly claiming discounts, reductions or exemptions
- 7.2 The Council has a duty to ensure that all applications for council tax reductions, exemptions and discounts are correctly awarded. It has a further 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.

- 7.3 The introduction of a penalty should encourage the regular reporting of changes in respect of council tax discounts, exemptions and reductions. In turn this 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.

8.0 Future Work and Conclusions

- 8.1 Currently all Council tax bills issued by Gloucester City Council warn that a £70 penalty could be imposed should changes fail to be reported, however, the Council have never executed this, and for completeness, communication of this policy will be provided to the public via press releases on social media.

9.0 Financial Implications

- 9.1 Civil penalties will generate an additional income fund, however, the primary incentive for this policy is to act as a deterrent against fraudulent claims and for claimants to provide accurate information so their claims to council tax reduction, exemption and discount can be correctly assessed. It is also pertinent to note that the prompt 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.

(Financial Services have been consulted in the preparation of this report).

10.0 Legal Implications

- 10.1 A civil penalty of £70 can be imposed for two reasons under Regulations 12 and 13 of **The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013**

i) for making incorrect statements (Regulation 12). This is where a claimant negligently makes an incorrect statement or representation, or negligently gives incorrect information or evidence in, or in connection with, the council tax reduction award or application; and if the claimant fails to take reasonable steps to correct the error

ii) for failing to notify a change of circumstances (Regulation 13). The claimant is required to promptly notify the Council of any relevant change of circumstances which would mean that their entitlement to council tax reduction would be reduced. Notification should be within 21 days of the change or as soon as reasonably practicable after the change, whichever is later

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 are able to prosecute for Council Tax and Council Tax Reduction Scheme fraud. This would be considered by the relevant officer and reviewed by One Legal in accordance with the Council's Anti-Fraud and Corruption Policy and the Code for Crown Prosecutors, on a case by case basis as to whether they meet the evidential and public interest tests for prosecution. Prosecution may be undertaken under Regulation 10 of **The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013**. Offences would also be considered under other legislation such as **The Fraud Act 2006**

(One Legal have been consulted in the preparation of this report).

11.0 Risk & Opportunity Management Implications

11.1 It may be difficult to collect any increased Council Tax and associated penalties due, but all available options will be explored to mitigate this risk.

12.0 People Impact Assessment (PIA) and Safeguarding:

12.1 A PIA screening assessment has been undertaken and the assessment did not identify any potential or actual negative impact, therefore a full PIA was not required.

13.0 Community Safety Implications

13.1 There is no implication to community safety

14.0 Staffing & Trade Union Implications

14.1 Not applicable

Background Documents:

Gloucester City Council – Anti Fraud and Corruption Policy

https://www.gloucester.gov.uk/media/1318/gcic_anti_fraud_policy_strategy-2017-2019.pdf

Welfare Reform Act 2012

https://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga_20120005_301118_en.pdf

Local Government Finance Act 1992

https://www.legislation.gov.uk/ukpga/1992/14/pdfs/ukpga_19920014_en.pdf

The Fraud Act 2006

https://www.legislation.gov.uk/ukpga/2006/35/pdfs/ukpga_20060035_en.pdf