

**Council Tax and Housing Benefit Civil Penalties Policy
(Failure to notify or supply information)**

1 Introduction

- 1.1 Failure to notify a change of circumstances or provide information for Council tax billing or Housing Benefit purposes are an offence. The offence is committed if the customer fails to notify us of a change affecting their liability to pay Council Tax within 21 days of the change occurring or if they fail to notify us of a change affecting their entitlement to Housing Benefit within one calendar month.
- 1.2 For practical purposes the Council will not impose a penalty if the customer notifies us, or provides the requested information, within one calendar month or both Housing Benefit and Council tax. There is currently no penalty scheme for Business Rates.
- 1.3 During the first year of operation the additional penalty should only be imposed after discussion and approval from either the Revenues or the Benefits Manager.

2 Council Tax penalties

- 2.1 The law allows Councils to impose a £70 penalty to any person who;
- 2.2 Fails to notify the council that an exemption on a dwelling should have ended
- 2.3 Fails to notify the council that a discount (including single person discount and Local Council Tax Support) should have ended
- 2.4 Fails to notify the council of a change of address or fails to notify the council of a change in the liable party.
- 2.5 Fails to provide information requested to identify liability.
- 2.6 Fails to provide information requested after a liability order has been obtained

Where a penalty has already been imposed on their Council Tax and a further request to supply the same information is made, a further penalty of £280 may be imposed for each subsequent failure, provided the information is in the debtor's possession. The authority requests him to supply it and it falls within a prescribed description of information.

An example of when a further penalty may apply would be a large landlord or letting agent who continually fails to tell us about a new tenant moving in to their property.

3 Housing Benefit (Council Tax Benefit) penalties

- 3.1 A Civil Penalty can be imposed on Customers who receives an overpayment of Housing Benefit (or Council Tax Benefit) caused by either;
- 3.2 Negligently making incorrect statements, or Fails without reasonable excuse to provide information or disclose changes in their circumstances
- 3.3 A civil penalty of £50 can be added to the amount of an overpayment of benefit if the overpayment (after underlying entitlement) is more than £65 and where the claimant is viewed as being at fault.

For the purposes of this policy a penalty will be considered if the overpayment is more than £100

- 3.4 A civil penalty cannot be applied where the claimant has, in respect of the overpayment, been charged with an offence, been cautioned or been subject to a penalty as an alternative to prosecution under section 115A of the Social Security Administration Act 1992. (Fraud cases)
- 3.5 A penalty applies to overpayments wholly arising **on or after 1 October 2012**. Where there has been an overpayment of Housing benefit of more than £100 (after underlying entitlement)
- 3.6 East Devon and Teignbridge have already introduced Penalties for Council tax charge payers Housing Benefit and CTR claimants where they have failed to notify the Local Authority of the change within the statutory time limit.
- 3.7 The adoption of the Council Tax and Housing Benefit Civil Penalties Policy in this appendix brings Mid Devon into line with other Devon Authorities and the Revenue raised from imposing Penalties will be retained wholly by Mid Devon.

4 Appeals

- 4.1 If a customer disagrees with the imposition of a Council Tax penalty they may discuss it with the Council. They do however have the right to appeal directly to the Valuation Tribunal. They have two months in which to appeal after a penalty is imposed.
- 4.2 If a penalty is imposed, we must advise the customer why we have applied a penalty and provide them with information about how to appeal and the date by which any appeal should be made. If the taxpayer appeals, recovery of the penalty should be suspended until the appeal is decided.
- 4.3 Housing Benefit penalties may be appealed in the same way as any benefit decision, and with the same times scales as the Housing or Council Tax benefit appeal, with appeals being dealt with by the reconsideration process or the Tribunal Service.

5. Exclusions

- 5.1 It is the Council's policy to exclude taxpayers with mitigating family/personal reasons e.g. death or illness, from the imposition of penalties.
- 5.2 Council Tax payers or benefit recipients who are severely mentally- impaired are also excluded from the penalty scheme.
- 5.3 Exclusion from a penalty should also be considered in cases where:
The customer or their partner:-
 - 5.3.1 Has a significant degree of physical or mental infirmity, such as a terminal illness, severe clinical depression, hearing/sight/speech problems, learning difficulties or frailty due to old age.
 - 5.3.2 Has made a voluntary disclosure of the alleged offence before the Council had any suspicions regarding the validity of their entitlement to a Council Tax discount or exemption, Local Council Tax Support Reduction Scheme or their Housing Benefit entitlement.
 - 5.3.3 Could be dealt with more effectively without redress to a penalty, for example due to age or immaturity, although youth in itself is not a good enough reason not to instigate proceedings.
- 5.4 All identified exclusion cases should be verified by the Benefit Manager or the Revenues Manager

6. Application of the penalty.

- 6.1 The Council Tax bill clearly shows that we have awarded discounts, exemptions and or Local Council Tax Support. It makes clear that the taxpayer must tell us straight away about any change in their circumstances that could affect their bill or a penalty could be imposed.
- 6.2 The Benefit decision letter also clearly states that failure to advise the Council of changes in circumstance that may affect their entitlement to Housing Benefit may result in an overpayment and the imposition of a penalty.
- 6.3 A Council Tax penalty will be collected by applying the penalty to the Council Tax account for collection via the normal billing process.
- 6.4 A Housing Benefit Penalty will be applied to the claim by a manual adjustment and recovered from ongoing benefit. A manual adjustment sheet will be completed and approved by the Benefit Manager.
- 6.5 A letter must be sent in all cases advising of the application of the penalty and the reason.
- 6.6 Where the penalty relates to an overpayment no penalty will be applied until one month after the notice of the overpayment has been issued. This is

because the overpayment may fall below the £65 threshold when underlying entitlement has been applied.

7. Awareness

- 7.1 Effective publicity of this policy will ensure customers are aware of their responsibilities.
- 7.2 By adopting this policy we are sending a clear message our claimants and chargepayers that failure to notify the Local Authority of changes in circumstances will result in the issue of a penalty thereby acting as a deterrent to claim fraudulently.

8 Relevant Legislation

Section 14(2) of the Local Government Finance Act 1992

Regulation 12 & 13 of the Council Tax reduction schemes (Detection of Fraud and Enforcement) (England) 2013 SI 2013/501

Version 1. November 2015