

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	29 November 2023
Subject:	Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy
Report of:	Head of Service: Counter Fraud and Enforcement Unit
Head of Service/Director:	Executive Director: Resources
Lead Member:	Lead Member for Finance and Asset Management
Number of Appendices:	1

Executive Summary:

To present Executive Committee with an updated Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy for approval.

The Policy has been reviewed to ensure the content reflects current legislation and the Council's Policies and Procedures. The Policy will replace the existing Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy.

Recommendation:

- 1. To ADOPT the Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy.**
- 2. To delegate authority to the Executive Director: Resources, in consultation with the Head of Service: Revenues and Benefits and the Head of Service: Counter Fraud and Enforcement Unit, to approve future minor amendments to the policy.**

Financial Implications:

The policy provides Officers with a framework that can be followed when dealing with matters arising from cases of fraud and error. This allows for financial penalties to be charged; however, the intention of the policy is not primarily for revenue raising purposes but to ensure the proper use and protection of public funds.

Legal Implications:

In general terms, the existence and application of an effective fraud risk management regime assists the Council in effective financial governance which is less susceptible to legal challenge.

The legislation utilised by the Counter Fraud and Enforcement Unit and other service areas within the Council is identified within the policy and the Council must comply with all legislative requirements.

Environmental and Sustainability Implications:

Not applicable.

Resource Implications (including impact on equalities):

The Counter Fraud and Enforcement Unit seeks to ensure that public authorities' actions are consistent with the Human Rights Act 1998 (HRA). It balances safeguarding the rights of the individual against the needs of society as a whole to be protected from crime and other public safety risks.

Safeguarding Implications:

Where any safeguarding concerns are identified during the course of the Counter Fraud and Enforcement Unit duties, appropriate referrals will be made.

Impact on the Customer:

Prosecutions will only be considered where the evidential and public interest tests are met with due consideration to the welfare of individuals.

The local authority will only take enforcement action where appropriate to do so with due consideration to older offenders, offenders with disabilities and where the offender lacks mental capacity.

1.0 INTRODUCTION

1.1 The Counter Fraud and Enforcement Unit is tasked with reviewing the Council's Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy. It is recommended good practice that the policy is updated and reviewed at least every few years in line with any legislative changes.

1.2 In administering its responsibilities, this Council has a duty to prevent fraud and corruption, whether it is attempted by someone outside or within the Council such as another organisation, a resident, an employee or Councillor.

2.0 COUNCIL TAX, HOUSING BENEFIT AND COUNCIL TAX SUPPORT PENALTY AND PROSECUTION POLICY

2.1 The policy, attached at Appendix 1, has been updated in accordance with the review period. Review frequency is as required by legislative changes or every three years. This has been delayed due to events over the last three years.

2.2 The policy and fines set out therein are legislative and have not been altered since the policy was originally drafted several years ago.

2.3 The Council's existing Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy was developed to reflect (i) latest legislation and (ii) the changes following the creation of the Single Fraud Investigation Services (operated by the Department for Work and Pensions) which subsumed the Council's responsibilities for investigating Housing Benefit Fraud.

2.4 The Council Tax Support Scheme was introduced in 2013 and replaced Council Tax Benefit. The scheme is locally agreed with some set parameters and the responsibility to enforce any fraud or abuse of the scheme rests with the Council.

- 2.5** The Council has a responsibility to ensure that Council Tax is billed correctly and that there is no abuse of exemptions and discounts. The policy seeks to set out the action that the Council may take in relation to fraud and misinformation in relation to this.
- 2.6** It should be noted that legislation outlines that, to incur a Civil Penalty for a Housing Benefit overpayment, the value of the overpayment needs to exceed £250; however, the policy details that, for decisions across the Counter Fraud and Enforcement Unit Partnership, this figure will be £500. When setting this figure, consideration was given to current cost of living pressures and the vulnerabilities of the demographic this particular policy impacts.
- 2.7** The policy has been reviewed and drafted for the participants within the Counter Fraud and Enforcement Unit Partnership and will provide consistency to the application of penalties and legal action across Gloucestershire and West Oxfordshire.
- 2.8** Executive Committee last considered the Policy in August 2017.
- 2.9** The changes are minor, to reflect changes to departmental names within the Councils and duties and responsibilities within the Department for Work and Pensions. Amendments also ensure continuity across the Counter Fraud and Enforcement Partnership as the Counter Fraud and Enforcement Unit is charged with investigation in this area for six Councils.
- 2.10** Awareness will be raised with all staff following the approval of the policy.

3.0 CONSULTATION

- 3.1** Any policies drafted or revised by the Counter Fraud and Enforcement Unit have been reviewed by One Legal and issued to the relevant Senior Officers, Management and Governance Officers for comment.
- 3.2** As part of the consultation process, the policy has been reviewed by the Head of Service: Revenues and Benefits and One Legal.

4.0 ASSOCIATED RISKS

- 4.1** The Council is required to proactively tackle fraudulent activity in relation to the abuse of public funds. The Counter Fraud and Enforcement Unit provides assurance in this area.
- 4.2** Failure to undertake such activity would accordingly not be compliant and expose the authority to greater risk of fraud and/or corruption. If the Council does not have effective counter fraud and corruption controls it risks both assets and reputation.

5.0 MONITORING

- 5.1** Any activities within the scope of this Policy are overseen by Officers of Revenues and Benefits, the Counter Fraud and Enforcement Unit and One Legal as appropriate.

6.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

6.1 Counter Fraud and Anti-Corruption Policy

Whistle Blowing Policy

Council Tax, Housing Benefit and Council Tax Support Penalty and Prosecution Policy

Corporate Enforcement Policy

Regulation of Investigatory Powers Act 2000 (Surveillance and CHIS) Policy

Investigatory Powers Act 2016 (Acquisition of Communication Data) Policy

Use of the Internet and Social Media in Investigations and Enforcement Policy

Background Papers: None

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Appendices: Appendix 1 – Council Tax, Housing Benefit and Council Tax Support
Penalty and Prosecution Policy