

Revenues and Benefits Penalty Policy

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Key Information (To correspond with Covalent)

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1. Introduction

There are prescribed circumstances within legislation where a financial penalty can be issued in relation to Council Tax, Local Council Tax Support (LCTS) and Housing Benefit for failure to notify a change of circumstances or provide requested information.

The legislation is as follows:

- Sch 3 Local Government Finance Act 1992
- Sch 2 Local Government Finance Act 1992
- Welfare Reform Act 2012
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013
- Social Security (Civil Penalty) Regulations 2012
- S115 Social Security Act 1992

Basildon Council is taking advantage of these powers to a degree but this policy has been developed to provide clarity and consistency in our approach to the administration of such penalties. The policy affirms the use of best practice methods providing high standards of customer service dealing with all customers in a fair and inclusive manner, whilst giving careful consideration to the needs of vulnerable customers.

We are required to collect money from residents in the form of Council Tax and administer a local scheme of Council Tax support (LCTS) as well as the national Housing Benefit scheme. We are fully committed to ensuring that all aspects of the service are delivered in the most efficient and effective ways, to the highest standards of customer care and having regard to the individual needs of customers and the interests of taxpayers.

2. Executive Summary

The money we collect through Council Tax and recovery of Housing Benefit overpayments enables us to provide important public services for the borough.

Imposing penalties on customers who pay Council Tax or receive Housing Benefit and/or LCTS, for failing to provide information or failing to declare a change of circumstances, acts as a deterrent and also provides an additional income stream as the authority keeps the value of the penalty imposed.

3. Policy Statement / Vision

Council Tax

Council Tax is a tax levied on all eligible domestic dwellings. The amount of Council Tax charged is dependent on the Council Tax band that the property falls into. The full rate of tax is liable to be paid unless the property, owner or occupier is eligible for a reduction, discount or exemption.

The liable person is responsible for informing the council within 21 days if there is a change in their circumstances that means that they are no longer entitled to a discount or exemption. Council Tax legislation provides that where the person fails to notify the council of the change within 21 days, without reasonable excuse, a penalty of £70 can be imposed. As a council we have decided to allow a period of 1 month from the date of the change before a penalty will be considered.

A penalty of £70 can also be imposed where the authority has made an assumption about entitlement to a discount or exemption and the liable person fails to inform that the assumption is incorrect within a period of 21 days. In practice we will rarely award a discount or exemption without an application being received from the liable person or their representative.

In relation to establishing the liable person for Council Tax purposes a penalty can be issued where a notice has been sent in writing requesting details to establish liability and either the person fails to respond or knowingly supplies false information in response. The notice can be sent either to a named person or addressed to 'The Owner, Occupier or Managing Agent'. In this case the penalty is £70 initially, however, for this instance only if the same information is requested again in an identical format and again the person fails to respond or provides false information a penalty of £280 can then be imposed. This can be repeated. The law stipulates that the notice must allow 21 days for a response, we will allow a period of 1 month from the date of the notice for this information to be provided before a penalty is considered.

A Council Tax penalty is applied to the Council Tax account and is treated in the same way as the Council Tax charge in that it can be subject to recovery proceedings if not paid.

The right of appeal against a Council Tax penalty is through the Valuation Tribunal. Recovery of a penalty must be suspended whilst the appeal is outstanding.

Local Council Tax Support and Council Tax Reduction

Local Council Tax Support (LCTS) is the scheme in place to assist persons of pension age on a low income with paying their Council Tax. Council Tax Reduction (CTR) is a discount for persons of working age on a low income in order to reduce their Council Tax charge.

A person may be subject to criminal prosecution for making a false statement in relation to their claim for LCTS or CTR or for failing to notify a change in their circumstances which then leads to a reduction in their entitlement to LCTS or CTR. If convicted this in turn will lead to a fine and/or imprisonment. The law provides that local authorities can offer a penalty as an alternative to prosecution. Where determined appropriate the person will be given a notice advising them of the penalty which is 50% of the amount of the resulting excess reduction (overpaid LCTS) subject to a minimum amount of £100 and a maximum amount of £1000.

In all cases where a person has failed to notify a change in their circumstances that then leads to a reduction of LCTS or CTR, a penalty of £70 can be issued. This will apply

where it is not appropriate for criminal proceedings and the person has not been charged with an offence, cautioned or offered a penalty as an alternative to prosecution.

An LCTS or CTR penalty is applied to the Council Tax account and is treated in the same way as the Council Tax charge in that it can be subject to recovery proceedings if not paid.

The right of appeal against an LCTS or CTR penalty is through the Valuation Tribunal. Recovery of a penalty must be suspended whilst the appeal is outstanding.

Housing Benefit

There are three cases where a civil penalty of £50 may be imposed for Housing Benefit purposes, these are:

- Where a person negligently makes an incorrect statement or representation or negligently provides incorrect information or evidence.
- A person fails without reasonable excuse to provide information or evidence which then results in an overpayment.
- A person fails to notify a change of circumstances which then results in an overpayment.

The penalty amount in all of the above cases is always £50 and only one civil penalty can be issued for a change of circumstances regardless of how many periods of overpayment this change creates. The Department for Work and Pensions (DWP) have issued guidance stating that a Housing Benefit penalty only be issued where the resulting overpayment is £65 or more. This is not stipulated within the regulations and it is at the authority's discretion the amount of overpayment to consider suitable for a penalty to be issued. We will not apply a penalty unless the overpayment is over £100.

A Housing Benefit civil penalty is recovered in the same manner as the Housing Benefit overpayment.

The right of appeal against a Housing Benefit civil penalty is to the council. We will reconsider the decision to apply the penalty and if necessary make a submission to the Appeals Tribunal.

4. Context

Whilst the imposition of penalties is a power that we as a local authority have discretion to use, this will not be appropriate in all cases. In determining the suitability of a case for a Council Tax, LCTS, CTR or Housing Benefit civil penalty we will take into account all the known circumstances such as but not exclusive to, the person's age, inexperience, mental health and any disability. We will not issue a penalty where we are aware that the person concerned is terminally ill. We publicise that assistance is available at the Basildon Centre or by telephone for residents that require help with understanding notification letters or Council Tax bills. We are also able to offer notification letters in large print where required.

Particularly with LCTS cases we are dealing with people on a low income and often the most vulnerable members of the Basildon community. The Billing and Benefit officers are experienced decision makers and are entrusted to have full consideration of the circumstances before deciding to proceed with a penalty. In all cases the authority has the power to quash the penalty should we decide to do so at a later date.

Basildon Council do not currently have a policy in relation to financial penalties and therefore this a new policy which will be reviewed and updated over time as necessary. The policy solely relates to financial penalties in relation to Council Tax, Local Council Tax Support, Council Tax Reduction and Housing Benefit.

5. Outcomes and Priorities

Outcomes A policy that is clear, and treats all customers equally and fairly, and with respect

Priorities To act as a deterrent to our customers not to delay in informing the council of changes to their circumstances and to provide an additional income stream for the council.

6. Links to other Corporate Policies or Partner documents

None

7. Appendices

Council Tax Penalties process map
LCTS Penalties process map
HB Civil Penalties process map