



COUNCIL TAX REDUCTION, DISCOUNT & EXEMPTION ANTI- FRAUD POLICY

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Tonbridge and Malling Borough Council
Council Tax Reduction, Discount & Exemption Anti-Fraud Policy

1. INTRODUCTION

- 1.1 Tonbridge and Malling Borough Council is committed to ensuring that the correct levels of council tax liability are collected from its residents and considers that council tax reduction is for those who are most vulnerable in society and that discounts and exemptions should only be applied to households that meet the necessary criteria. It is important to detect and prevent fraud and error in the first instance and as such the council seeks to check and verify all original documents and personal circumstances before awarding any reductions, discounts or exemptions, or amending existing reductions discounts or exemptions.
- 1.2 The council is opposed to all forms of fraud and corruption. It recognises that fraud and corruption undermine the standards of public service, which it promotes, and reduces the resources available for the good of the whole community. The council has issued an Anti-Fraud and Corruption Strategy and a Whistleblowing Policy to encourage prevention, promote detection and support the investigation of allegations of fraud or corruption at a corporate level.
- 1.3 This Council Tax Reduction, Discount & Exemption Anti-Fraud Policy is designed to reinforce the Anti-Fraud & Corruption Strategy specifically in relation to Council Tax Administration and is designed to: -
- 1 stop fraudulent applications for reductions, discounts or exemptions from entering our systems
 - 1 find any fraudulent reductions, discounts or exemptions already in the system
 - 1 punish those people who commit fraud
 - 1 recover council tax owed as the result of fraudulently obtained reductions, discounts or exemptions
 - 1 deter people from trying to commit fraud
- 1.4 The Council Tax Reduction, Discount & Exemption Anti-Fraud Policy and the associated Sanctions & Prosecutions policy will be reviewed at least annually by the Investigation Manager, with any material amendment subject to the approval of the Cabinet.

2. DEFINITION OF COUNCIL TAX FRAUD

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

- a) Falsifies a statement or a document; or
- b) Is involved in a failure to notify a relevant change of circumstance; or
- c) Omits relevant information

for the purpose of obtaining a reduction in council tax liability for themselves or another.

3. CULTURE

3.1 The council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud and corruption and as such has established a dedicated Investigation Team.

3.2 The council's staff and members, at all levels, are an important element in its stance on fraud and corruption and should lead by example. They are encouraged to raise any concerns and can do this in the knowledge that these will be treated in confidence and properly investigated.

3.3 Instances of suspected/alleged Council Tax fraud may be referred for investigation to the Investigation Team. Investigation Officers are based in the Audit Fraud Team within the Finance Service and can be contacted on extension 6337/6101 or through the e-mail system. All staff conducting either investigations and or interviews should be aware of the council's procedures for dealing with unacceptable and aggressive behaviour, which is contained within the Statement of Health and Safety Policy found on the staff intranet.

4. PREVENTION

Staff

4.1 To reduce the risk of fraud and error it is vital that the qualifications and employment histories of potential recruits are comprehensively checked. Benefits staff should also sign an annual declaration covering any interests that may conflict with their work. For example, receiving HB and CTB, or acting as a landlord or agent.

4.2 All individuals within the Investigation Team are required to act with integrity and follow the **Code of Conduct for Investigation Staff (see Appendix B)**.

4.3 Employees must declare any circumstances where their personal interests (financial and non-financial) may conflict with those of the council e.g. processing a Council Tax Reduction application form for a relative or friend.

4.4 Procedures have been designed to ensure that the work of one member of staff is checked by a Senior Officer. These types of checks are important deterrents to fraud and error.

- 4.5 Council Tax staff will receive Fraud Awareness training as part of their induction. Thereafter they will receive annual refresher training.
- 4.6 Appropriate staff both internally within the council and externally will receive fraud awareness training.
- 4.7 All Investigation Officers will undertake training in order to ensure that they carry out their duties in accordance with recognised standards for Fraud Investigation. In addition they will undertake any training required by the Department for Work and Pensions in order to use specific powers under the Social Security Administration Act and Social Security Fraud Act (Authorised Officer powers) for investigations relating to council tax reduction.

Systems

- 4.8 It is a management responsibility to maintain the internal control system. This includes the responsibility for the prevention of fraud and other illegal acts. By undertaking an agreed plan of work, internal audit will evaluate the adequacy and effectiveness of these controls as a means of assisting management to discharge its responsibilities.
- 4.9 All Council Tax recording systems must be designed in consultation with and to the satisfaction of the Director of Finance & Transformation. Access to data must be controlled by use of passwords with an audit trail kept of transactions
- 4.10 All staff with access to the confidential details of claimants will be responsible for ensuring the control of physical access to the data and will be responsible for compliance with the Data Protection Act and the Freedom of Information Act. This responsibility requires managers to ensure that the physical access to equipment is restricted, as far as practical, to authorized users only. All individuals must protect their passwords and not keep them written down or 'lend them'.
- 4.11 All manual Council Tax records must be kept securely filed when not in use and access to these files must be restricted to designated officers only.
- 4.12 All valuables, including documentation, must be recorded and tracked through the council system until returned to the originator. Where these items are hand delivered a receipt will be given to the originator.
- 4.13 All telephone calls received in relation to Council Tax Fraud will be recorded manually and a note of the content of the conversation will be kept on file.

5. DETECTION AND INVESTIGATION

- 5.1 Surveys by the Audit Commission have identified that Council Tax Fraud causes significant loss to local government.
- 5.2 Whilst encouraging genuine people to apply for reductions, discounts and exemptions, the council has adopted a number of initiatives to detect and prevent fraudulent applications, such as:

- 1 operation of a fraud 'hotline'; 01732 876337
 - 1 participation in the National Fraud Initiative data-matching exercise;
 - 1 undertaking land registry checks;
 - 1 carrying out joint fraud investigations with other bodies such as the Counter Fraud Investigation Service, Home Office, Kent Police, other Local Authorities and other investigation departments;
 - 1 publicity of anti-fraud initiatives ,the Fraud Hotline number and press releases.
- 5.3 All referrals passed to the team will be sifted and vetted for strength of evidence. All cases where the evidence is considered sufficient to investigate will be logged and a case file opened.
- 5.4 The council's Disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour by a council employee.
- 5.5 Members of staff within the Council Tax Section should refer suspected cases of fraud to the Investigation Team. The Investigation Team will give feedback to staff regarding the quality of the Fraud Referral and the outcome of any resulting investigation.
- 5.6 The Investigation Manager will circulate a quarterly report on the outcome of referrals. This report will include the source of the cases and details of the fraud type. This report will be given to the Service Manager – Revenues & Benefits and all Council Tax staff.
- 5.7 All claims where there is sufficient proof for the council to believe that a reduction, discount or exemption has been claimed fraudulently will be dealt with under the associated Sanctions and Prosecution Policy. The sanctions open to the council include a Caution, an Administration Penalty (in respect of council tax reduction) or Prosecution.
- 5.8 The council will take action, including legal recovery, in order to recover all Council Tax liability that results from fraudulent activity or a person's failure to notify a change of circumstances, regardless of whether sanction action takes place, and may consider imposing a civil penalty of £70 for incorrect statements or negligently failing to report changes in circumstances.

Tonbridge and Malling Borough Council
Council Tax Reduction, Discount & Exemption
Sanction and Prosecution Policy

I. STATEMENT OF INTENT

Tonbridge and Malling Borough Council has a duty to ensure that all applications for Council Tax reduction, discounts and exemptions are correctly awarded and a responsibility to prevent and detect fraud. Tonbridge and Malling Borough Council is committed to protecting public funds and will consider taking prosecution action against any person suspected of committing fraud in order to reduce their council tax liability.

Tonbridge and Malling Borough Council has decided that its Prosecution Policy should not be entirely related to the monetary value of the offence. This is because Tonbridge and Malling is an area where liabilities vary widely depending on the location and type of property in question. In these circumstances a purely monetary policy would not be appropriate. All cases will be looked at on their own merit and any mitigating circumstances taken into account.

The recommendation on whether a case is suitable for sanction action lies with the Investigations Manager. A sanction recommendation will be completed by the investigating officer and then reviewed by the investigations manager in accordance with the sanction policy to determine what course of action, if any, is appropriate. This review will take into account;

- α The evidential test criteria,
- α The Public interest test criteria,
- α Value and length of the offence,
- α Local prevalence,
- α Social and health factors, and
- α Any other mitigating factors

Sanction cases will be approved by the Chief Internal Auditor. Prosecution recommendations will be reviewed by Legal Services and the Chief Financial Services Officer for approval. Cases deemed suitable for prosecution may be dealt with in-house by the Authority's legal team. These cases are generally prosecuted under the Fraud Act 2006 or the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013..

Opinion will be gained from a legal professional either in house or private to ensure a robust case is presented at court.

II. EVIDENTIAL CRITERIA

Tonbridge and Malling Borough Council may consider sanction action if the case is serious enough to warrant it.

In order for any Sanctions to be considered the case must meet the evidential criteria. In other words is there sufficient evidence for a realistic prospect of a conviction?

In making this decision, the following factors will be considered;

- How clear the evidence is
- If there has been any failure in the investigation
- If there has been any failure in benefit administration

III. PUBLIC INTEREST CRITERIA

If the evidential criteria are met then the council will consider whether or not Sanction action would be in the public interest. In making this decision, the following factors will be considered first:

- Medical conditions
- Other social factors
- Financial implications compared with losses
- Council's Vulnerability Policy

If these still indicate that a sanction is appropriate then the other Public Interest Criteria as shown in The Code for Crown Prosecutors listed at **Appendix A**, will be considered in order to decide the appropriate sanction

IV. NO SANCTION OR PROSECUTION

Tonbridge and Malling Borough Council may consider closing the case without any sanction or prosecution action if:

- To our knowledge the person has never previously offended
- The offence is minor
- The period over which the fraud has been committed is very short
- The value involved is very low
- The case does not satisfy the Evidential and Public Interest Criteria

In cases where no further action is appropriate and an Interview Under Caution has taken place a letter will be issued stating that no further action will take place, however a strong reminder advising of the responsibility to notify changes and provide correct information will be included in the letter.

V. CIVIL PENALTIES FOR INCORRECT STATEMENTS

Even if it is determined Tonbridge & Malling will not take any sanction or prosecution action in respect of offences committed, they may still consider issuing a civil penalty for making an incorrect statement or failing to notify a change of circumstances

The Authority may consider imposing a penalty of £70 on a person where;

- The Person makes an incorrect statement or representation, or negligently gives incorrect information or evidence in or in connection with an application or in connection with the award of a reduction under the council tax reduction scheme,
- Fails to take reasonable steps to correct the error,
- The error results in an award of a reduction council tax reduction which is greater than the amount to which the person was entitled,
- The person has not been charged with an offence or cautioned, or been given an administration penalty, or
- Without reasonable excuse, fails to give a prompt notification of a relevant change of circumstances to the authority,
- The failure results in an award of a reduction council tax reduction which is greater than the amount to which the person was entitled,
- The person has not been charged with an offence or cautioned, or been given an administration penalty.

VI. SANCTIONS AS ALTERNATIVES TO PROSECUTION

Where the authority has reviewed a case and is satisfied that an offence has been committed, mitigating factors may suggest that an alternative form of sanction should be considered in the first instance as a more suitable means of disposal.

These alternative sanctions take the form of a caution or, in the case of Council Tax Reduction, an administrative penalty.

A Caution;

- Acts as a final written warning for the offence committed,
- Is for council tax administration purposes only
- Is not a criminal record and therefore, does not affect a persons employment prospects
- Remains on record for a period of 5 years,
- Would be cited at proceedings should any subsequent offences be committed within the 5 year period

The Authority may consider issuing a Caution if:

- To our knowledge the person has never previously offended, or
- The person has committed council tax fraud or benefit fraud before but the offence was minor and the current offence is also minor,
- There was no planning involved in the process,
- There was no other person involved in the fraud,

- q The offence is minor,
- q The value of the offence is relatively low,
- q The person has fully admitted the offence during an IUC,
- q The persons subsequent attitude, e.g. whether they express genuine regret for what they have done,
- q Criminal proceedings are not the first option

An Administrative Penalty;

- q Is a financial penalty calculated as a percentage of the fraudulently obtained council tax reduction, which is set at;
 - o 50% of the excess reduction, with a minimum of £100 and a maximum of £1,000,
- q Is for council tax administration purposes only,
- q Is not a criminal record and therefore, does not affect a persons employment prospects,
- q Remains on record for a period of 5 years,
- q Would be cited at proceedings should any subsequent offences be committed within the 5 year period

The Authority may consider issuing an Administrative Penalty if:

- q To our knowledge the person has never previously offended, or
- q The person has committed council tax fraud or benefit fraud before but the offence was minor and the current offence is also minor,
- q There was no planning involved in the process,
- q There was no other person involved in the fraud,
- q A Caution is not appropriate as there has been no admission to the offence,
- q The offence is minor,
- q Criminal proceedings are not the first option

If a person refuses to accept a caution or administrative penalty, the case will be referred for prosecution.

Even if the above criteria for Cautions and Penalties was satisfied Tonbridge and Malling Borough Council may decide that a Caution or Administrative Penalty is not appropriate if the person:

- q Has been prosecuted for a council tax or benefit fraud offence in the last 5 years.
- q Has been cautioned two or more times in the past five years.

This is because this would indicate that

- q Previous sanctions have not deterred them from re-offending,
- q Their lack of contrition for the offences committed,
- q Their disregard for the legislation,
- q A deliberate and repeated intent to commit fraud,
- q Their apparent belief that these offences are not serious.

Instead Tonbridge and Malling Borough Council may consider referring the case for prosecution.

VII. PROSECUTION

The final decision on whether to refer a case for prosecution lies with the Chief Internal Auditor. This decision will then be reviewed by Legal Services and the Chief Financial Services Officer for approval.

Once a decision to prosecute has been made, the case will be presented to the Council's Legal team, who will provide an opinion on the evidential and public interest test.

If the evidential and public interest tests have been satisfied, the case will be authorised by the legal team and passed for prosecution. If the Legal team consider the evidential and public interest test has not been met the case will be referred back to the Investigation Team with a recommendation.

In addition to the Evidential Criteria and Public Interest Criteria outlined above the following will also be taken into consideration;

- Whether the application for reduction, a discount or exemption was false from inception, or
- The change in circumstances was intentionally withheld,
- Whether there was planning in the process,
- Whether the suspect was a ring leader or an organizer of the offence,
- Any previous incidence of fraud,
- Whether there has been any abuse of position or privilege,
- The amount of the excess reduction in liability,
- The duration of the alleged offence,
- Whether there are grounds for believing that the offence was likely to be continued or repeated, based on the person's previous history.
- Whether the offence is widespread in the area where it was committed and so prosecution may act as a deterrent,
- Whether the person has refused to accept a Caution or Administrative Penalty

VIII. COLLECTION OF COUNCIL TAX

Regardless of whether or not any Sanction action is taken, Tonbridge and Malling Borough Council will attempt to collect all Council Tax owed as the result of false applications for reductions, discounts and exemptions. This action is taken by the Revenues Team who will pursue all available methods of recuperating the debt including taking civil action when necessary.