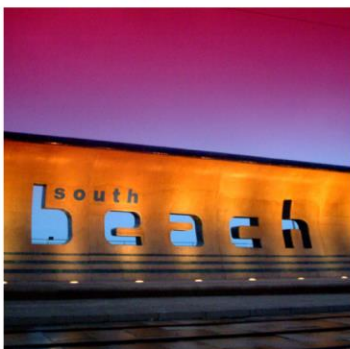


Council Tax Reduction Scheme Sanctions and Prosecution Policy

Blackpool Council



Sanctions and Prosecution Policy

Background

Blackpool Council is committed to protecting the public funds it administers through the investigation of suspected fraudulent claims for Council Tax Reduction (CTR) by having a clear policy framework with regards to sanctions and prosecutions.

Council Tax Reduction is not classed as a welfare benefit and guidance for the administration of this new scheme is published by the Department for Communities and Local Government.

Policy Overview

This policy outlines the approach to be followed with regard to the sanctions and prosecution of Council Tax Reduction offences and considerations to be taken into account concerning the appropriateness of the following courses of action:

- Penalty as alternative to prosecution - Regulation 11 of the Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013
- Legal proceedings

Recovery of overpayments will be sought in all cases.

What is Council Tax Reduction fraud?

For the purposes of this policy fraud is perceived to be:

- Knowingly or dishonestly making a false statement or representation with intent to gaining a financial advantage through council tax reduction, or,
- Knowingly or dishonestly failing to give prompt notice of a change of circumstances, with intent to gaining a financial advantage through council tax reduction.

For the purposes of this policy corruption is perceived to be:

- The soliciting or accepting of an inducement or reward that may influence the action of a person, or,

- Causing or allowing someone to produce false documents/information or causing or allowing someone in failing to notify a change with intent to gaining a financial advantage through Council Tax Reduction.

Aims and Objectives

In all cases of fraud, Local Authorities are expected to actively consider applying a sanction or prosecution.

In making the decision as to whether to apply a sanction or prosecution, the appropriate officers shall in each case be fair and consistent and consider each case on its own merits, taking into account the evidence available.

When considering whether it is appropriate to instigate proceedings the Council's Corporate Fraud Officer will consider firstly if there is sufficient admissible evidence to provide a realistic prospect of conviction.

The following factors are to be considered:

- The availability of any claim forms that have been submitted without disclosure of material fact;
- Whether the parties involved have been given adequate opportunity to advise of the relevant details;
- The period of fraud;
- Statements and evidence provided by the parties involved during the period of the investigation, including any voluntary disclosures; and
- Availability of other reliable evidence.

It should be noted that voluntary disclosure only occurs when a claimant, of his or her own free will, reveals a fraud of which the Council were previously unaware. Disclosure will not be deemed voluntary when, for example the issue of a benefit review form or information obtained during normal verification procedures have solicited or prompted the disclosure in some way.

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The Corporate Fraud Officer will consider if prosecution is in the public interest, taking into consideration the following factors. Not all the factors will apply to each case and there is no obligation to restrict consideration to the factors listed:

- The seriousness of the offence;
- Whether the offence is planned or systematic;
- Whether more than one person involved;
- Previous history and likelihood of recurring conduct;
- The fact that the fraud is widespread and/or prevalent;
- Age, physical and mental health of the parties' involved (official written confirmation of the relevant details may be sought from an appropriate medical professional);
- Social factors for example the officer may take the view that the suspect may have committed the alleged fraud because of a stressful domestic situation. In most such cases the prosecution is likely to go ahead and any factors such as these may be put to the court for consideration;
- The fact that details may become part of the public domain, which may harm sources of information;
- Obstruction / lack of co-operation with the investigation;
- Persistent offender;
- Where the customer has failed to attend an interview to give their account of the facts;
- The period of the offence;
- The amount of Council Tax Reduction overpaid during the period of the offence;
- Where the alleged offender has refused an official Penalty;

- Where a person involved in the fraud was in a position of trust, for example a member of staff;
- Where the prosecution may have a significant deterrent effect; and
- Whether there have been any failings in the Council Tax Reduction administration processes that can be attributed to official error, this also includes unreasonable delays.

Note: The level of overpayment is not the sole determining factor and there may be other factors that would still make prosecution appropriate.

Penalties as an alternative to prosecution

From the 1 April 2013 Regulation 11 of the Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013, introduced penalties as an alternative to prosecution.

A Council Tax Reduction penalty is intended to be a meaningful deterrent and can only be considered where there is sufficient evidence to justify instituting criminal proceedings. A person who agrees to pay a penalty may withdraw the agreement within 14 days by notifying the billing authority.

A Council Tax Reduction penalty is the offer to a person to pay a financial penalty. The amount of the penalty is to be 50% of the amount of the excess reduction, subject to:

- A minimum amount of £100; and
- A maximum amount of £1,000.

The decision to offer a Council Tax Reduction penalty will be made by the Chief Internal Auditor after consultation with the Corporate Fraud Officer.

A separate Council Tax Reduction penalty interview will be undertaken by a member of the Corporate Fraud

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Team provided they have not dealt with any part of the investigation in relation to the case.

If a person declines or withdraws acceptance of a Council Tax Reduction penalty legal proceedings will be considered in all cases.

Cases where criminal proceedings may be appropriate

Whilst cases in which the calculated overpayment is £2,000 or over will be likely to lead to prosecution as a first option, cases where the overpayment is below £2,000 may still lead to prosecution as a first option. In both circumstances the cases will be considered on their individual factors.

The Corporate Fraud Officer will submit the case to the Chief Internal Auditor who will decide which further action is appropriate or whether to close the case. The Chief Internal Auditor will have regard to this policy.

The decision to recommend prosecution will be made by the Chief Internal Auditor. This person should be satisfied that the investigation has been undertaken in an appropriate manner and that any decisions to offer a sanction takes into account the public interest test.

Cases that are deemed suitable for prosecution will be referred to the Council's Legal Services or the Crown Prosecution Service as appropriate who will consider and review the recommendation to prosecute in accordance with the criteria set down in the Code of Conduct for Crown Prosecutions.

Equalities Statement

The Council's Corporate Fraud Officer will always act with respect to pertinent legislation and without prejudice when executing the Council's procedures and policies.

The Corporate Fraud Officer will ensure that all suspects of fraud will receive clear and understandable correspondence making them aware of their legal rights and informing them of all the possible outcomes to an investigation.

The Council sanctions and prosecution processes will not discriminate for or against any individual according to gender, race, sexuality, gender identity, age, disability or belief.

Publicity

Press releases will be issued in suitable cases where a conviction has been obtained to seek to maximize the deterrent effect and raise the level of public fraud awareness.

Consideration will be given to the amounts involved, the nature of the offence, the public interest and deterrent value of publicising a particular case.

Review of policy

This Sanctions and Prosecution Policy will be reviewed by the Chief Internal Auditor, Revenues and Benefits Team and Legal Services in the light of any legislative changes, trends or other factors that impact on the effectiveness of the policy. As a minimum the policy will be reviewed at least every three years.

Summary

The Council will seek to deter those committing offences by imposing a Penalty, or by prosecuting in all appropriate cases.

The criteria that have been established are designed to ensure that the appropriate cases are brought to court, the appropriate sanctions are applied and the Council acts in a positive way to actively seek out and deter fraudsters and those seeking to gain an improper advantage of the system.

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