



Council Tax & Benefits

Application of Civil Penalties

(Failure to Notify or Supply Information)

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Part 1 Introduction

- 1.1 Failure to notify a change of circumstances or provide information for Council Tax billing or Housing Benefit purposes is an offence. The offence is committed if the customer fails to provide information within 21 days of its request, 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 for both Housing Benefit and Council Tax. Please note there is currently no penalty scheme for Business Rates.
- 1.3 Where a penalty has already been imposed on their Council Tax account 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.
 - it falls within a prescribed description of information.
- 1.4 An example of when a further penalty may apply would be a large landlord or Estate Agent who continually fails to tell us about a new tenant moving in to their property.
- 1.5 During the first year of operation the additional penalty should only be imposed after discussion and approval from the Assistant Director (Revenues) or Assistant Director (Benefits).

Part 2 Council Tax penalties

- 2.1 Schedule 3 of the Local Government Finance Act 1992 allows Councils to impose a £70 penalty to any person who;
 - a) fails to notify the council that an exemption on a dwelling should have ended
 - b) fails to notify the council that a discount (including single person discount and Local Council Tax Support) should have ended
 - c) fails to notify the council of a change of address or fails to notify the council of a change in the liable party
 - d) fails to provide information requested to identify liability
 - e) deliberately provides false information . In addition to the power to impose a penalty, the provisions of the Theft Act apply to Council Tax as they do in other situations. Where any person presents information which they know to be false with a view to obtaining a financial benefit they may be subject to a prosecution for obtaining a pecuniary advantage by deception.

Part 3 Housing Benefit penalties

- 3.1 A Housing Benefit civil penalty can be imposed in accordance with the Social Security Administration Act 1992. 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 £100 and where the claimant is viewed as being at fault.
- 3.2 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.
- 3.3 A penalty applies where there has been an overpayment of Housing benefit of more than £100 after underlying entitlement. A £50 civil penalty can be added in the following circumstances:

1. **Where a person has been overpaid as a result of negligently making an incorrect statement or representation, or negligently giving incorrect information or evidence.**

For example bank statements show that there is another bank account or job that has not been disclosed on the claim form and no action has been taken to tell the Authority about it. In this situation the penalty will only be applied if the person also fails to take reasonable steps to correct the error. The DWP's definition of 'negligently' means 'acting carelessly, not paying sufficient attention to the task in hand, or disregarding the importance of what is required to be done in relation to the claim or an award.

2. **Where a person has been overpaid as a result of failing, without reasonable excuse, to provide information or evidence required in connection with a claim for, or award of benefit. The DWP defines 'reasonable excuse' as a 'credible reason or justification' and might include being in a situation of significant stress or suffering ill health;**

For example, the claimant starts work or moves and, as a result of their failure to supply new evidence of earnings or rent, a negative inference has to be taken (eg a zero rent or £999 income is assumed).

3. **Where a person has been overpaid as a result of failing, without reasonable excuse (see above), to notify a relevant change of circumstances.**

In cases where the Authority becomes aware of a change of circumstances which the claimant has not notified to the Authority (including changes identified via Automated Transfer to Local Authority Systems (ATLAS)).

Part 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. If a penalty is imposed, we must advise the customer why we have imposed 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.
- 4.2 Penalties applied to a Council Tax account are recovered as part of the normal recovery process.
- 4.3 Housing Benefit penalties may be appealed as part of an appeal against the overpayment decision. The decision can be reconsidered by the Authority, and if unsuccessful, the appeal can be considered by The Tribunals Service.

Part 5 Exceptions

- 5.1 Exclusion from a penalty should be considered in cases where:

The customer or their partner:-

- 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.
 - 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
 - was driven to commit the offence by a difficult domestic situation (for example domestic violence or fire)
 - 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.
- 5.2 Where a taxpayer is in receipt of Council Tax Support (LCTS) care must be taken not to impose a penalty twice for the same offence, where neither Council Tax, nor Benefits, was notified of the change.

- 5.3 Where a civil penalty would otherwise be imposed, exceptions will be agreed after discussion and approval from the Assistant Director (Revenues) or Assistant Director (Benefits).

Part 6 Application of the penalty.

- 6.1 The Council Tax bill clearly shows the award of discounts, exemptions and/or Local Council Tax Support. It makes clear that the taxpayer must tell the Authority 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 Authority 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 recovered either from ongoing Housing Benefit entitlement or by sundry debtor.
- 6.5 A letter will be sent in all cases advising of the application of the penalty and the reason.
- 6.6 Where the penalty relates to an overpayment of Housing Benefit, no penalty will be applied until one month after the notification of the overpayment has been issued. This allows for a period where further information can be provided and an underlying entitlement award considered.