

# AGENDA



- Committee - **CABINET**
- Date & Time - Tuesday, 22 March 2016 at 6.30 pm
- Venue - Council Chamber, Council Offices, Priory Road, Spalding

## **Membership of the Cabinet:**

Councillors: The Lord Porter of Spalding CBE (Leader), C N Worth (Deputy Leader), M G Chandler (Deputy Leader), A Casson, P E Coupland, R Gambba-Jones, C J Lawton, S-A Slade, G J Taylor.

**No substitutions permitted. Quorum 4.**

**Note: Cabinet reports may be referred to Council or Scrutiny Panels. They should therefore be kept for future reference during the current committee cycle.**

Persons attending the meeting are requested to turn mobile telephones to silent mode

Democratic Services  
Council Offices, Priory Road  
Spalding, Lincs PE11 2XE

Date: 14 March 2016

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## AGENDA

1. Apologies for absence.
2. Minutes - To sign as a correct record the minutes of the meeting of the Cabinet held on 16 February 2016 (copy enclosed). (Pages 1 - 8)
3. Declarations of Interest.  
  
(Where a Councillor has a Disclosable Pecuniary Interest the Councillor must declare the interest to the meeting and leave the room without participating in any discussion or making a statement on the item, except where a Councillor is permitted to remain as a result of a grant of dispensation.)
4. Questions raised by the public under the Council's Constitution (Standing Orders).
5. To consider any matters which have been subject to call-in.
6. To consider matters arising from the Policy Development and Performance Monitoring Panels in accordance with the Overview and Scrutiny Procedure or the Budget and Policy Framework Procedure Rules.
7. Council Tax Section 13A Policy - To approve the policy in relation to applications for discretionary reduction under Section 13A (1) (c) of the Local Government Finance Act 1992. (Report of the Portfolio Holder for Finance and the Executive Director Commercialisation (S151) enclosed.) (Pages 9 - 16)
8. Council Tax Support Anti Fraud Policy - To approve the anti-fraud policy in relation to the Council Tax Support scheme. (Report of the Portfolio Holder for Finance and the Executive Director Commercialisation (S151) enclosed.) (Pages 17 - 28)
9. Any other items which the Leader decides are urgent. -  
  
Note:     (i) No other business is permitted unless by reason of special circumstances, which shall be specified in the Minutes, the Leader is of the opinion that the item(s) should be considered as a matter of urgency.  
  
          (ii) Any urgent item of business that is a key decision must be dealt with in accordance with the Constitution's Access to Information Procedure Rules.
10. To consider resolving that, under section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 3 of part 1 of Schedule 12A of the Act.

11. Procurement Lincolnshire - To consider current and future delivery of procurement support to the Council. (Report of the Portfolio Holder for Legal, Performance and Democratic Services and the Executive Director Strategy and Governance enclosed.) (Pages 29 - 32)

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Minutes of a meeting of the **CABINET** held in the Council Chamber, Council Offices, Priors Road, Spalding, on Tuesday, 16 February 2016 at 6.30 pm.

## PRESENT

Lord Porter of Spalding CBE (Leader)  
C N Worth (Deputy Leader)  
M G Chandler (Deputy Leader)

A Casson  
P E Coupland

R Gambba-Jones  
C J Lawton

S-A Slade  
G J Taylor

Junior Portfolio Holders: E J Sneath and A R Woolf

Chief Executive, Executive Manager - Governance, Interim Executive Manager Growth, Interim Chief Accountant and Democratic Services Officer.

In Attendance: Councillor B Alcock (Chairman, Performance Monitoring Panel), Councillor G R Aley (Chairman, Governance and Audit Committee), Councillor A M Newton (Independent Group Leader) and Councillor M D Seymour (Chairman, Policy Development Panel).

Community Representatives: J Whitbourn (Business Organisations), G Scorthorne (South Lincolnshire Community and Voluntary Service) and Councillor R Boot (Parish Councils).

### **37. MINUTES**

The minutes of the meeting held on 8 December 2015 were signed by the Leader as a correct record.

### **38. DECLARATIONS OF INTEREST**

No interests were declared.

### **39. QUESTIONS RAISED BY THE PUBLIC UNDER THE COUNCIL'S CONSTITUTION (STANDING ORDERS)**

No questions were raised under the Council's Constitution (Standing Orders).

### **40. MATTERS SUBJECT TO CALL-IN**

There were no matters subject to call in.

Action By

CABINET - 16 February 2016

**41. MATTERS ARISING FROM THE POLICY DEVELOPMENT AND PERFORMANCE MONITORING PANELS**

There were no matters arising from the Policy Development and Performance Monitoring Panels.

**42. OPEN FOR BUSINESS ACTION PLAN**

Consideration was given to the joint Report of the Deputy Leader of the Council / Portfolio Holder for Commercialisation and Executive Manager Growth which sought approval of the 'Open for Business' Action Plan. The Plan was attached as an appendix to the report and was developed following consultation with partners and local businesses, an external economic analysis and an internal review of local economic indicators.

Members noted the challenges of creating high skilled jobs, that the impact of the living wage is driving unprecedented focus on automation and that the types of such jobs that would be created included engineers and IT technicians that specialised in the food industry.

Councillor C J Lawton suggested that it might be useful to look at building links with the migrant workers in the area. Councillor C N Worth agreed to take that on board.

The Chief Executive advised that it was important to look at the overall approach as there was strength in South Holland's alliance with Peterborough due to Peterborough's strong profile and the joint inward investment package that could be created. The report focussed on what South Holland could do as a district and the action plan focussed on where interventions were required.

Councillor A R Woolf referred to apprenticeships and stated that it was important to offer apprenticeships to young people with skills, in areas such as farming, and then to encourage them to stay and work in the district. Councillor Worth advised that it was dependent upon colleges providing the skills required by local businesses.

**DECISION:**

That the 'Open for Business' Action Plan be approved.

*(Other options considered:*

- *Not to adopt the 'Open for Business' approach; or*
- *To adopt the 'Open for Business' approach with amendments.*

JK, TM, NB

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*Reasons for decision:*

- *The Council was already pursuing its pivotal role within the district's growth*
- *agenda to fulfil its commitment within the corporate priority 'To support the local economy to be vibrant with continued growth';*
- *The Council had an opportunity to refresh its approach to economic and business growth to ensure it met local business needs and maximised its contribution to the prosperity of the district.*
- *The action plan would form the basis of the Council's approach to facilitating and enabling business and economic growth for the District. It would be the primary document employed by the Council's Inward Investment Team in defining their Service Plan and would inform the Service Plans of other growth-related teams.)*

**43. FINANCIAL FORECAST OUTTURN QUARTER THREE 2015-16**

Consideration was given to the joint report of the Portfolio Holder for Finance and the Executive Director Commercialisation (S151) which provided information on the draft year end financial position of the Council, as at 31 December 2015, and proposed a number of recommendations to full Council. The Financial Report for the quarter ending 31st December 2015 was attached as Appendix 1 within the report.

**RECOMMENDED TO FULL COUNCIL:**

- a) That the report and Appendix 1 be noted;
- b) That £164,000 of Local authority useable capital receipts be used for any capital purpose within the Council as defined by the Local Government Act 2003 (as Amended);
- c) That £1,660,000 of Accelerated funding of the Minimum Revenue Provision (borrowing repayment in year) be agreed in accordance with paragraphs 5.1.5 and 5.1.6 within the report which included a £723,000 contribution from the Council Tax reserve, use of in year savings of £773,000 and application of £164,000 of useable capital receipts;
- d) To agree that useful life criteria as identified in paragraph 5.1.7 within the report be adopted for current and future use;
- e) To agree the establishment of £100,000 in the Council Tax reserve in respect of potential additional costs from a revised specification of the Grounds maintenance and Street cleansing services as per paragraph 5.1.8 within the report; and

JK, KT

**CABINET** - 16 February 2016

- f) To agree in principle to the restructuring of council reserves in line with paragraph 5.1.9 within the report.

*(Other options considered:*

- *To note the report and to approve the recommendations detailed within the appendix with amendments; or*
- *To note the report and not approve the recommendations detailed within the appendix.*

*Reasons for decision:*

- *To provide timely information to councillors on the overall finances of the Council and to make the best use of resources available.)*

#### **44. COMMUNITY ASSETS IN THE HOUSING REVENUE ACCOUNT**

Consideration was given to the joint report of the Portfolio Holder for Finance and the Executive Director Commercialisation (S151) setting out a business case which sought approval for the Executive Director Commercialisation (S151) to pursue the appropriation of garages and commercial properties from Housing to Operational assets.

##### **DECISION:**

That the Executive Director – Commercialisation be authorised to appropriate garages and parking spaces from Housing to operational asset use.

*(Other options considered:*

- *To note the report and to approve the recommendation with amendments; or*
- *To note the report and not approve the recommendation.*

*Reasons for decision:*

- *To appropriate underperforming assets no longer required for their original purpose as part of a wide ranging asset management review to redefine the commercial framework and increase usage and income in the future.)*

#### **45. DRAFT BUDGET, MEDIUM TERM PLAN AND CAPITAL STRATEGY**

Consideration was given to the joint report of the Portfolio Holder for Finance and the Executive Director Commercialisation (S151) which sought consideration of the draft capital and revenue budget estimates, the medium term financial plan and the capital strategy to be recommended to full Council.

JK, KT

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The following documents were appended to the report, which had been circulated with the agenda:

- Appendix A - Budget estimates and medium term financial plan
- Appendix B - Budget Summary 2016/17
- Appendix C - Spalding Special Expenses
- Appendix D - Reserves
- Appendix E - Capital estimates
- Appendix F - Capital strategy
- Appendix G - Treasury Strategy
- Appendix H - Fees & Charges

Councillor P E Coupland referred to a paper, that was circulated prior to the start of the meeting, which provided details of amended wording to recommendation 5 in respect of Spalding Special Expenses, and an additional recommendation 11 to enable the Interim Chief Accountant to make amendments to the report and appendices, in consultation with the Portfolio Holder for Finance, prior to submission to full Council.

**RECOMMENDED TO COUNCIL:**

JK, KT

- a) That the revenue estimates for the General Fund, Housing Revenue Account and Spalding Special Expenses for 2016-17 and outline position through to 2019-20 (as set out in Appendices A, B and C within the report) be approved;
- b) That the rent setting for social housing be delayed until receipt of a national rent policy, as defined in the Welfare Reform & Work Act 2016, from the Government;
- c) That the fees and charges (as set out in Appendix H within the report) for adoption 1 April 2016 be approved;
- d) That the Council Tax for a Band A property in 2016-17 be set at £106.56, a £3.33 per annum increase on 2015-16 levels (Band D £159.84, a £5 per annum increase on 2015-16 levels);
- e) That the Spalding special expenses for Band A be set at £15.33 (£15.40 for 2015/16) (Band D £22.99, £23.10 for 2015/16);
- f) That the medium term financial plan (as set out in Appendices A and B within the report) be approved;

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- g) That authority be delegated to the S151 Officer to apply for the four year settlement from central Government when all relevant information was made available;
- h) That the capital strategy and capital programme (as set out in Appendices E and F within the report) be approved;
- i) That the Treasury Management strategy, including the Minimum Revenue Provision policy and annual investment strategy (as set out in Appendix G within the report) be approved;
- j) That the release of budget, as shown in the capital programme for Economic Development from investment and growth funds, be delegated to the S151 Officer in consultation with the Portfolio Holder for Finance to approve projects on receipt of detailed and appropriate business cases which generate an agreed ongoing return and contribute to council objectives; and

**DECISION:**

KT

- k) That authority be delegated to the Interim Chief Accountant (Deputy S151 Officer) to make amendments to the report and appendices prior to submission to full Council in consultation with the Portfolio Holder for Finance, provided that the Revenue budget requirement of £11,594,000 and the General Fund capital budget remained unaltered.

*(Other options considered:*

- *To note the report and to approve the recommendation with amendments; or*
- *To note the report and not approve the recommendation.*

*Reasons for decision:*

- *To comply with the budgetary and policy framework.*

(The meeting ended at 7.17 pm)

(End of minutes)

**CABINET** - 16 February 2016

These minutes are published on Friday 19 February 2016. In accordance with the Council's Constitution the DECISIONS detailed above will, unless otherwise stated, come into force and may then be implemented on Monday 29 February 2016 (i.e. after the expiry of 5 working days from the date of publication of these minutes), unless during that period a notice which is signed by at least one member of the Council and complies with the requirements of the Council's Constitution is served on the Executive Manager Governance requesting that the decision be called-in and the Executive Manager Governance approves the request for call-in. Where a decision is called-in it will firstly be considered by the Performance Monitoring Panel on a date to be fixed.

Any FINAL DECISIONS and any URGENT DECISIONS take effect immediately.

Any RECOMMENDATIONS TO COUNCIL detailed above will be submitted for consideration to the meeting of the full Council on Wednesday 24 February 2016.

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## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Portfolio Holder for Finance and the Executive Director Commercialisation (S151)

**To:** Cabinet - 22 March 2016

**(Author:** Sharon Hammond, Head of Strategy, Revenues and Benefits)

**Subject:** Council Tax Section 13A Policy

**Purpose:** To approve the policy in relation to applications for discretionary reduction under Section 13A (1) (c) of the Local Government Finance Act 1992.

### **Recommendation:**

To approve the Council Tax Section 13A Policy.

### 1.0 **BACKGROUND**

- 1.1 Section 76 of the Local Government Act 2003 introduced Section 13A (Billing Authority's Power to Reduce Amount of Tax Payable) into the Local Government Finance Act 1992. This provides the council with discretionary powers to reduce the amount of council tax payable to such an extent as it thinks fit, including reducing the amount to zero, where other national discounts and exemptions cannot be applied.
- 1.2 The Local Government Finance Act 2012 inserted a new Section 13A in the Local Government Finance Act 1992, creating two discounts: -
- Local Council Tax Support schemes under Section 13A(1) (a) and (b); and
  - 13A (1) (c) effectively the original Section 13A discount now including provision to further reduce the amount of any reduction provided by S13A (1) (a) and (b).
- 1.3 In accordance with Section 13A (1)(a) of the Local Government Finance Act 1992 (amended), the Council has a Council Tax Support scheme which provides assistance to those deemed to be within financial need. The scheme has been designed to take into account the financial and specific circumstances of individuals with maximum relief of 75%, of the Council Tax liability, available to working age applicants.
- 1.4 Council Tax legislation also provides for a wide range of discounts, exemptions and reductions that have the effect of reducing the level of council tax due. The Policy under Section 13A (1) (c) as shown at Appendix A will require applicants to have exhausted all other options before making an application under this policy.
- 1.5 Officers applying this policy will similarly consider whether alternative actions could be undertaken before applying this policy. As such, this policy will only consider exceptional circumstances, due to financial need or crisis, where it is appropriate and fair to provide a discretionary discount.
- 1.6 Any relief awarded under Section 13A (1) (c) would be intended only as short term assistance and not a means to reduce Council Tax liability indefinitely.

1.7 The Policy Development Panel considered the report and Policy at its meeting on 9<sup>th</sup> March 2016 and are happy for this to move to Cabinet for approval with no amendment being required.

## 2.0 **OPTIONS**

2.1 To consider the Policy and make no comment.

2.2 To consider the Policy and make comments where applicable.

2.3 To do nothing.

## 3.0 **REASONS FOR RECOMMENDATION**

3.1 Having a Policy in place ensures that the Council has a fair approach to dealing with applications for discretionary reduction in Council Tax, and the criteria to which there will be regard.

3.2 The policy is designed to consider discretionary relief only in exceptional circumstances, and ensures through the decision making process that regard is had to ensure all reasonable steps have been taken to resolve personal situations, and that all other eligible reductions have been identified and awarded first.

## 4.0 **EXPECTED BENEFITS**

4.1 The adoption of a Section 13A policy demonstrates good practice; clarifying the application and decision making process.

## 5.0 **IMPLICATIONS**

### 5.1 **Constitution & Legal**

5.1.1 The authority to determine individual applications under Section 13A may be delegated to an officer of the authority under section 101 of the Local Government Act 1972.

### 5.2 **Corporate Priorities**

5.2.1 Through clear and defined process, the policy will contribute to the following corporate objectives:

- To provide the right services, at the right time and in the right way.
- To develop safer, stronger, healthier and more independent communities while protecting the most vulnerable.

### 5.3 **Equality and Diversity / Human Rights**

5.3.1 This policy is accessible to all Council taxpayers in the event of financial crisis or event causing exceptional hardship and where other statutory reductions cannot be claimed.

### 5.4 **Financial**

5.4.1 The full cost resulting from the granting of a local discount or a reduction must be met by the billing authority and cannot be passed onto other major precepting authorities.

- 5.4.2 All costs associated with Council tax discounts & reliefs are examined as part of the annual budget activity.
- 5.4.3 The Collection Fund includes budgets for all major discounts and reliefs including the 13A relief in this report
- 5.4.4 Costs incurred in 2015/16 are £1,200 to date within an annual budget of £2500. The 2016/17 budget is also £2,500 and this will be monitored regularly during the year.
- 5.5 **Risk Management**
- 5.5.1 The adoption of a Section 13A Policy will help to reduce the risk of challenge against process.
- 6.0 **WARDS/COMMUNITIES AFFECTED**
- 6.1 All wards will be affected. Applications for discretionary relief under Section 13A may be made by any Council Tax payer across the South Holland district.
- 7.0 **ACRONYMS**
- 7.1 S13A – Section 13A Local Government Finance Act 1992

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Background papers:- None

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**Lead Contact Officer**

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**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Discretionary Service**

**Appendices attached to this report:**

Appendix A Council Tax Section 13A Policy

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## **Section 13A Policy**

**For the determination of applications  
for a reduction in Council Tax liability**

## **Section 13A Council Tax Discretionary Reduction**

### **Background**

Section 13A (1) (c) of the Local Government Finance Act 1992 allows the council to reduce the amount of council tax payable. It can be used for individual cases or the council can determine classes of case in which liability is to be reduced. South Holland District Council has not specified any class of case in which liability is to be reduced. However, we will consider claims on individual cases.

There are financial implications to awarding any discounts other than those currently available under the statutory legislation and the financial burden of Section 13A (1) (c) discounts has to be met through an increase in the general level of council tax for other payers.

The Council would expect that there would be evidence of exceptional, unforeseen circumstances to justify any reduction and that it would be intended only as short term assistance, and not a means to reduce Council Tax liability indefinitely.

### **1. How to claim a discretionary reduction**

Applications must be made in writing by the taxpayer, or by someone authorised to act on their behalf, and sent, clearly headed 'Section 13A Application' to Council Tax, South Holland District Council, Council Offices, Priory Road, Spalding, PE11 2XE.

The application should: -

- Relate to the current council tax year, unless the liable person has just received an account following late valuation for a previous year(s)
- Clearly set out the circumstances on which the application is based, and any hardship or personal circumstances relating to the applicant

We may request any reasonable evidence in support of an application. Separate claims must be made in respect of different dwellings and/or council tax accounts.

### **2. Discretionary Reduction Criteria**

South Holland District Council will only consider using its powers to reduce council tax liability for any council tax payer or class of payer in exceptional circumstances.

We will treat all applications on their individual merits, however we will have regard to the following criteria for each case: -

- There must be evidence of financial hardship or personal circumstances of an exceptional nature that justifies a reduction in council tax liability

- The taxpayer must satisfy the Council that all reasonable steps have been taken to resolve their situation prior to application
- All other eligible discounts/reliefs/benefits have been awarded
- The taxpayer does not have access to other assets that could be used to pay council tax

Where a situation could be resolved by some other legitimate means, such as the complaints procedure, it is unlikely that an award under Section 13A would be made.

The situation and reason for the application must be outside of the taxpayer's control, and the amount outstanding must not be the result of wilful refusal to pay or culpable neglect.

### **3. Decision making process**

Decisions in respect of applications for Section 13A relief will be made by senior officers. All decisions will have regard to the district's Council Tax payers.

### **4. Amount and period of relief**

The amount of any relief awarded will be at the council's discretion, taking into account the amount of the debt and the extent to which the criteria is met.

The period of reduction will be a maximum of 6 months.

### **5. Notification of Decision**

The Council will notify a Council Tax Payer in writing within 14 days of receiving sufficient information to make a decision.

### **6. Request for Review**

If an applicant is dissatisfied with the decision a request for a review must be made in writing within one month of the date of the letter informing the applicant of the decision.

The letter of appeal should be accompanied by any additional information that the applicant feels might justify a change in the original decision. The review will be considered by the Portfolio Holder for Finance in consultation with the Section 151 Officer.

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## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Portfolio Holder for Finance and the Executive Director Commercialisation (S151)

**To:** Cabinet – 22 March 2016

**(Author:** Sharon Hammond, Head of Strategy, Revenues and Benefits)

**Subject:** Council Tax Support Anti-Fraud Policy

**Purpose:** To approve the anti-fraud policy in relation to the Council Tax Support scheme.

### **Recommendation:**

- 1) To approve the Council Tax Support Anti-Fraud Policy.

### **1.0 BACKGROUND**

- 1.1 Council Tax Support replaced the national Council Tax Benefit system in April 2013 under the Welfare Reform Act 2012 and local authorities are required to have in place a locally determined scheme for working age residents.
- 1.2 It is a legislative requirement that those who receive state pension will continue to receive support under the Council Tax Support Scheme on the same terms as would have applied under the old Council Tax Benefit scheme
- 1.3 Activities outlined in the policy are carried out in practice by trained and experienced Officers, with compliance to relevant legislation and governance. To ensure transparency, and to act as a deterrent, the process has been brought together in a Council Tax Support Anti-Fraud Policy, attached as Appendix A to this report.
- 1.4 The Policy has been considered by the Governance and Audit Committee, and the Policy Development Panel (PDP). Amendments following PDP feedback are reflected in the Policy at Appendix A.

### **2.0 OPTIONS**

- 2.1 To consider the Policy and make no comment.
- 2.2 To consider the Policy and make comments where applicable.
- 2.3 To do nothing.

### **3.0 REASONS FOR RECOMMENDATION**

- 3.1 Approval and publication of the policy will ensure the Council is transparent and pro-active in its approach to tackling Council Tax Support fraud. This could act as a deterrent to potential fraudsters.

### **4.0 EXPECTED BENEFITS**

4.1 Publicity of fraud prevention, deterrent and detection activities will help to reduce incidents of fraud in the local Council Tax Support system, whilst ensuring funding for CTS is maximised for genuine recipients.

## 5.0 **IMPLICATIONS**

### 5.1 **Constitution & Legal**

5.1.1 All Officers engaged in fraud prevention, deterrent and detection activities are trained to comply with appropriate legislation, codes of practice and corporate policies. These are listed in more detail in the policy at Appendix A.

5.1.2 Authorised powers are set out in The Council Tax Reduction scheme (Detection of Fraud and Enforcement) (England) Regulations 2013 and in accordance with section 14A of the Local Government Finance Act 1992.

### 5.2 **Corporate Priorities**

5.2.1 The adoption of the Council Tax Support Anti-Fraud Policy would support council priorities in respect of crime prevention.

### 5.3 **Crime and Disorder**

5.3.1 This policy outlines how the Council tackles fraud against its Council Tax Support scheme, and the approach to sanctions and prosecutions.

### 5.4 **Equality and Diversity / Human Rights**

5.4.1 The Investigations team are trained to ensure that anyone suspected of fraud receives clear and understandable information in particular to ensure awareness of legal rights.

### 5.5 **Financial**

5.5.1 From April 2013 funding and responsibility for Council Tax Support transferred to local government and is now administered as part of the collection fund arrangements.

5.5.2 The impact on council tax income based on the 31 January 2016 position is shown below

	<b>Number</b>	<b>Amount of Council Tax Support (CTS)</b>
Elderly	3,500	£2,729,521
Working Age	2,891	£1,662,487
<b>Total</b>	<b>6,391</b>	<b>£4,392,008</b>

5.5.3 The local council tax reduction scheme is to be examined in 2016/17 to further understand this position and any amendments will be incorporated into this policy as appropriate.

5.5.4 Transitional funding was introduced in 2013/14 for this activity and it was included in the Revenue support grant for that year at £397,000. At the same time the Business rates

retention scheme was also introduced which is placing greater emphasis on local income generation.

5.5.5 In line with local authorities statutory duty to administer and arrange their financial affairs appropriately in accordance with Section 151 of the Local Government Act 1972, this policy sets out the approach this Council takes to ensure an appropriate and effective anti-fraud process is in place in relation to Council Tax Support.

## 5.6 Reputation

5.6.1 The adoption of a policy to support the practice and processes in place will demonstrate the Council commitment and approach to protect public funds in respect of Council Tax Support.

## 5.7 Staffing

5.7.1 Fraud investigation is carried out by appropriately trained and authorised personnel.

## 6.0 WARDS/COMMUNITIES AFFECTED

6.1 All

## 7.0 ACRONYMS

7.1 CTS – Council Tax Support

7.2 PDP – Policy Development Panel

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Background papers:- None

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### Lead Contact Officer

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**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service**

### Appendices attached to this report:

Appendix A Council Tax Support Anti-Fraud Policy

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**South Holland District Council**  
**Council Tax Support Anti-Fraud**  
**Policy**

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## **Section 1**

### **Background**

This document describes the anti-fraud policy of the council in relation to the local Council Tax Support scheme. It is intended to inform staff and service users of the specific actions carried out by the Investigation Team in relation to Council Tax Support.

Local authorities have a statutory duty to administer and arrange their financial affairs appropriately in accordance with section 151 of the Local Government Act 1972. It is therefore important that the council applies an appropriate and effective anti-fraud process as part of the administration of Council Tax Support.

The main objective in developing this policy is to prevent, detect, correct, punish and deter fraudulent activity in general and specifically in relation to Council Tax Support.

### **Legislation and governance**

All officers are required to comply with appropriate legislation, codes of practice and corporate policies when executing duties in relation to fraud.

The codes, legislation and policies that are adhered to in order to succeed in executing the fraud policy include:

- Data Protection Act 1998
- Human Rights Act 2000
- Local Government Finance Act 1992
- Council Tax Reduction scheme (Detection of Fraud and Enforcement) (England) Regulations 2013
- Welfare Reform Act 2012
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000

### **Equalities impact**

The Investigations Team will ensure that anyone suspected 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.

## **Section 2**

### **What is Council Tax Support 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 Support.

Or

- Knowingly or dishonestly failing to give prompt notice of a change of circumstances, with intent to gaining a financial advantage through Council Tax Support.

The Investigations Team will approach the investigation of both fraud and corruption in the same manner within the boundaries of their procedures and the constraints of appropriate legislation.

## **Anti-fraud policy**

The following measures are pursued in order to minimise the risk of fraud and to prevent, detect, punish and deter fraud in the South Holland District Council area.

### **Claim checking and verification of proofs**

The Council maintains a consistent process of claim verification, and obtains original documentation when assessing Council Tax Support. Proof of identity is also obtained when the claimant first applies for assistance.

### **Investigations Team.**

The Investigations Team, receives and investigates allegations of suspected Council Tax Support fraud in respect of the District. The Council is committed to maintaining fraud staff levels and resources, which are proportionate and pertinent to local requirements.

All Investigation Team members employed on this work are designated as 'Authorised officers' by the Chief Executive under the Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013

This enables specific use of authorised Investigative powers within the parameters of the law.

### **Training**

All relevant frontline staff will be appropriately trained to detect irregularities and possible fraud with respect to claims for Council Tax Support.

### **Information Sharing**

By law, the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC) will be able to share their information with local authorities in order to corroborate the personal and financial circumstances of an applicant in relation to Council Tax Support.

### **Fraud hotline**

The Council publicises and promotes the use of a dedicated fraud hotline to assist members of the public in reporting potentially fraudulent activity in Council Tax Support claims. The telephone number is 0800 002 008 and connects directly with the Investigations Team.

From 1 October 2014 the responsibility for Housing Benefit Fraud investigation was transferred to the Department for Work and Pensions as part of the national implementation of the Single Fraud Investigation Service.

Fraud referrals relating to Housing Benefit, DWP benefits and Tax Credits should be made directly to the National Benefit Fraud Hotline on 0800 854 440.

### **Duty to report**

Council employees have a duty to report any suspected fraud concerning council business. If an employee has any concerns regarding entitlement to Council Tax Support, it must be reported immediately to the Investigations Team.

### **Communication**

All claimants are provided with documentation written in plain English wherever possible. In addition, information will be written in a clear and understandable format to ensure that claimants are aware of their responsibilities to provide accurate and timely information, in relation to their current circumstances and changes of circumstances.

## **Publicity**

The Council will publicise the results of individual cases, which have resulted in a conviction in the criminal courts.

## **Section 3**

### **Authorised officers**

The Council appoints officers who are authorised to obtain specific information in relation to Council Tax Support investigations. Authorised powers are set out in The Council Tax Reduction scheme (Detection of Fraud and Enforcement) (England) Regulations 2013 in accordance with section 14A of the Local Government Finance Act 1992.

### **Directed surveillance**

Investigations Team members are trained to execute appropriate and proportionate use of directed surveillance in accordance with the Regulation of Investigatory Powers Act 2000.

## **Section 4**

### **Sanctions and prosecutions**

The Investigations Team Leader will give careful consideration to taking further action against anyone who has committed fraud in order to obtain Council Tax Support. The details of each fraud case will be taken into account and measured against the evidential and public interest test stated in the Code for Crown Prosecutors.

### **Appropriate enforcement action**

In all cases investigated the Compliance Officer will supply an investigation report to the Investigations Team Leader showing the officer's actions, conclusions and recommendations regarding the investigation. The Investigations Team Leader will then make the final decision as to whether it is appropriate and proportionate to take further enforcement action against the person or persons subject to investigation.

### **Penalty as alternative to prosecution**

The legislation governing the use of a financial penalty as an alternative to prosecution where a person has fraudulently claimed Council Tax Support is contained in section 14C of the Local Government Finance Act 1992. The conditions by which a penalty might be used are described in regulation 11 of the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.

Penalties may be offered as an alternative to prosecution when a fraudulent claim has caused excess Council Tax Support to be awarded or could have caused excess Council Tax Support being awarded. The penalties mentioned below would need to be paid in addition to any amount fraudulently claimed.

In accordance with the legislation a penalty offered as an alternative to prosecution will be a minimum of £100 or 50% of the fraudulent excess Council Tax Support claimed by the offender (rounded down to the nearest penny) whichever figure is greater. The 50% penalty is a fixed amount as specified in the Council Tax Reduction scheme (detection of Fraud and Enforcement) (England) Regulations 2013. A penalty should not exceed £1000.00. A person does not have to accept the penalty.

A fixed penalty of £70 can also be imposed in less serious cases in accordance with Regulation 13 of the Council Tax Reduction Scheme (Detection of Fraud and Enforcement)(England) Regulations 2013.

## **Prosecution**

Prosecutions relating to this policy will be pursued by the council. Prosecution will be considered against someone who has committed an offence in order to receive Council Tax Support.

## **The decision to prosecute**

When a Compliance officer has established an offence relating to Council Tax Support the investigation file will be passed to the Investigations Team Leader. A report will be contained in the file showing the officer's conclusions and recommendations regarding the investigation. The Investigations Team Leader will make the final decision with respect to appropriate enforcement action. As part of the fraud process the Investigations Team Leader will refer to The Code for Crown Prosecutors as a guide to establishing the value of prosecuting offenders by referring to the evidential and public interest tests.

## **Evidential test**

In making a decision to prosecute, the local authority must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction'. A realistic prospect of conviction is an objective test meaning that a jury, magistrate or judge hearing a case which, is properly directed in accordance with the law, is more likely than not to convict the defendant of the alleged offence.

## **Public interest test**

The Investigations Team Leader will always consider public interest judiciously and will balance the factors for and against prosecution objectively. In making the decision whether it is in the public interest to prosecute, the following factors will be considered:

### **Some common public interest factors in favour of prosecution**

- the seriousness of the offence;
- a conviction is likely to result in a substantial sentence;
- the claimant was in a position of authority or trust;
- there is evidence that the offence was premeditated, e.g. the Council Tax Support claim was false from its inception;
- there is evidence that the claimant instigated and organised the fraud;
- there is previous incidence of fraud;
- there are grounds for believing that the alleged offence is likely to be continued or repeated, based on any history of recurring conduct;

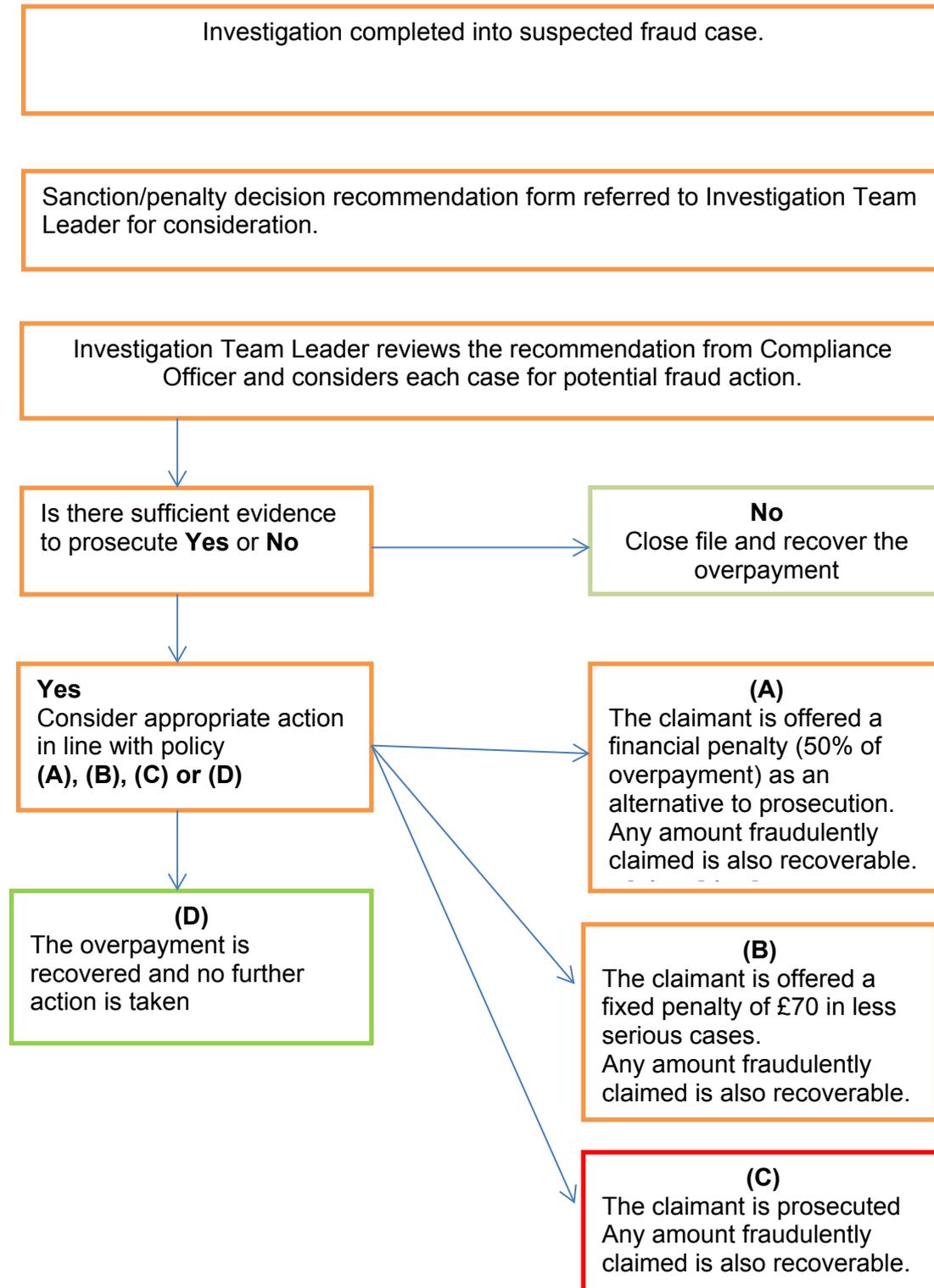
### **Some common public interest factors against prosecution**

- the court is likely to impose a nominal penalty;
- the offence was committed as a result of a genuine mistake or misunderstanding (factors balanced against the seriousness of the offence);
- the impact of any loss of funds can be described as minor and was the result of a single incident, particularly if it was the result of misjudgement;
- there have been long and avoidable delays between the offence taking place and the date of the trial, unless:
  - (i) The offence is serious
  - (ii) The delay is caused in part by the defendant
  - (iii) The offence has only recently come to light
  - (iv) The complexity of the offence has caused a long investigation;
- the defendant is elderly or is, or was at the time of the offence suffering from significant mental or physical illness, this is balanced against the seriousness and complexity of the offence

- the defendant has put right the loss that was caused (though claimants must not avoid prosecution purely on the basis that they have cleared a debt or paid compensation);
- any voluntary disclosure;
- social factors such as domestic abuse, or substance abuse

The various reasons listed above both for and against prosecution are not exhaustive. The factors that apply will depend on the facts in each individual case.

### Council Tax Support anti-fraud policy – process map



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By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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