



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

