

Title of meeting: Resources Portfolio

Date of meeting: 22nd October 2015

Subject: Revenues & Benefits Penalties

Report by: Director of Community and Communications

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1. To seek approval from the Cabinet Member for Resources to undertake consultation on imposing fixed penalties to residents who fail to notify Portsmouth City Council within a prescribed timescale, of a relevant change in their circumstance which may result in a reduction to their benefit or an increase in their chargeable Council Tax.

2. Recommendations

- 2.1. That the Cabinet Member for Resources agrees that consultation takes place on the implementation of fixed penalties as permitted under the provisions of the Local Government Finance Act 1992 and the Social Security Administration Act 1992, whereby anyone who intentionally or knowingly fails to notify the Council of any change affecting Council Tax Liability or the Local Council Tax Support Scheme or Housing Benefit may be liable to a fixed penalty fine.

3. Background

- 3.1. The Council has powers under the Local Government Finance Act 1992 (Schedule 3) to impose civil penalties to those charge payers who wilfully neglect to inform the Council of changes which affect their Council Tax liability.
- 3.2. The Council has powers under the Social Security Administration Act 1992 to impose civil penalties, however this would only be used where the person has not been charged with an offence or cautioned, or been given a notice under section 11a, in respect of the overpayment.
- 3.3. The Council has a responsibility to deliver value for money and a duty to protect taxpayers money. Evidence from other Local Authorities who have introduced these schemes demonstrates that the introduction of a penalty scheme

encourages customers to notify the Council of changes in a speedier manner thus saving money through the administration of overpayment recovery.

- 3.4. It is important to distinguish the difference between the appropriateness of imposing a fixed penalty versus those cases managed under the Detection of Fraud and Enforcement Regulations. Where it is clear that the behaviour of the charge payer warrants a criminal investigation that action will still take place.
- 3.5. It is proposed that the consultation considers whether the Council should impose a £70 fixed penalty when a charge payer fails to report a change in the following circumstances within 21 days and has not provided a reasonable explanation for the delay.

The authority may impose a penalty of £70 where a person:

1. fails to notify the authority, without reasonable excuse, on any matter which affects entitlement to discount.
2. fails to notify that their dwelling is no longer an exempt dwelling.
3. fails to notify the Authority that they are jointly liable for the tax.
4. fails to supply relevant information requested in order to establish liability.
5. fails to supply relevant information requested after the issue of a Liability Order has been obtained. Failure to supply could lead to a criminal prosecution and a fine.

Where a penalty has been imposed under (5) and a further request to supply the same information is made, a further penalty of £280 may be imposed for each subsequent failure, provided:

- it is in the debtor's possession.
- the authority requests him to supply it.
- it falls within a prescribed description of information.

- 3.6. It is also proposed that the consultation consider if the Council should impose a £50 fixed civil penalty when a benefit customer fails to report a change in the following circumstances within 1 calendar month, and has not provided a reasonable explanation for the delay, and an overpayment has been created.

The authority may impose a penalty of £50 where a person:

- fails to notify the authority, or other appropriate agency, without reasonable excuse, on any matter which affects entitlement to housing benefit, causing housing benefit to have been overpaid.
- Provides incorrect statement on a housing benefit claim, without taking reasonable steps to correct them, resulting in an overpayment of housing benefit

- Any penalty only applies where the incorrect information or failure to supply information has resulted in benefit being overpaid, and the Local Authority has not successfully prosecuted for fraud, or offered an admin penalty or caution.
- Applying a civil penalty is a permissive power for local authorities under the Social Security Administration Act 1992.

4. Reasons for recommendations

The introduction of a fixed penalty has been shown to encourage customers to notify the Council of changes in a more timely manner. This in itself saves the authority time and money.

If we are to introduce a fixed penalty scheme, we are required to undertake useful and accessible consultation to include a full equality impact assessment

5. Equality impact assessment

An equality impact assessment has not been completed as a full consultation has not been undertaken so no adverse impacts have been identified at this stage. A full EIA will be completed when the consultation has finished. If the consultation identifies any adverse negative impact on any of the protected characteristics we will endeavour to mitigate these barriers and impacts where possible.

6. Legal implications

The legal authority for implementation of fixed penalties is set out in the report.

7. Director of Finance's comments

Any costs arising from this proposal will be offset by income from the penalties levied.

It is anticipated that the introduction of fixed penalty charges for late notification of changes will improve Council Tax collection rates.

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Signed by:

Appendices: Nil

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: