



# After an interview under caution

**This leaflet explains what happens  
after an interview under caution,  
and what options are available to the  
Council.**

## **What happens after the Interview?**

If we have suspended your interview as new information has emerged, we will need to make further enquiries so that the necessary evidence and information can be collected. It may be possible that we need to interview you again after this, and if this is the case, we will write and advise you of the interview date, time and location. You will also remain under caution until the continuation interview.

If we have completed and closed the interview, and do not need to interview you again, the case will be reviewed and a decision will be made on the next course of action to be taken. You will be contacted as soon as possible outlining what happens next.

## **How long will it take before I know what action will be taken?**

The timescale for deciding what action will be taken depends on the nature of the case, the allegation and the involvement of other agencies, such as the Department for Work and Pensions. You will be given an approximate timescale at the end of the interview and we will write to advise you of any delays.

## **How is a decision made?**

Your case will be checked against the Council's Prosecution Policy (available on the Council's website), the evidential test and the public interest test. Once this has been done, we will write to advise you what decision has been made.

Please note that any decision regarding further action is treated as a separate matter to any overpayment or loss that the Council has incurred. This means that regardless of what action we decide to take, we will seek full recovery for any overpayment or loss.

If we believe that there is no evidence of an offence having been committed, we will write to inform you that we will not be taking criminal proceedings against you.

Where we believe there is evidence that an offence has been committed, and that there is enough evidence to prosecute you, the case will be reviewed against the Council's Prosecution Policy before deciding on the next course of action.

There are various options available to the Council if the decision is made that an offence has been committed, and there is enough evidence to instigate criminal proceedings. The options that are available to the Council vary depending on the case and the allegation. These options are as follows:

## **Warning Letter**

If there is evidence that an offence has been committed, but we do not feel it is in the public or Council's interest to take any further action against you, the decision may be made to issue you with a warning letter. We will then write to tell you that we will not be instigating proceedings against you. This letter will be kept on file, and can be referred to in any subsequent investigations.

## **Simple Caution**

If there is evidence that an offence has been committed, but we feel there are special or mitigating circumstances, the decision may be made to offer you a simple caution. This is where an officer interviews you and informs you that you have committed an offence and that this conduct is not acceptable, but that on this occasion the Council is prepared to offer you a caution as an alternative to being prosecuted. To receive a caution you must have admitted to the offence when interviewed under caution

You will be asked to sign two certificates, which will be countersigned by the interviewing officer. One of these certificates is kept on file by the Council, and the other is given to you for your records. The formal caution stays on file for five years, and can be referred to in any subsequent investigations. The Caution is not cited with the Police, and does not result in a conviction or criminal record.

## Administrative Penalty

If there is evidence that a benefit fraud offence has been committed, but we feel there are special or mitigating circumstances, the decision may be made to offer you an Administrative Penalty. This is where one of our officers interviews you and informs you that you committed an offence and that this conduct is not acceptable. You will be asked to sign two penalty agreements. One of these is kept on file by the Council, and the other is given to you for your records. You will also be given a withdrawal notice, and the process for using this will be explained to you.

Due to recent changes in legislation, the amount of the penalty depends on the period of the overpayment.

For cases where the overpayment accrued wholly on or after 8th May 2012 the penalty is either £350 or equal to 50% of the amount of overpayment caused by the fraudulent activity, whichever is larger. You have a 14 day "cooling off" period after signing the agreement to change your mind and withdraw your acceptance.

For cases where the overpayment accrued before the 8th May 2012, the penalty is equal to 30% of the amount overpayment caused by the fraudulent activity. This means that you will have to repay the overpayment amount plus the extra 30%. You have a 28 day "cooling off" period after signing the agreement to change your mind and withdraw your acceptance.

For cases of attempted fraud committed after 8th May 2012 with no overpayment, the penalty is set at £350. You have a 14 day "cooling off"

period after signing the agreement to change your mind and withdraw your acceptance.

## Important Note

Both simple cautions and administrative penalties are offered as alternatives to prosecution. You are under no obligation to accept them. If you are offered one of these alternatives and you either refuse to accept it, or withdraw your penalty acceptance, the case will be referred to our legal section to consider instigating criminal proceedings against you, without further warning.

## Civil Penalty

If there is evidence that a Council Tax discount offence has been committed, but we feel there are special or mitigating circumstances, the decision may be made to impose a £70 penalty, which is added to your Council Tax bill.

## Prosecution (Criminal Proceedings)

If there is evidence that an offence has been committed, and we believe that there is enough evidence for a prosecution and that the offence is one of a serious nature, the decision may be made to prosecute you in the Criminal Courts.

Cases are usually heard in the Magistrates' Court, however more serious cases can be heard at the Crown Court. If you are found guilty the court can punish you in a number of ways, which could be by imposing a penalty, community orders, or in more serious cases, prison sentences.

If you are found not guilty or are acquitted, we will not take any other criminal action against you as far as this case is concerned. However, we will still pursue recovery of any overpayment or losses, where applicable.

## Loss of Benefit Sanction

For cases relating to benefit fraud where you are convicted in court, or accept an administrative penalty or caution as an alternative to prosecution, any benefit you receive now or in the future may be subject of a reduction or withdrawal.

If you commit a first offence resulting in a conviction, administrative penalty or caution, you may be subject to a 'One Strike' sanction. This means you may lose your right to continue receiving benefit payments for a four-week period, and you will be notified if it is applied to your benefits.

If you are convicted of two separate benefit fraud offences within five years, you may find your entitlement to certain benefits is reduced or withdrawn for 13 weeks. This is known as the 'Two Strikes' sanction, and you'll be notified if it is applied to your benefits.

## What happens to the tapes / CDs?

The interview is recorded on two copies of either tapes or CDs:

- The master copy - this is the copy that is sealed at the end of the interview.
- The working copy - this is the copy that is left unsealed at the end of the interview, and is used by our investigators.

At the end of the interview, you were asked to sign a label. This label is also signed by the interviewing officers and is used to seal the master copy. The master copy is kept in secure storage, and will only be unsealed if a court official demands to hear it or if we need to copy it. If we need to copy the master, you will be invited to watch whilst the tape is unsealed, copied, and sealed up again.

The working copy may be passed to an audio typist, who will type up everything that was said during the interview. The working copy and transcript of the interview are kept in secure storage. If the decision is

made to take the case to court the sealed master copy may be used as evidence, if required.

## **Obtaining a copy of the interview recordings or transcripts**

If you or your solicitor wish to obtain a copy of the recording media/transcripts, an application should be made in writing to our Legal Services department, stating your name and any reference numbers relevant to your case (which can be found on our letters). The application should be sent to Legal Services, Reigate & Banstead Borough Council, Town Hall, Castlefield Road, Reigate, Surrey, RH2 0SH. The application can also be taken to the Town Hall, or to any of the Council's Help Shops.

Should you require any further information, please contact the Corporate Anti Fraud & Anti Corruption Team via 01737 276483 or [fraudstoppers@reigate-banstead.gov.uk](mailto:fraudstoppers@reigate-banstead.gov.uk)