

Orkney Islands Council

Benefit Fraud – notice for persons who have been interviewed under caution



What happens after the interview?

You have been interviewed under caution because the Council suspects that you may have committed a benefit related offence.

We will use the facts established at the interview, and any other relevant evidence, to decide how we will take the investigation forward. The following information is guidance as to the possible outcomes of the investigation.

1. No further action

If we are satisfied that no offence has been committed then we will notify you that the investigation has ended.

2. Administrative Caution

An administrative caution will be offered when the Council is satisfied that an offence has occurred but due to the level of the overpayment and that you have no previous convictions, the case will not automatically be referred for prosecution.

You should only accept the caution if you have admitted to the offence at an interview under caution.

You will be asked to sign a document to confirm that you have accepted the administrative caution.

Cautions can no longer be offered on cases where the offence is committed wholly on or after 1 April 2013.

3. Administrative Penalty

As an alternative to prosecution, we could give you the option of accepting an Administrative Penalty. This is a financial penalty you will be required to pay in addition to the amount overpaid.

If we offer you an Administrative Penalty, we will ask you to attend a meeting. At the meeting we will:

1. explain the details of the penalty; and
2. ask if you wish to accept it.

If you decide not to accept the Administrative Penalty (or the Administrative Caution) we may refer your case to the Procurator Fiscal.

From 8 May 2012 there is a minimum penalty of £350 or 50% of the overpayment, whichever is greater (up to a maximum penalty of £2000) - where the offence is committed prior to 8 May 2012 or spans 8 May 2012 the fixed penalty is calculated as 30% of the benefit overpayment arising from the offence.

We will not offer you an Administrative Penalty if we believe that you are in a position of genuine financial hardship and you will be unable to pay the penalty.

3. Prosecution

Where we consider the offence to be particularly serious or if you refuse an alternative sanction the Council will refer the case to the Procurator Fiscal.

Overpayments

If an overpayment of benefit has arisen you will be liable to repay this, whether or not an offence has been committed.

Loss of Benefit Sanction

If you are convicted of this offence in court, or accept an administrative penalty or caution as an alternative to prosecution any social security benefit you receive now or in the future may be the subject of a reduction in your benefits or withdrawal for a period of between 4 weeks and 3 years.

General Information

This leaflet is intended to provide only outline guidance as to what may happen after the Interview Under Caution has taken place and the possible actions that may then arise.

Further information:

- You can contact the Council's Benefits Team, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY. Tel: 01856 873535 Ext: 2130; Tel: 01856 886320 (Direct Dial); Fax: 01856 878074; Email: benefits@orkney.gov.uk; website: www.orkney.gov.uk
- You can also seek free, independent and confidential advice from the Orkney Citizens Advice Bureau, Anchor Buildings, 6 Bridge Street, Kirkwall, KW15 1HR; Tel: 01856 875266

The Council is committed to the promotion of equal opportunities in all of its affairs. Every effort will be made to ensure that members of the public are treated fairly.

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