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Council Tax Reduction Scheme Sanction Policy

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1. Introduction

- 1.1. North Lincolnshire Council is responsible for the Council Tax Reduction Scheme and therefore, has a duty to prevent and detect fraudulent claims as part of its commitment to protect public funds.
- 1.2. The Council's [Anti-Fraud and Corruption Strategy](#) makes it clear that fraud in any form will not be tolerated and that those suspected of committing such offences may be prosecuted. North Lincolnshire Council is committed to applying the most appropriate sanctions to those that it believes have defrauded the Council Tax Reduction Scheme. This document sets out the Council's policy on when an Administrative Penalty or Simple Caution may be offered as an alternative to prosecution and supports the Anti-Fraud and Corruption Strategy.
- 1.3. Regulation 11 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement)(England) Regulations 2013, introduce the Administrative Penalty as an alternative to prosecution in certain prescribed circumstances. Similarly, the Home Office provides guidance on the use of Simple Cautions as an alternative to prosecution.

2. Aims

- 2.1. To provide a proportionate but robust sanction regime as an alternative to criminal proceedings to deal with those suspected of committing low level Council Tax Reduction Scheme fraud.
- 2.2. To deter those who have committed offences from re-offending and those who may consider doing so in future.
- 2.3. To provide assurance to the public of North Lincolnshire that the Council is effective in protecting tax payers money.
- 2.4. To underpin good corporate governance in line with the seven principles contained in the North Lincolnshire Council's local code of Corporate Governance.

3. Objectives

- 3.1. To minimise the risk of challenge on equality or human rights grounds by the consistent application of sanctions to those committing fraud.
Measure – the number of challenges received to the offer and imposition of sanctions.

3.2. To reduce the number of low level fraud cases brought before the Courts, thus reducing the burden on the Criminal Justice System, whilst maintaining a robust deterrent.

Measure – the number of individuals who re-offend after receiving a sanction for Council Tax Reduction fraud.

3.3. To maintain public confidence in North Lincolnshire Council's ability to protect public money and apply proportionate sanctions against those who are suspected of committing fraud.

Measure – the number of complaints received regarding the content of this policy and its application.

4. Guidelines

4.1. For an alternative sanction to be considered the case must first satisfy the criteria for prosecution. Any case that fails to meet these criteria will also be unsuitable for the offer of a Simple Caution or Administrative Penalty.

5. Simple Cautions

5.1. A Simple Caution is a warning about future behaviour. It is similar to a Police caution but is not recorded as a criminal record.

When a Simple Caution may be appropriate

5.2. North Lincolnshire Council will consider the offer of a Simple Caution where the following conditions are met:

- The case is suitable for prosecution as per the Council's prosecution policy;
- The person is 18 or over;
- The person has not been prosecuted or accepted an Administrative Penalty for a Council Tax Reduction Scheme fraud in the past 5 years;
- The person has been interviewed under caution and has made a full and frank admission of the offence;
- The person has not been cautioned for a Council Tax Reduction Scheme offence more than once in the past five years;

- The person gives their informed consent to receiving a Simple Caution;
- The overall loss to public funds is less than £2,000.00.

5.3. In general, North Lincolnshire Council considers that a loss to public funds exceeding £1,999.99 cannot be considered as a minor offence and therefore, such cases will be considered for prosecution from the outset, subject to the Council's prosecution policy.

5.4. Only in exceptional circumstances will a Simple Caution be offered when the total loss to public funds exceeds £1,999.99. In such cases, the Strategic Lead - Fraud (or deputy in their absence) is responsible for providing a written explanation of the exceptional circumstances that exist in a particular case to justify the offer of a Simple Caution.

5.5. The person's attitude towards the offence will also be taken into account and may indicate that the offer of a Simple Caution would be appropriate.

5.6. Factors to consider will include:

- The wilfulness with which the person committed the offence;
- Their subsequent attitude, for example, whether they express regret for what they have done;
- Whether they offer to make good the overpayment.

5.7. This list is not exhaustive and the categories will always be considered in the light of the circumstances of each case.

When we will not use a Simple Caution

5.8. Before deciding to offer a caution, the Strategic Lead - Fraud (or deputy in their absence) will be satisfied that it is likely to be an effective deterrent for re-offending. Points that will be considered include the following:

- The person's previous history of offending – a caution is unlikely to be an effective deterrent to a person who has offended several times in the past, unless the offences were very trivial and they have not previously been prosecuted or agreed to pay an Administrative Penalty;
- Whether the person shows any regret for their offence or they regard the matter as being a serious one – if the person indicates by their manner and attitude that they have little or no regard for defrauding the public, a caution is unlikely to be effective;

- The extent, to which the person intended, calculated or deliberately attempted to defraud. If the person clearly intended and planned to defraud, a caution is less likely to be appropriate;

This list is not exhaustive.

Attempts to defraud where there is no overpayment

- 5.9. A caution can be offered when there is no loss to public funds following the presentation of a false document. For example: a false statement on an initial claim form that was identified prior to payment being made. Although there is no loss to funds, there may be an offence of making a false statement in an attempt to obtain a reduction in Council Tax liability.
- 5.10. However, a caution cannot be offered in cases where there is no loss to public funds following a customer's failure to declare a change of circumstances.

Refusal of a Caution

- 5.11. If the person refuses a caution, the Council's policy is to commence criminal proceedings. The court will be informed that proceedings have been brought because the person refused the offer of a Simple Caution.

6. Administrative Penalties

- 6.1. Regulation 11 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement)(England) Regulations 2013, allows North Lincolnshire Council to offer a person the opportunity to pay a financial penalty as an alternative to prosecution where certain conditions are satisfied. The penalty is laid down in the legislation and is 50% of the excess reduction subject to:

- A minimum of £100; and
- A maximum of £1000.

- 6.2. In cases where an offence has been committed but the fraud was discovered before any benefit was paid the penalty as laid down in the legislation is £100.

When an Administrative Penalty may be appropriate

6.3. North Lincolnshire Council will consider offering the choice of agreeing to pay an Administrative Penalty where the following conditions are met:

- The case is suitable for prosecution and satisfies the Council's prosecution policy;
- The case is not so serious that the first option should be prosecution;
- The customer has been advised of the amount and the recoverability of the excess reduction;
- The overall loss to public funds is less than £2,000.00.
- The customer has not received a sanction for a Council Tax Reduction offence in the previous 5 years.

6.4. There is no requirement for the person to admit the offence before an Administrative Penalty can be offered.

When we will not offer an Administrative Penalty

6.5. The offer of an Administrative Penalty is not appropriate if any of the following apply:

- The customer has been convicted of Council Tax Reduction Fraud in the past 5 years;
- The customer has accepted a Simple Caution for a Council Tax Reduction offence in the previous 5 years;
- The customer has accepted an Administrative Penalty in the previous 5 years.

6.6. In addition, a Penalty may not be appropriate where:

- The fraud has continued over a long period;
- The fraud was calculated and deliberate, for example the person planned it from the outset by making a false statement on a new or repeat claim form;

6.7. In these cases, the full circumstances of the case will be considered to enable a balanced judgement to be made to support the offer of an Administrative Penalty or prosecution of the individual.

Refusal to accept/withdrawal of an Administrative Penalty

- 6.8. If a person declines to accept an Administrative Penalty at the interview, the case will be submitted for prosecution. The Court will be informed of the fact that the customer has declined the offer of an Administrative Penalty.
- 6.9. If the customer accepts an Administrative Penalty, but during the 14 day ‘cooling off’ period withdraws their agreement, the case will be submitted for prosecution.

7. Penalties for incorrect statements

- 7.1. Regulations 12 and 13 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement)(England) Regulations 2013, allow North East Lincolnshire Council to impose a penalty of £70 where an individual:
 - Negligently makes an incorrect statement or omission; or
 - Negligently gives incorrect information; or
 - Without reasonable excuse, fails to give prompt notification of a change in circumstancesIn relation to claims for a Council Tax Reduction.
- 7.2. North East Lincolnshire Council’s policy is not to impose penalties set out in Regulation 12 and 13 in relation to the Council Tax Reduction Scheme it administers as the additional administrative burden required to implement then recover such penalties outweighs any financial gain.
- 7.3. These are not criminal offences. Criminal Offences will be dealt with by way Prosecution, Simple Caution or Administrative Penalty as appropriate and in line with the Council’s prosecution policy.

8. Overall considerations

- 8.1. The decision to offer a Simple Caution or an Administrative Penalty or to recommend prosecution lies with the Strategic Lead - Fraud or deputy in their absence. In all cases, they will provide a written summary setting out the reasons for their decision.
- 8.2. Where a case cannot be prosecuted because the offence is ‘time barred’; that is, outside of the statutory time limit for laying information in Court a Simple Caution or Administrative Penalty will not be offered as an alternative.

- 8.3. The caution or penalty interview must not be conducted by an officer below the grade of Investigation Officer and will not be conducted by an officer that was involved in any interview under caution with the alleged offender.
- 8.4. Where the Strategic Lead - Fraud (or deputy) has recommended criminal proceedings, the Authority's solicitor, may, in certain circumstances, consider that a Simple Caution or Administrative Penalty is a more appropriate way of disposing of the case. In this case, the solicitor will refer the case back to the Strategic Lead - Fraud to re-consider their decision.
- 8.5. The Authority's solicitor may agree to the issue of a Simple Caution or Administrative Penalty even where a case has been accepted for prosecution. In these cases, court proceedings will not be withdrawn until the Simple Caution has been accepted or in the case of Administrative Penalties the penalty has been accepted and the 14 day 'cooling off' period has expired.

Onus to Attend Interviews

- 8.6. A person who is to be offered the opportunity to accept a Simple Caution or Administrative Penalty will be given the opportunity to attend an interview to enable the Administrative Penalty or Simple Caution to be fully explained to them. At the interview they will also be asked whether they wish to accept the Penalty or Caution.
- 8.7. It is not appropriate to offer a Penalty or Caution by other means.
- 8.8. The onus to attend the offices for the interview lies with the interviewee. However, in certain circumstances the Council will consider visiting the person if they are unable or fail to attend an interview. Each case should be looked at on its own merits. Factors to consider will include:
 - The person is in full-time work and is unable or unwilling to take time off to attend the interview;
 - The person has had an accident and cannot travel;
 - The person is required at home to look after another person.

- 8.9. If a visit is considered appropriate an appointment to visit the person's home will be made. The person will be contacted to notify them of the visit. Un-notified visits are not appropriate.

Failure to Attend Interview

- 8.10. Where the customer does not attend or is not at home for an interview and does not contact the office within 5 working days to offer an explanation and arrange a further appointment, a final appointment will be arranged for them.
- 8.11. If they again fail to attend or are not at home for the second interview and they do not contact the office within 5 working days to offer an explanation and arrange a further appointment, the Council will prepare the case for prosecution without any further notification.
- 8.12. Should a person contact the office prior to the case being submitted to Legal Services, a further appointment will be made to enable them to attend an interview. The person will be notified that their case will be passed to the relevant prosecuting authorities if they fail to keep the appointment.

Not protectively marked