

Council Tax Reduction Scheme

Preston City Council Sanction Policy

Sanction Policy

Preston City Council is committed to protecting public funds through its investigations into cases of Council Tax Reduction Scheme fraud. Where it is suspected that a customer, employer or landlord has committed fraud against the Council, and enough evidence has been gathered to sustain a prosecution, the Council must decide what course of action to follow.

This policy has been written on the basis that the following courses of action are available to us. In **all** cases where a fraud is identified in respect of the Council Tax Reduction Scheme, the Council will seek to recover the debt from the fraudulent party.

Course of Action decided upon – the policy

The initial decision on what appropriate action may be taken lies with the Senior Fraud Officer or Fraud Manager who will submit a report to the Benefits Manager or the Assistant Director (Head of Revenues and Benefits) making recommendations on the appropriate sanction, taking into account the additional factors outlined further in this policy. If approved the report will be counter signed. If it is not approved, a case conference will take place between the recommending officer and the counter-signing officer to discuss what action, if any, is appropriate.

Consideration will be given to individual customer's circumstances in deciding the appropriateness of issuing a simple caution or offering a penalty in all cases where the evidential requirement for prosecution is satisfied and the excess reduction in Council Tax liability under The Council Tax Reduction Scheme is less than £2000. Consideration will also be given to any overpayment of Housing Benefit, Council Tax Benefit or National Benefits which form part of the alleged offence.

A. Local Authority Caution

The Council may consider issuing a Local Authority Caution if:

- To the Council's knowledge the person has never previously offended
- The person has fully admitted the offence in an interview under caution. It can not be issued if the person refutes or denies the allegation
- A penalty is not appropriate
- The offence is minor
- The excess reduction/overpayment is under £2000
- The person's subsequent attitude e.g. genuine expression of remorse for their actions
- The person is elderly or suffering from either significant mental or physical ill health, but their fraudulent act is considered too serious to go unpunished, and they have admitted the offence.

If the person refuses the caution, the case will usually be referred for prosecution

B. Penalty as an alternative to prosecution

For the Council Tax Reduction Scheme, Regulation 11 of The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013, allows the Local Authority to apply a penalty of 50% of the amount of excess reduction (rounded down to the nearest whole penny) subject to a minimum of £100 and a maximum of £1000 as an alternative to prosecution. The penalty is levied in addition to the amount of excess reduction. Upon accepting the penalty the person has 14 days in which to change their decision.

A penalty may be offered in attempt cases as an alternative to prosecution, where an offence of Council Tax Reduction Scheme fraud has been committed but the fraud is discovered and stopped before any award of Council Tax Reduction is made. In these cases the amount of the penalty would be £100.

Where an overpayment of Housing Benefit, Council Tax Benefit or National Benefits is also being considered for the offer of a penalty these will also be dealt with under the existing provisions of the Social Security Administration Act 1992.

If a penalty is not accepted or it is withdrawn the Authority must consider whether to prosecute, therefore all cases must be up to prosecution standard.

The offer of a penalty should happen at a special interview. The person should be told at the interview that:

- It is not an interview under caution;
- In light of the evidence available, it is believed there are grounds for instigating criminal proceedings for the alleged offence;
- It has been decided to offer them the alternative of agreeing to pay a penalty instead of their case being referred for prosecution;
- They will be expected to make a decision on whether to agree to pay a penalty, by the end of the interview;
- Acceptance of the penalty is not an admission of guilt;
- Recovery of the penalty will occur in the same way as recovery of the overpayment;
- They have 14 days in which to change their mind should they accept the penalty.
- Failure to repay the penalty or default on instalments will result in them facing civil proceedings for recovery.

The officer who conducted the interview under caution will not conduct the special interview.

The Council may consider issuing a penalty if:

- To the Council's knowledge the person has never previously offended
- The person has not admitted the offence during an interview under caution
- The excess reduction/overpayment is under £2000
- A Local Authority Caution is not appropriate
- The person is elderly or suffering from either significant mental or physical ill health, but their fraudulent act is considered too serious to go unpunished.

If the person refuses the penalty, the case will usually be referred for prosecution.

C. Prosecution

The Decision to Prosecute – additional factors

In cases where the fraudulent excess reduction/overpayment identified is over £2000, the Council will usually seek to prosecute. Overpayments of Housing Benefit, Council Tax Benefit or National Benefits which form part of the alleged offence will be taken into consideration. The decision on whether to **refer** a case for prosecution lies with the Senior Fraud Officer or Fraud Manager and must be counter signed by the Benefits Manager or Assistant Director (Head of Revenues and Benefits).

In making this decision all circumstances surrounding the case will be considered, with particular emphasis on the following;

- Is there sufficient evidence for a realistic prospect of conviction
- Any failure in investigation
- Any failure in benefit or council tax administration, including delay
- Is a prosecution in the public interest
- The amount of the overpayment/excess reduction and duration of the alleged offence
- Any abuse of position or privilege
- Whether the person is elderly or suffering from either significant mental or physical ill health
- Any previous incidence of fraud
- Social factors
- Whether a conviction is likely to result in significant sentence or nominal penalty
- Whether there is evidence that the person was a ring leader or an organiser of the alleged offence
- Whether there was planning in the process
- Whether the claim was false from inception
- Whether there are grounds for believing that the alleged offence is likely to be continued or repeated, based on any history of recurring conduct
- Whether the alleged offence, irrespective of its seriousness, is widespread in the area where it was committed
- The person shows no regret for their actions and does not consider the alleged offence to be serious or shows little or no regard for Social Security or Council Tax Reduction Scheme legislation
- The person has refused to accept a Local Authority Caution or Penalty
- Where Authorised Officer powers have been obstructed
- There has been a lack of co-operation with the investigation

- Any voluntary disclosure. This will occur when a person, of their own free will, reveals a fraud of which the Council has been unaware. It does not apply to cases where, for example:
 - The disclosure is prompted by a belief that the fraud will be discovered;
 - The person has discovered that they were already being investigated;
 - The disclosure was prompted by, for example, a verification visit.

Each case will be considered on its own merits to determine the most appropriate course of action.

In all cases considered for sanction, it is essential that each case is subject to scrutiny on the basis of its own particular details. The circumstances of each individual case will ultimately determine the eventual sanction route. In some cases with an overpayment/excess reduction of more than £2000, it may be felt appropriate to offer a caution or a penalty as an alternative to prosecution; having considered all of the factors of the case. The reasons for this must be documented by the officer making the sanction decision.

It should be noted that it may be appropriate to prosecute a person who has not been paid any benefit or received a Council Tax Reduction but where the attempt to defraud was so serious as to justify a prosecution.