

Interview Under Caution

A guide to what action the Council can take after a customer has been Interviewed Under Caution

How to complain

If you think that you have been treated unfairly, West Lothian Council has a Comments and Complaints form, that can be found at any Customer Information Service Centres.

You can also call: 01506 280000, or

email: customer.service@westlothian.gov.uk



Revenues Unit
St David House
South Bridge Street
Bathgate
EH48 1TT

Interview under Caution

What happens next?

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If new information has emerged from the interview, West Lothian Council will make all necessary enquiries and will consider your case further when all these enquiries have been completed.

If you have not had a formal “allegation” read to you at the interview, it may be that when these enquiries are completed it is possible that West Lothian Council will need to interview you further. If this is the case, we will write and advise you.

If no new information has emerged from the interview and a formal “allegation” has been read to you, West Lothian Council will consider the details obtained during the investigation, and from the interview under caution, and decide on the most appropriate action.

What actions can the Council take?

Where West Lothian Council believes there is no evidence that an offence has been committed, or even though evidence exists, the Council feels that it is not in the public interest to take further action, the Council will write to you to advise that no further action is to be taken.

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What actions can the Council take?

The decision to take no further action does not effect any repayment of overpaid benefit that you may have.

Where the Council believes that there is sufficient evidence to show that an offence has been committed, we will consider, in line with West Lothian Council's Fraud Prosecution Policy, what further action we will take.

There are currently three options that West Lothian Council has after an Interview under Caution:

- Administrative Caution
- Administrative Penalty
- Refer to Procurator Fiscal for prosecution

What do the current options mean?

Administrative Caution;

A caution is a warning given in certain circumstances as an alternative to prosecution, to a person who has committed an offence. A caution will only be considered where there are sufficient grounds to institute criminal proceedings. In order to offer an Administrative Caution, you must have admitted the offence during an interview under caution.

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What do the current options mean?

Administrative Penalty

An Administrative Penalty is likely to be offered where the case is not so serious that it should be considered for Prosecution from the outset. An interview under caution must have been carried out and there must be grounds to institute criminal proceedings.

You must also have been notified of the Adjudication officers decision and appeal rights on the amount and recoverability of the overpayment.

The Administrative Penalty is an alternative to Prosecution. If you refuse to accept this option or fail to attend a number of interviews, your case will automatically be referred to the Procurator Fiscal for consideration of criminal proceedings.

Referral to Procurator Fiscal for Prosecution

West Lothian Council will refer your case to the Procurator Fiscal for consideration where:

- there is sufficient evidence to indicate that you have committed an offence
- there has been conspiracy between parties to commit fraud
- there has been criminal intent to commit fraud
- an Administrative Caution or Penalty has been refused

This list is neither exclusive nor exhaustive and each case will be judged on it's own merit, which will involve considering all aspects of the case over a range of criteria with no single factor being decisive.