

### **Definitions**

#### **Simple Caution**

This was previously called a Formal Caution, and it is offered as an alternative to prosecution, but it is not a criminal conviction. Simple cautions can only be offered when the suspect has admitted to committing the offence. Darlington Borough Council's Sanctions policy defines when a simple caution may be appropriate, but each case is considered on its own merits. All simple cautions are recorded with the Department for Work and Pensions, and may be cited in court, should the customer commit another offence against either a benefit administered by the Department for Work and Pensions or Housing or Council Tax Benefit, and be prosecuted for it.

#### **Administrative Penalty**

An Administrative Penalty is an alternative to prosecution. Section 115A of the Social Security Administration Act 1992 details when an Administrative Penalty may be offered. It may only be offered in respect of an overpayment which is recoverable under section 71, 71a, 75 or 76 of the Social Security Administration Act 1992. An Administrative penalty is set at 30% of the overpayment, and is recoverable after the overpayment has been repaid to Darlington Borough Council.

Darlington Borough Council's Sanctions policy defines when an Administrative Penalty may be appropriate, but each case is considered on its own merits. Consideration is given to the person's financial circumstances – as far as they are known, and whether offering an Administrative Penalty will cause undue hardship. All Administrative Penalties are recorded with the Department for Work and Pensions, so that if the person commits another offence against a benefit administered either by the Department for Work and Pensions or a Local Authority, and that authority is considering offering a sanction to the person, this may affect their decision.

#### **Prosecution**

Darlington Borough Council's Sanctions Policy defines when it will seek to prosecute for an offence. Each case is taken on its own merits, and consideration is given to health and social factors. If Darlington Borough Council offers a simple caution or administrative penalty to someone it considers to have committed an offence, and they either decline the offer or fail to attend any appointment to discuss the offer and do not contact the office to re-arrange the appointment, then the case will always be referred to the Legal Department for them to consider instigating legal proceedings.