

Chief Executive's - Finance Service Housing Benefit Overpayment Recovery Policy



1. Introduction

Housing Benefit is administered by the Council on behalf of the Department for Work and Pensions. This policy formalises the principles that apply to the calculation, administration and recovery of Housing Benefit overpayments.

An overpayment is an amount of benefit which has been paid, but to which there is no entitlement. Most overpayments are determined as recoverable and the Council has a duty to maximise recovery.

2. Aims and objectives

The overall aims and objectives of the policy are to:

- Prevent and minimise the number and value of overpayments through effective administration, procedures and publicity.
- Maximise the recovery of overpaid benefit, using all recovery methods available to the Council.
- Minimise Local Authority error overpayments through effective administration and procedures.
- Minimise loss to public funds.
- Monitor the effectiveness of the administration and recovery of overpayments.

3. Reasons for benefit overpayments

Overpayments of benefit can occur in the following circumstances:

- Failure to notify a change of circumstances that reduces benefit entitlement.
- Providing incorrect or false information.
- Delays or mistakes in processing information.

The calculation of an overpayment is often unavoidable, even when changes are notified and acted upon promptly.

4. Prevention of overpayments

Overpayments can be difficult to administer and recover and can cause financial difficulties for benefit applicants and their families. Steps taken to reduce the level of overpayments include the following:

- Informing claimants how to avoid overpayments – for example in letters, leaflets and other forms of communications.
- Encouraging claimants to contact the Council when changes occur.
- Processing information quickly and accurately.
- Offsetting any underlying benefit entitlement that might apply.

- Ensuring there are sufficient numbers of trained and effective benefits processors in place.
- Ensuring processes are in place to ensure backlogs of work do not build up – for example, ensuring that the workload is regularly monitored and that appropriate early actions are taken when required.
- Ensuring that a robust quality assurance framework is in place which includes effective accuracy checking procedures as well as actions to address poor performance.

5.Recoverable overpayments

5.1. Reasons for recoverable overpayments

Most benefit overpayments are recoverable if the customer, a person acting on their behalf, or any person to whom the payment was made could reasonably be expected to realise that an overpayment would occur. Examples of recoverable overpayments includes those:

- Caused by the misrepresentation about a material fact.
- Caused by the failure to disclose a material fact.
- Credited to an account in advance of entitlement.

5.2. Decisions to recover overpayments

The decision as to whether an overpayment is recoverable is separate from the decision of whether the overpayment should be recovered. Regard should be given to the individual circumstances of each case before deciding if recovery is appropriate. However, the decision not to recover an overpayment should be an exceptional one. Factors will include the following examples:

- The cause of the overpayment.
- The amount of the overpayment.
- The prevailing circumstances.
- The physical and health considerations of the claimant and family.
- Financial hardship.
- Social considerations.
- Advice the claimant may have received.
- Error by any official agency.

6.Recovery of overpayments

Recovery of a Housing Benefit overpayment will normally be sought from the claimant and in some instances a landlord. This may be the customer, their appointee or agent, or a landlord in receipt of direct payments.

6.1. Recovery of rent rebates

Recovery of Housing Benefit overpayments for Council tenancies (referred to as Rent Rebates) may be recovered from the tenants rent account in the following circumstances:

- Where the rent account is in credit by the same or similar amount.
- At the claimant's request.
- On termination of the tenancy where liability to pay rent is removed.
- Reduction from ongoing benefit entitlement.

6.2. Recovery from landlords

Recovery of Housing Benefit from landlords (excluding the Council) may be considered if the benefit payment was paid direct to them.

Housing Benefit overpayments should not be recovered direct from the landlord when:

- The landlord has notified the Council, or the Department for Work and Pensions, in writing that they suspect there has been an overpayment, and.
- It appears to the Council that there are grounds for instituting proceedings against the claimant for making dishonest or false representations in order to obtain benefit – and the Council is satisfied that the landlord has not colluded with the claimant so as to cause the overpayment.

7. Methods of Housing Benefit overpayment recovery

Once an overpayment has been determined as recoverable the method of recovery must be established in order to maximise recovery of the debt. The available recovery methods are as follows:

- From ongoing benefit entitlement. The weekly amount will not exceed the maximum set by the Government.
- From arrears of benefit that become payable whilst there is an outstanding overpayment - for example, due to a revision of benefit entitlement.
- By deduction from other prescribed Social Security benefits.
- By reaching a repayment agreement with the debtor.
- By raising a sundry debtor invoice - if there is no other method of recovery available.
- Use of the Department for Work and Pensions Central Information System and Housing Benefit Debt Service to trace debtors who may have moved address or are in employment.
- Pursuing recovery in line with the Council's Debt Recovery and Write-off policy.

8. Notification of overpayments

If a recoverable overpayment has occurred, and the decision has been made to recover it, a decision notice should be sent to the person from whom recovery is

being sought and any other person affected by the decision. For example, if the overpayment is to be recovered from the landlord a decision notice must be issued to both the claimant and the landlord.

Decision notices should provide a person affected with enough detail to check the factual basis of the decision and provide enough information to decide if they want to request a review or appeal against the overpayment decision. The Housing Benefit statutory regulations prescribe the information that must be included in a decision notice.

9. Reporting and monitoring

Monitoring the recovery of overpayments is essential to maintain a secure and effective benefits service.

Housing Benefit overpayments will be monitored on a regular basis to ensure that the appropriate and most relevant recovery actions are being taken. An overview of overpayments performance will form part of the regular programme of monitoring reporting of the Finance - Revenues and Benefits team within the Council.

Information will be analysed to establish the reasons for overpayments, any trends that are apparent and help identify areas for improvements to the service.

The recovery of fraud overpayments and administrative penalties will be prioritised to reinforce the Council's counter-fraud policies and help determine the effectiveness of the counter-fraud work.

10. Policy Review

Review of the policy should be undertaken on a regular basis to ensure that it complies with current legislation, guidance and working practices.

Policy adopted 14 February 2006 at a meeting of the Council's Policy and Resources Committee.

Document Reviewed – September 2018.