



## HOUSING BENEFIT OVERPAYMENTS POLICY

### 1.0 Introduction

- 1.1 Housing benefit overpayments are established through the review of the entitlement to benefit or in some instances the correction of an error or from the set aside of an original benefits determination.
- 1.2 An overpayment is an amount of benefit which has been paid but to which there was no entitlement under legislation. This can relate to both housing benefit and council tax reduction scheme; however this document will deal only with housing benefit overpayments. Council tax reduction scheme overpayments are recovered directly through council tax accounts when an amended bill will be sent to the customer.
- 1.3 Housing benefit overpayments can occur for various reasons including customers, landlords or a relevant third party not giving the correct notification of change of circumstances, or providing incorrect information to support a claim.
- 1.4 The council receives subsidy from the government in respect of certain types of overpayment and therefore, it is important that overpayments are correctly classified.

### 2.0 Purpose

- 2.1 It is essential that the council demonstrates that it undertakes the administration and recovery of housing benefit overpayments efficiently and effectively and by doing so it:
  - reduces any loss to public funds.
  - demonstrates the council's commitment to accuracy.
  - provides a quality service to customers.
  - provides revenue for the council in addition to the reduced level of subsidy received on overpayments.
  - deters fraud and error.
- 2.2 The policy complies with Housing Benefits Overpayments Guide by the Department of Work and Pensions (DWP) and guidance contained within the Chartered Institute of Public Finance and Accountancy (CIPFA) Good Practice Guide to the Financial Managements of Housing Benefits. It will be published on the council's website and will be subject to regular monitoring.
- 2.3 At six monthly intervals, the benefit section will report to the Cabinet the benefit overpayment debt position. The report will analyse the debts in line with the council's debt reporting procedures.
- 2.4 In line with central government's good performance management the benefit section will set annual targets to improve the level of recovery with the objective of reaching and maintaining recovery action equal to or greater than

that of the previous year to ensure continuous improvement. This performance is reported six monthly to the Cabinet.

### **3.0 Identification and notification of overpayments**

3.1 Accurate and prompt identification of an overpayment is important in order to:

- ensure that the incorrect payment of benefit is stopped.
- maximise the chances of successful recovery of the overpayment.
- reduce the number of complaints and appeals.

3.2 Correct decision making on whether or not there is an overpayment and whether it is recoverable is essential because:

- there are consequences for the rights of customers and other affected persons.
- the decision can affect the finances of the council if it is not recoverable.
- decisions made and the reasons for them can provide an indication of the levels of fraud and error.

3.3 If housing benefit is overpaid the council will write to the customer to tell them:

- what the period of the overpayment is.
- the reason for the overpayment.
- the amount of the overpayment.
- how the overpayment can be repaid.
- about their rights to ask for more information or a review of the decision if they believe it is wrong.

### **4.0 Appeals**

4.1 A customer has the right of appeal against the decision:

- that the overpayment has occurred.
- that the overpayment is recoverable.
- who it is recoverable from.
- the amount of the overpayment.

4.2 To make an appeal the customer must:

- appeal in writing and sign the letter.
- appeal within one calendar month of the date on the decision letter.
- explain in full why it is thought the decision is wrong.

### **5.0 Decisions on recoverability**

5.1 An overpayment will generally be recovered unless it is due to an official error. An official error is classified as an error caused by the Council. An official error overpayment is recoverable where the customer (or someone acting on their behalf) was instrumental in the overpayment, or the person who received the payment, could reasonably have been expected to notice that an overpayment was taking place.

5.2 Whether an overpayment is recovered is at the discretion of the council and individual circumstances will be considered when deciding whether recovery is appropriate.

5.3 In accordance with Housing Benefit Regulations overpayments caused by an official error when the customer receiving the payment could not reasonably have been expected to know that they were being overpaid are legally non-recoverable. In addition, the customer or a person acting on their behalf, or any other person to whom the payment was made, must not cause or materially contribute to that mistake, act or omission. All official error, non-recoverable overpayments will be authorised by the Revenues, Benefits and Customer Services Manager and/or the Benefits Service Manager.

## **6.0 Who to recover the overpayment from?**

6.1 An overpayment will be recovered from the customer, or from the customers' landlord, if the landlord was paid directly and the overpayment is due to the customer moving address. In certain circumstances where the landlord was paid directly it may also be correct to recover the overpayment from the landlord. All relevant factors will be taken into account when coming to a decision as to who recovery will be made from. Such a decision can be the subject of an appeal.

6.2 Overpayments can be recovered if it has occurred due to a misrepresentation or failure to disclose a relevant fact by the customer, someone acting on their behalf or the landlord (or agent).

6.3 If an overpayment has been made to a deceased person recovery can be sought from their estate.

## **7.0 Recovery of the overpayment**

7.1 The council will always seek to recover overpaid benefit as quickly as possible. In doing so there will be consideration of a customer's ability to pay and payment by regular instalments will be accepted

7.2 Recovery of the overpayment will be made by one of the following methods:

- from on-going entitlement by reducing the amount of housing benefit to be paid. This will be up to an amount that is allowed by housing benefit regulations.
- where there is no entitlement to housing benefit or other DWP benefit, a sundry debtor invoice will be raised.
- by Direct Earnings Attachment (DEA) where the employer details are known. This will be up to an amount that is allowed by housing benefit regulations.

7.3 It should be noted that recovery from on-going benefit is counted as recovery from the customer and not the landlord. Therefore the landlord is not the person affected and cannot apply for a revision of the decision or appeal it. If the housing benefit does not cover the full rent then the customer must make

up the shortfall to avoid any rent arrears. If rent arrears develop, the landlord should pursue recovery on that basis.

7.4 Following receipt of an invoice, if payment is not received or an arrangement to pay made, a reminder will be sent.

7.5 Failure to pay or make arrangements to pay will result in the debt being passed to a debt collection agency.

## **8.0 Writing off the debt**

8.1 As a last resort the recoverable debt deemed uncollectable will be written off in accordance with council's procedures.

8.2 The reasons for a debt being passed for write-off include:

- the amount outstanding is not economical to pursue.
- the customer is deceased and there are no funds.
- the customer cannot be traced.
- all recovery options, including legal action, have been exhausted with no result.

8.3 When referring recoverable debts deemed uncollectable for write-off, the following process will apply:

- £10 or less will be written off by the Overpayment Officer and the collective total included in the monthly write off schedule to be endorsed by the Director of Resources.
- The Director of Resources has delegated authority to write off debts up to £10,000 for any individual account, subject to consultation with the Cabinet Lead Member for Resources for amounts between £5,000 and £10,000.
- Cabinet is authorised to write off debts in excess of this figure.

8.4 In all cases, the recovery action of an overpayment will be as per the decision made by the Members or relevant officer i.e. to be written off or put forward for further action.

8.5 Any debts written off will be monitored on a monthly basis to identify if the customer:

- returns to the Wyre Forest district having moved out of the area.
- starts claiming housing benefit again.
- starts to receive a DWP benefit where the overpayment can be recovered from.

8.6 In either case, the overpayment will be resurrected and recovery will be sought from on-going benefit or by means of a sundry debtor invoice where the customer has not reapplied for benefit.