

HOUSING BENEFITS OVERPAYMENT POLICY

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1. Overview

Overpayments of Housing Benefit happen when more benefit is paid than someone is entitled to. This can occur for a variety of reasons.

Common reasons for Housing Benefit overpayments:

- Change in circumstances not reported in time, such as:
 - Income increases
 - Change of address
 - Someone moving in or out of the household
 - Capital exceeds Benefit guidelines

We recover overpaid Housing Benefit in line with benefit legislation.

This document outlines the policy, strategy and performance measures we use in the administration of benefit overpayments.

It is intended to be used in conjunction with the operational procedures and guidance maintained by the Benefits Section and takes account of all current legislation, corporate policy and best practice.

The overall aims of the Policy are to:

- Treat overpayment debtors with courtesy and respect and take full account of the Council's equalities policies.
- Prevent and minimise the number and value of overpayments through accurate administration of entitlement.
- Analyse our caseload and carry out a programme of risk-based reviews to target cases where there is the most likelihood of unreported changes in circumstances.
- Regularly inform our customers of their duty to tell us about changes in their circumstances.
- Minimise the amount of Local Authority error overpayments through effective administration, documented procedures, quality control and staff training.
- Maximise the recovery of overpaid benefit through effective and documented recovery procedures and the use of all recovery methods available to the Council.
- Maximise subsidy income through accurate classification of overpayments.
- Ensure any anti-poverty and equality issues are considered and addressed by recovering each overpayment based on the person's circumstances and ability to repay.
- Review the effectiveness of the administration of overpayments through regular monitoring and reporting of overpaid benefit against set measures.

The following sections of this document detail the specific policy and performance targets relating to individual administrative processes.

2. Calculation and Classification

We aim to ensure all overpayments are dealt with accurately and effectively.

We aim to:

- Take steps to minimise the period and amount of an overpayment by prioritising the workload to identify changes of circumstances which may cause overpayments.
- Process the calculation of an overpayment as soon as possible after receiving all relevant information.
- Ensure the correct subsidy classification is made to each overpayment and that sufficient management checks are carried out to ensure accuracy.
- Ensure that all un-cashed Rent Allowance cheques are stopped within 6 months after issue to reduce potential overpayments and cancel all returned BACS in timely manner.
- Seek to reduce the total overpayment through publicising and applying the underlying entitlement provisions where appropriate.

3. Notification

Following the creation of an overpayment, we will send letters detailing the reason for the overpayment and the period that it covers to all persons affected by the decision. The letters will carry the appropriate right of appeal.

We will:

- Ensure notification letters are issued to all persons affected and where appropriate, issue with HB invoices for any overpayment within 32 days of the date of the overpayment decision.
- Maintain the ability to reproduce all notifications if required.
- Offer support to vulnerable persons, where requested or considered appropriate, to explain the notification(s) and possible recovery process.

4. Recovery

We recognise that effective recovery of overpaid benefit is essential to minimise the outstanding value and number of overpayments. We have set several performance indicators to measure our performance.

It is therefore essential we have in place robust mechanisms for the management and recovery of debt to the Council.

When determining the person from whom recovery should be made, the Council will consider:

- The reason for the overpayment occurring.
- The person to whom payment was made.
- Any information relating to the fact an overpayment was occurring, and which could be available to a person affected.
- From whom recovery may be sought.

- Where appropriate, the extent of any fraudulent activity.

We will seek to maximise the recovery of all recoverable debt by:

- Maintaining and making available clear procedures used for recovery action to all relevant persons
- Ensuring overpayments are recovered from the appropriate person, depending on the nature and reason for the overpayment
- Utilising all recovery methods at the Council's disposal to maximise recovery
- Consider Recovering from ongoing entitlement to Housing Benefit and regularly review the amount being recovered
- Issue invoices at the end of one calendar month after the overpayment has been calculated or earlier if requested or if circumstances allow, e.g. the customer has moved out of the area
- Agreeing payment arrangements that will recover the overpayment within an acceptable period or to the maximum allowable under the Benefit Regulations
- We reserve the right to refuse payment by instalments if the customer has the Capital to settle the debt in full
- Periodically review instalment arrangements for any change in the debtor's circumstances

Where benefit is no longer in payment, recovery is sought by issuing an invoice. Arrangements can be made to repay the overpayment by instalments. If no payments are made against the overpayment, we consider other methods of repayment such as:

- Recovery from DWP benefits – we can request that the Department for Work and Pensions (DWP) make deductions from certain Social Security Benefits and State Pensions to recover the Housing Benefit overpayment. DWP will pay the deductions to the Council.
- Recovery from Housing Benefit being paid in another area - if the claimant has left the Huntingdonshire District Council (HDC) area and is claiming Housing Benefit elsewhere, we can make a request to the Local Authority responsible for the new claim to make deductions from the claimant's current Housing Benefit entitlement which are then paid directly to HDC. This option is no longer widely used due to the roll out of Universal Credit.
- County Court action – where appropriate and considering the size and reason for the overpayment, we may seek recovery through the County Court. This allows us to enforce recovery of the overpayment in a few ways including a CCJ, attachment of earnings or charging order.
- DEA - Direct Earnings Attachment (DEA) - If a customer is working, we will ask their employer to make deductions from their earnings to recover the debt. The law allows us to do this without applying to a Civil Court and employers are legally bound to comply if requested to do so. The amount deducted will be a percentage of net earnings and could be up to a maximum of 20% of the net salary (or 40% if the debt was incurred because of proven fraud).
- Debt Collection Agency - we may also pass the account to an External Debt Collection Agent and request that they pursue the customer for payment on our behalf.

Where it is established that the claimant has moved from the Huntingdonshire District Council area without notifying us of their new address, we will take steps to determine where they are living now to continue recovery of the outstanding overpayment.

Where a customer has Capital, we will reserve the right to accept payment by instalments and will instead seek payment in full.

5. Anti-Poverty Issues

We recognise our responsibility when deciding to recover an overpayment to avoid undue hardship to the debtor.

We will ensure that:

- Each case is considered on its own merits when determining recovery action.
- A recovery rate is set appropriate to the person's financial circumstances.
- Where recovery is being made from a person's on-going entitlement to benefit, a review of the recovery rate is carried out when a person's circumstances change.
- A decision to recover, or the rate of recovery, will be reviewed by an appropriate officer, with regard to any supporting information and written request by the debtor.

Debts will be considered for write off where it may be appropriate, taking account all the debtors' circumstances.

6. Write Offs

We recognise that in certain circumstances it may not be practical or appropriate to recover an overpayment. In those cases, consideration will be given to non-recovery or write off the debt.

The circumstances in which this will be considered are as follows:

- Where the overpayment was caused as a result of Local Authority error and where the claimant or person receiving the payment could not reasonably have been expected to know the overpayment was occurring.
- Where the recovery of an overpayment will cause undue financial hardship.
- Where all recovery processes have been exhausted.
- It is uneconomic to recover where the debt is under £20.

In considering a debt for write off the following conditions will apply:

- Each case will be considered on its merits.
- Each request will be supported by relevant documentation.
- Each case will receive authorisation from the appropriate authorised officer and/or Members in accordance with the Council's Standing Orders.
- Appropriate records of all authorised write offs will be maintained and reviewed periodically against live caseload.

- The relevant operational procedure and guidance will be followed in all cases.

7. Reporting and Monitoring

We consider the monitoring of overpayments is essential to maintain a secure and effective Benefits Section.

The Council recognises the financial implications of not maintaining adequate administration and recovery of overpaid benefit which directly reflects the amount of income accruing to the Council.

Therefore, the Council will seek to maximise accuracy and highlight any financial implications by effective reporting and monitoring of:

- The value, number and type of overpayments.
- The value, number of Local Authority overpayments.
- The value, reason and classification of overpayments.
- The amount of debt in recovery/out of recovery.
- Payment arrangements and periodic review against changes in circumstances that may allow for an increase in the arrangement made (for cases where recovery of an overpayment is being made from entitlement to on-going benefit).
- Identify trends in the occurrence and rate of overpayments.