
HOUSING BENEFIT OVERPAYMENT AND DEBT RECOVERY POLICY

Report by Service Director Neighbourhood Services

EXECUTIVE COMMITTEE

21 March 2017

1 PURPOSE AND SUMMARY

- 1.1 This report outlines and seeks approval of the Housing Benefit Overpayment and Debt Recovery Policy.**
- 1.2 In administering Housing Benefit on behalf of the Department for Work and Pensions (DWP), the Council has a responsibility to recover any Housing Benefit which has been overpaid.
- 1.3 It is essential for the Council to demonstrate that it carries out administration and recovery of Housing Benefit efficiently, effectively and fairly and follows the guidance issued by the DWP.
- 1.4 The policy has been based on the DWPs recommended model and replaces the policy which was agreed by Committee in June 2000.
- 1.5 It provides clarity on how the Council will interact with claimants and their agents in the administration of Housing Benefit overpayments and sets out a clear debt recovery strategy.

2 RECOMMENDATIONS

- 2.1 I recommend that the Committee approves the Housing Benefit Overpayment and Debt Recovery Policy attached in Appendix 1 to take effect from 1 April 2017.**

3 BACKGROUND

- 3.1 The Council administers Housing Benefit on behalf of the DWP to help customers on a low income pay their rent. The Council also administers Council Tax Reduction on behalf of the Scottish Government to help customers on a low income pay their Council Tax.
- 3.2 During 2015/16 the Council administered in the region of 2500 new applications and the number of active Housing Benefit cases at any one time is approximately 9,000.
- 3.3 The Council pays out in the region of £30m in Housing Benefit each year.
- 3.4 During 2015/16 Housing Benefit overpayments totalling approx. £1.2 million were created as a result of fraud and error.
- 3.5 Housing Benefit applications and change of circumstance notifications are assessed by Customer Services staff. In some instances, the assessments will result in overpayments of Housing Benefit.
- 3.6 An overpayment of Housing Benefit is any amount which has been paid out, but to which there was no entitlement. It occurs when there is no entitlement or reduced entitlement on either the original decision or a revision/supersession. The benefit assessor must identify each decision made during the overpayment period and revise or supersede those decisions to create an overpayment decision.
- 3.7 It is essential that overpayments are identified and a decision made on whether an overpayment is recoverable as there are consequences concerning the rights of the claimant and other affected parties.
- 3.8 The recovery of Housing Benefit overpayments is undertaken from within various sections of Customer Services. This includes sending invoices and reminders, discussing payment options, making payment arrangements and monitoring debt recovery while ensuring staff follow the customer charter.
- 3.9 The Council receives subsidy for Housing Benefit expenditure but the rate depends on a number of circumstances.

4 PROPOSED HOUSING BENEFIT OVERPAYMENT AND DEBT RECOVERY POLICY – Attached at Appendix 1

- 4.1 When an overpayment is identified the council will :
 - Establish the cause of the overpayment;
 - Identify the period involved and calculate the amount of the overpayment;
 - Classify and record the overpayment so the correct rate of recovery can be made;
 - Decide whether or not the overpayment is recoverable;
 - Decide from whom the overpayment should be recovered;
 - Notify any 'person affected'.

- 4.2 Overpayments will be classified as Fraudulent, Claimant error, Local Authority error, Admin Delay DWP error or Other error. Classifying an overpayment is an essential but basic step and should be carried out at the outset when an overpayment is identified.
- 4.3 Overpayments can be recovered by :
- Deductions from ongoing Housing Benefit entitlement
 - Raising a debtor invoice
 - Applying for deductions from certain DWP benefits
 - Recovery from Housing Benefit paid to a landlord/agent for another tenant if the landlord is responsible for the overpayment
 - Direct earnings attachment
 - Transferring homeless tenant overpayments to the tenants rent account
 - Diligence by debt collection agents.
- 4.4 An overpayment is recoverable if :
- It arose because of an 'official error' by the claimant, or someone acting on his or her behalf;
 - the payee could reasonably have been expected to know it was an overpayment;
 - It is due to an error (or fraud) of the claimant or a third party; or
 - It is no one's fault.
- 4.5 When the Council decides that a recoverable overpayment has occurred, a decision will be issued to any person the overpayment is legally recoverable from, even if the Council has decided to recover from someone else (for example landlord/agent).
- 4.6 The claimant can ask for a reconsideration or appeal against a decision. Should an appeal be received from the customer in respect of an overpayment calculation, it will be handled first as a request for reconsideration.
- 4.7 In certain circumstances Scottish Borders Council can decide to write off an overpayment. Papers backing up each individual debt should be submitted and approved by the Service Director – Neighbourhood Services (or equivalent) as defined in the Scheme of Delegation.
- 4.8 Overpayments can be costly to recover. The money lost through reduced subsidy and the costs of recovering overpayments comes from the Councils overall budget, therefore not limiting costs here means there are fewer funds available for other services. It is important to ensure that in addition to preventing overpayments occurring, every effort is made to recover them.

5 IMPLICATIONS

5.1 Financial

There are no costs attached to any of the recommendations contained in this report.

5.2 Risk and Mitigations

There is a risk that overpayments may not be recovered in a fair and consistent way to minimise losses to the Council, without the formalisation of our procedures and practices.

5.3 Equalities

An Equalities Impact Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications.

5.4 Acting Sustainably

This policy is intended to ensure Customer Services Staff provide a consistent approach and demonstrate a quality service to customers taking into account individuals circumstances.

5.5 Carbon Management

This policy will have no impact on the Council's carbon emissions.

5.6 Rural Proofing

This policy will have no impact on Rural proofing.

5.7 Changes to Scheme of Administration or Scheme of Delegation

There are no changes to be made to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

6 CONSULTATION

6.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

6.2 The Chief Social Worker Officer, the Service Director Neighbourhood Services and the Lead Homelessness Officer have also been consulted and any comments received have been incorporated into the final report.

Approved by

Jenni Craig

Service Director Neighbourhood Services Signature

Author(s)

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Background Papers: None

Previous Minute Reference: Policy and Resources Committee / Property and Finance Sub-Committee - 5 June

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Clare Easson can also give information on other language translations as well as providing additional copies.

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