

DUNDEE CITY COUNCIL

REPORT TO: FINANCE COMMITTEE – 30 JUNE 2003
REPORT ON: HOUSING BENEFIT OVERPAYMENT RECOVERY POLICY
REPORT BY: DIRECTOR OF FINANCE
REPORT NO: 443 - 2003

1.0 PURPOSE OF REPORT

This report is to implement Dundee City Council's Housing Benefit Overpayment Recovery Policy. It summarises the procedures that the Council will implement for recovering Housing Benefit debt

2.0 RECOMMENDATION

That the Committee adopts the Housing Benefit Overpayment Recovery Policy (See Appendix 1)

3.0 FINANCIAL IMPLICATIONS

The adoption of this policy will reduce losses to public funds and provide revenue for the Council.

4.0 LOCAL AGENDA 21 IMPLICATIONS

None

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

None

6.0 POLICY

6.1 Dundee City Council is committed to the recovery of Housing Benefit debt.

6.2 The Council aims to comply wherever possible with Performance Standards guidance The Council will look to revising this policy document as and when necessary.

7.0 CONSULTATION

The Director of Support Services and Personnel and Management Services have been consulted on this report.

8.0 BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than containing confidential or exempt information) were relied on to any material extent in preparing the above report.

The Council will look to revising this policy document as and when necessary.

DAVID DORWARD
DIRECTOR OF FINANCE

DATE 23 June 2003

443-2003/HB Overpayment Recovery Policy 443-2003

DUNDEE CITY COUNCIL

HOUSING BENEFIT OVERPAYMENT RECOVERY POLICY

This policy document sets out Dundee City Council's commitment to the recovery of Housing Benefit Overpayments as laid down by the Housing Benefit (General) Regulations 1987.

The Council aims to comply wherever possible with Performance Standards guidance and undertakes to review this policy as and when necessary.

INTRODUCTION

1 Why do we need a policy

It is essential for Dundee City Council to demonstrate that it carries out administration and recovery of Housing Benefit overpayments efficiently and effectively.

By doing so the Council:-

- reduces losses to Public Funds
- provides revenue for the Council
- helps reduce the loss from overpayments
- deters fraud and error
- demonstrates the Council's commitment to accuracy and provision of a quality service to customers

2 Aim of the policy

The aim of this policy is to act as a guide to the Council's Administration of Housing Benefit Overpayment recovery

CUSTOMER CHARTER

- Debtors will be given clear and prompt information about any Housing Benefit overpayment.
- Flexible and convenient methods of payment will be provided.
- Debtors will be treated with courtesy, empathy and in absolute confidence.
- Staff will be sensitive to debtor's individual circumstances.
- Debts will be collected efficiently.
- Any information given by the debtor will be treated as confidential unless the Council is under a statutory obligation to supply information
- Staff dealing with the collection of Housing Benefit overpayments must follow clear written procedures and will receive training on debt collection.
- If required by the debtor, a private interview can be arranged so a member of the Housing Benefits Overpayment staff can explain Dundee City Council's debt recovery procedures.
- The Housing Benefits Overpayment staff will work with recognised advice agencies, while acknowledging their independence.

HOUSING BENEFIT OVERPAYMENTS

1 What is a Housing Benefit Overpayment

A Housing Benefit overpayment is any amount of Housing Benefit paid to or in respect of a claimant to which he/she is not or was not entitled.

2 How does a Housing Benefit Overpayment happen

Overpayments are normally created following a review of entitlement to benefit

3 What causes a Housing Benefit Overpayment

Overpayments can be caused by a failure to report a change in circumstances, delays in processing a change in circumstances, Incorrect information being supplied, errors made by the Local Authority or errors made by the Department for Work and Pensions

4 What is a recoverable Housing Benefit Overpayment

A recoverable Housing Benefit overpayment is generally all overpayments unless it is due to an official

error. Where the claimant, someone acting on their behalf, or the person to whom the payment was made could reasonably have been expected to realise that an overpayment was taking place at the time of payment or upon receipt of any notification relating to the payment the overpayment is recoverable.

HOW THE COUNCIL ACTIONS HOUSING BENEFIT OVERPAYMENT RECOVERY

1 Identification of Housing Benefit overpayments and decisions on recoverability

Accurate and prompt identification of overpayments is important in order to ensure that the incorrect payment of benefit is discontinued, maximise the chances of the successful recovery of the overpayment and reduce the number of complaints and appeals

In order to help identify overpayments promptly the Council works closely with the Department for Work and Pensions and shares information in accordance with the legislation regarding the awards of Income Support and Jobseekers Allowance (Income Based).

The Council identifies overpayments and establishes the cause of the overpayment and whether it is recoverable and from whom it should be recovered.

2 Decision Making

Correct decision-making regarding whether or not there is an overpayment and whether or not it is recoverable is essential because there are consequences concerning the rights of claimants and other

affected persons, the decision can affect the finances of the Council if it is not recoverable and decisions made and the reasons for them can provide an indication of the levels of fraud and error compared with inefficiency

Whether a recoverable overpayment is recovered is at the discretion of the Council and regard will be given to individual circumstances when deciding whether recovery is appropriate.

3 Claimant or third party error

An official error does not include circumstances where the claimant, someone acting on their behalf or the person to whom the payment was made caused or materially contributed to the error. These are claimant or third party errors and are recoverable.

4 Calculation of a Housing Benefit Overpayment

A recoverable overpayment is calculated by deducting the amount of benefit that should have been paid for the period in question from the amount of benefit that was actually paid. Any uncashed/returned cheques or underpayment of benefit is taken into account.

Claimants are given the opportunity to provide evidence of any possible underlying entitlement, which may reduce the overpayment.

5 From whom should the overpayment be recovered

A recoverable overpayment can be recovered from the claimant or from the person who received the payment, e.g. landlord who has been paid direct (case law has shown that recovery can be sought from the landlord, if he has been paid direct, even if the landlord did not contribute to or have knowledge of the overpayment).

In coming to a decision as to whom the overpayment should be recovered from all relevant factors will be taken into account and it should be noted that such a decision can be the subject of an appeal.

If an overpayment has occurred due to a misrepresentation or failure to disclose a relevant fact by the claimant, someone acting on their behalf or the landlord (or agent) the overpayment can be recovered from that person.

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

6 Notification of an overpayment

The Housing Benefit regulations state that any person affected by a decision relating to an overpayment must be notified in writing e.g. if the debt is to be recovered from a landlord notification must be sent to the claimant and the landlord. A notification is sent out within 14 days of the decision stating clearly the reasons for the overpayment and advising the debtor of their right of appeal/review.

These letters also provide information as to how payment should be made and who to contact regarding any query.

7 Recovery from on-going Benefit

Where the claimant is still entitled to Housing Benefit the overpayment can be recovered from their on-going benefit entitlement.

The Government sets the weekly rate that Councils can recover, however, this amount can be increased with the consent of the debtor.

Where the overpayment is to be recovered from on-going benefit, details of this are shown on the notification letter. If the debtor is still in receipt of Housing Benefit but the amount in payment is not enough to allow the recovery rate to be taken, the Council will recover all but £0.50 per week.

Alternatively, it may be decided to invoice the claimant instead.

In cases where fraud has been identified and the debtor, as a result of an investigation, the recovery rate is increased according to the set rate for such cases.

If a debtor has moved to another Council's area and is in receipt of Housing Benefit there, a letter can be sent to that Council requesting that they make deductions from the claimant's ongoing benefit

entitlement at a suitable rate and forward the amounts recovered to Dundee City Council.

The rate of recovery from on-going benefit will take into account individual circumstances.

It should be noted that recovery from on-going benefit is counted as recovery from the claimant, not the landlord. Consequently the landlord is not a person affected and cannot apply for a revision of the decision or appeal against it. The claimant must make up the shortfall in their rent in order to avoid

any

arrears. If a rent arrears situation does develop then the landlord should pursue recovery accordingly.

8 Where there is no on-going benefit entitlement

If there is no on-going benefit entitlement the debt will be recovered via invoicing after a 6 week period has lapsed. This period allows for a revision, appeal or new claim being received.

The invoice will request payment within 28 days. If the debtor is unable to pay in full it is possible to make alternative arrangements and these are covered in a later paragraph.

9 Methods of Payment

It is essential to provide flexible and convenient methods of payment. At present the Council can accept payment by the following means: -

- Postal Order
- Cheque
- Cash
- Standing Order

Payment can be accepted in person at the City Square Enquiry Office.

10 Non-payment

If payment/an arrangement for payment is not made a reminder will be issued 7 days after the payment due date displayed on the invoice.

If payment/an arrangement for payment is not made within 16/17 days of the reminder being sent a final demand will be issued requesting payment within 7 days.

11 Arrangements

If the debtor cannot pay the overpayment invoice in full then the Council encourages them to make contact immediately so that a mutually acceptable repayment arrangement can be made. In addition to this, debtors can seek advice as to where they can go for independent advice.

Each case will be considered on its own merits - taking the amount due, personal circumstances and financial circumstances into account. The aim is to agree a realistic arrangement to collect unpaid debts within a reasonable time, without the need for more serious recovery action.

If an agreement cannot be made in the first instance then it may be necessary to issue an Income and Expenditure form in order to obtain a clear picture of the person's financial circumstances and thereby to act as a basis for reaching a mutually acceptable instalment plan.

or

Once the arrangement is agreed, an amended invoice, reminder or final demand, depending at what point in the recovery process the arrangement was made, showing the agreement. A payment card

Standing Order form is also sent to facilitate payment.

12 Monitoring Arrangements

be If the claimant defaults on their arrangement a reminder or final notice, whichever is appropriate will issued. When a final notice is issued, the instalment plan/arrangement is automatically cancelled and the debtor is asked to make payment in full.

13 Further Recovery Action

Where payment has not been made in accordance with an arrangement or no payment has been made at all a decision on further action will be made based on the circumstances of each case.

14 Recovery from Department for Work and Pension Benefits

If the debt is not paid and no repayment arrangement is made, deductions from Income Support, Jobseekers Allowance or State Retirement Pension will be considered.

In these instances, the Council requests that deductions are implemented by the Department for Work and Pensions . The person must be receiving a sufficient amount of one or more DWP benefit in order for the deductions to be made.

15 Recovery from Housing Benefit being paid in another area

If a debtor has moved to another Council area and is in receipt of Housing Benefit there, a letter can be sent to that Authority requesting that they make deductions from the claimant's ongoing benefit entitlement at a suitable rate and forward the amounts recovered to Dundee City Council.

16 Recovery from landlord cheque(s)

Where an overpayment is recoverable from the landlord and payment has not been made within 4 weeks of the invoice then the debt can be deducted from their next Housing Benefit cheque(s).

17 Recovery from Council Rent Account credit

Where a Council tenant has an outstanding overpayment and their rent account is in credit the debt can be transferred into their rent account (providing the credit is not the result of prepayment of rent).

18 Recovery by Sheriff Officer

Where the Council has been unable to recover the overpayment, the debtor's whereabouts are known and they are not in receipt of Income Support or Job Seekers Allowance (Income Based) the debt can be passed to Sheriff Officers for recovery. This might mean the debtor incurs additional costs.

19 Changes of address and "Gone Aways" (DLOS)

If correspondence is returned undelivered and marked "Gone Away", or similar, and a forwarding address is not already known every effort is made to find a new address for the debtor.

The Council will make all legally allowable checks on different records and systems to trace the Individual and so continue to recover the debt.

All cases where an individual has not been traced will be regularly checked with the aim of continuing debt recovery.

20 Debt not recoverable

There are various reasons a debt may not be recoverable such as:-

- The customer is deceased and has left no estate with which to clear the debt
- The customer has gone away and the Council has been unable to trace them
- The customer is bankrupt

- It is uneconomical to pursue the debt

Details of any such debts are maintained and, where appropriate, subsequent checks can mean that debt recovery is re-instated.

443-2003/Annexe 1 HB Overpayment Recovery Policy 443-2003