



Department of Community Services

Housing Benefits Section

Housing Benefit Overpayment Policy

Introduction

1. Why do we need a policy?

It is essential for Darlington Borough 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 its customers.*

2. Aim of the policy

The aim of this policy is to act as a guide to all staff involved in the Council's Administration of Housing benefit overpayment recovery ensuring:

- ❑ *Prevention where possible of the overpayment occurring in the first place*
- ❑ *Full compliance with the benefit regulations and proven best practice in the determination, notification and recovery of overpayments.*
- ❑ *Full respect for customer rights*
- ❑ *Proper written rules and procedures are in operation*
- ❑ *Sound quality control check mechanisms are in operation*
- ❑ *That procedures and controls meet audit requirements*
- ❑ *The maximisation of recovery of recoverable overpayments by the most timely, cost effective and efficient method available in line with current legislation.*
- ❑ *Correct classification of overpayments thereby maximising the subsidy available to the Council.*

Policy

Introduction

Darlington Borough Council is committed to providing a high quality benefit service to all its customers through the Housing and Council Tax benefit Schemes.

While every effort will be made to minimise overpayment, it should be accepted that due to the very nature of the scheme, a degree of overpayments will occur.

How does an Overpayment happen ?

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 being made by the local Authority or errors made by the Department for Works and Pensions and the Inland Revenue.

What is a recoverable Housing benefit Overpayment ?

A recoverable Housing Benefit overpayment is generally all overpayments unless 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 overpayment, then the overpayment is recoverable.

The Overpayment recovery process

All Housing and Council Tax Benefit customers will be treated with due respect and courtesy in dealing with any overpayments occurring.

The Council will consider every case, involving overpaid benefit on its merits in accordance with all relevant legislation current at the time.

The Council will in the first instance, endeavour to minimise overpayments by :

- Operating stringent cross checking procedures, which aim to ensure that assessments are correct in the first place and throughout the life of the claim by the prevention and detection of fraud and error.

- ❑ Advising claimants and landlords of their legal duty to notify the Housing Council Benefits Section of any changes in circumstances which may affect entitlement.
- ❑ By quickly re-assessing claims where change in circumstances have been notified.
- ❑ Using the Anti-Fraud policy and pursuing fraud cases to act as a deterrent to others who may be tempted to deliberately over claim benefit.

Decisions as to whether a customer has been overpaid will be made by trained staff in accordance with all relevant legislation. These staff will also categorise each overpayment, in accordance with regulations so that the appropriate subsidy to which the Council is entitled can be claimed from the Government.

When a recoverable overpayment is identified the customer will be invited to provide any information, which is needed to establish any underlying entitlement. The customer will then be notified of the gross overpayment, on average within fourteen calendar days of the information being supplied.

Any gross overpayment will reflect the correct effective date of the change of circumstances to establish the correct period of the overpayment and will reflect any uncashed or returned cheques.

When an overpayment decision is made the customer will be offered the right to request a reconsideration or explanation of the decision, which could then lead to an appeal before an independent tribunal, as prescribed in the regulations. However, once these rights have expired, they can only be granted again where the law allows.

The decision as to whether or not an overpayment is recoverable and from whom recovery should be sought, will be made in accordance with all relevant legislation which is current at the time of the decision and current guidance from the Department of Works and Pensions together with best practice as suggested by the Benefit Fraud Inspectorate.

All cases will be examined by the staff making the decision to establish if the overpayment was caused or contributed to by official error, as defined in the regulations and whether all or part of the overpayment is nonetheless recoverable from the customer.

All decisions on overpayments and the exercise of any discretions will be recorded along with the reasons for them.

Decision notices will comply fully with the requirements of the law current at the time and will be issued within fourteen days of the decision that an overpayment

has occurred. They will be dated to show the date the decision notice was sent. A copy will be kept and will be accessible for use in responding to:

- ❑ ***Requests for revision, supersession and appeals.***
- ❑ ***Legal challenge***
- ❑ ***Investigation of complaint***
- ❑ ***Civil proceedings***

The level and method of recovery will be appropriate to the amount of the overpayment, the means of the customer and the cost effectiveness of recovery action.

The following methods of recovery will be used in cases of Housing Benefit overpayments :

- ❑ ***Deduction from ongoing benefit***
- ❑ ***Deduction from other Social Security benefits where the law allows***
- ❑ ***Repayment by instalments if necessary***
- ❑ ***Repayment from the person to whom the benefit was paid (e.g. landlord or agent).***
- ❑ ***Deduction from benefit being paid to a landlord or agent for a third party tenant.***
- ❑ ***Registering the debt in the County Court followed, where appropriate by enforcement action.***

Overpayment of Council Tax Benefit will be recovered from the Council Tax Account.

Records will be kept of all outstanding overpayments where benefit is no longer in payment, so that in the event of a benefit award or other change of circumstances, future recovery can be actioned.

Overpayments will be recovered from ongoing benefit at a rate prescribed by the current regulations in force. Recovery at a higher rate will only be done at the customer's request.

Where the customer is experiencing hardship or other material circumstances, consideration will be given to reducing the rate of recovery. Examples of when reduced rates of recovery should be considered include:

- ❑ ***Where the customer is at risk of being made homeless***
- ❑ ***Where the customer has multiple debts (in particular multiple debts to the Council)***
- ❑ ***Where there are health or other problems which result in the customer incurring additional expenditure***

Although an overpayment may be recoverable there are circumstances where it may not be reasonable to recover all or part of it. Decisions not to recover all or part of a recoverable overpayment will be made by the Housing benefits manager in consultation with the Senior Control Officer.

These decisions and the reasons for them will be recorded in each case. In these circumstances and in cases involving bankruptcy, abscondions, death, etc., debts will be written off in accordance with the Council's financial procedural rules.

The level and age of debts will be monitored on an ongoing basis by the Senior Control Officer and will be reported to the Housing Benefits Manager on a regular basis.

The Housing Benefits Annual Service Plan will contain a strategy for continuous improvement in the level and age of debts outstanding, the prevention of debts occurring due to fraudulent activity and will set targets for reducing the numbers and amounts of inactive debt .

The effects of this policy will be monitored and reported to the Director of Community Services. The policy will be revised as and when there are changes in legislation and as systems and working practices are enhanced to improve effectiveness in preventing and recovering overpayments.

CUSTOMER CHARTER

(to be possibly used on an explanatory leaflet)

- ❑ ***Customers will be given clear and prompt information about any Housing Benefit overpayment***
- ❑ ***Flexible and convenient methods of payment will be provided***
- ❑ ***Customers will be treated with courtesy, empathy and in absolute confidence***
- ❑ ***Staff will be sensitive to the customers individual circumstances***
- ❑ ***Overpayments will be collected efficiently***
- ❑ ***Any information given by the customer 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 will follow clear written operational procedures and will receive proactive training in debt collection procedures.***
- ❑ ***If required by the customer, a private interview can be arranged to enable a member of the Housing benefits Overpayment team to explain the Council's debt recovery procedures.***
- ❑ ***The Housing benefits Overpayments staff will work with recognised advice agencies, while acknowledging their independence.***