



Hull

City Council

Housing Benefit Overpayment Recovery Policy

Introduction

Kingston upon Hull City Council acknowledges that overpayments of housing and council tax benefit will occur.

We will aim to minimise overpayments by making accurate and timely payments of benefits.

We will also take our duty to recovery overpaid benefits seriously and will see repayment of monies owed whilst remaining responsive to the needs of individual customers.

This policy document sets out Kingston upon Hull City Council's commitment to the recovery of housing benefit overpayments.

Where overpayments do occur we will seek full repayment of monies owed but at the same time will be responsive to the needs of individual customers.

This policy is flexible in its approach to the recovery of housing benefit overpayments with each case treated on its own merit.

Kingston upon Hull City Council has a commitment to treat our customers in a fair and equitable manner, having particular regard to the Human Rights Act, Race Relations Act and other legislation & policies, which may have an impact.

Policy

Why do we need a policy?

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

We consider that it is important that our staff and users of our service know that we are committed to reducing losses from Public Funds and protecting the Council's revenue.

Aim of the policy

By having a recovery policy we have set in place a framework for our staff to operate within, so that they can provide a quality service that helps reduce the loss from overpayments and deters fraud and error.

That the council aims to comply wherever possible with Performance Standards guidance and undertakes to review this policy as and when necessary

Customer Charter

We will

- treat all users of our service with courtesy and respect and confidentiality
- give clear and prompt information about housing benefit overpayments
- provide convenient and flexible methods of payment
- agree realistic repayments to collect debts within an acceptable time
- encourage debtors to contact us quickly if they are having difficulties paying a debt
- where appropriate provide information on how to contact recognised advice agencies and work with them to obtain a satisfactory outcome for all parties
- provide information on possible entitlements to unclaimed benefits or council tax discounts
- listen to feedback from users of our service so that we can look to improve the service

Housing Benefit Overpayment

What is an overpayment?

An overpayment of housing benefit is an amount which has been paid but to which there was no entitlement.

How do overpayments occur?

Benefit is paid direct to customers (claimants, their representatives and landlords) and can be overpaid because a customer

- makes an unintentional mistake or delays reporting a change because of an oversight
- deliberately withholds information or provides information that they know to be wrong

Benefit can also be overpaid because

- of a delay by our staff when dealing with information provided
- because we make a mistake
- because we are given inaccurate information by other agencies such as the Department for Work and Pensions.

What is a “fraudulent” Overpayment?

A person has knowingly made an admission or falsified a claim for the purpose of obtaining benefit to which they are not entitled. The overpayment that has arisen as a result of the fraudulent activity has been investigated by a designated Fraud Officer.

Administrative Penalties

Our Housing and Council Tax Benefit Anti-fraud Policy sets out the detail of what an Administrative Penalty is and when it will be offered.

Where a Penalty has been accepted we will recover it using the same methods as we would for a housing benefit overpayment.

What we will do to prevent and minimise overpayments

To reduce overpayments we make because of mistakes, we will:-

- train our staff to deal with benefit claims and changes to claimants circumstances
- check some of the work that we do before we make a payment

To reduce overpayments we make because of delays, we will:-

- deal with benefit claims and reported changes to circumstances promptly
- help our customers to give prompt and accurate information in accordance with their legal requirement
- publicise what information customers must provide, by when and in what way
- provide information on how we can be contacted
- train our staff to verify information we receive in accordance with the Department for Work and Pensions Verification Framework

We will prevent and detect overpayments by

- raising fraud awareness amongst our staff, so that they can detect where fraud may occur, in accordance with our
 - *Corporate Anti-fraud and Corruption Policy*
 - *Housing and Council Tax Benefit Anti-fraud Policy*
- regularly checking the information we hold on our computer system with that held by the Department for Work and Pensions
- reviewing benefit claims where we consider that a claim is likely to change in the months after it has been made
- liaising with 3rd parties, such as landlords and the local Job Centre+ offices
- considering whether a landlord is a Fit and Proper person to receive payment of benefit
- investigating any suspicion or allegation of fraud or abuse in accordance with our anti fraud policies

Will we recover the overpayment?

Where an overpayment has arisen, a decision must be taken as to whether the overpayment is recoverable.

Generally, all overpayments are recoverable, except where they are due to an official mistake. These are also recoverable if the customer could reasonably have been expected to realise that it was an overpayment at the time payment was made.

In exceptional circumstances we may decide not to recover the overpayment by using our discretion.

Who will we recover from?

A recoverable overpayment can be recovered from a customer

- the claimant
- their representatives
- a landlord

In making our decision we will take into account the relevant factors such as how the overpayment occurred, who received the payment and who contributed to or had knowledge of the overpayment.

Information we will provide when an overpayment occurs

If benefit is overpaid we will write to the customer to tell them

- what the period of the overpayment is
- why the overpayment occurred
- how much has been overpaid
- 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

We will aim to do this within 14 days of having discovered the overpayment.

What if I think the decision is wrong?

You do have the right of to appeal against the decision:-

- that the overpayment has occurred
- that the overpayment is recoverable
- that it is recoverable from you

To make your appeal you must:

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

Whilst your appeal is being consider by our Adjudication Team recovery action will be stop.

How we will recover an overpayment?

We will always seek to recover overpaid benefit as quickly as possible. In doing so we will have account of a person's ability to pay and we will accept payment by regular instalments.

In very exceptional cases we may decide that we should not ask for the overpayment to be paid. In making a decision not to ask for repayment we will take account of our Write Off Policy.

Council Tax Benefit overpayments will be added to the council tax account and collected along with any outstanding council tax.

Housing benefit overpayments will usually be recovered by one of the following methods:-

- if housing benefit has stopped, issuing an invoice for a single payment or regular instalments at weekly or monthly intervals
- reducing the amount of housing benefit that will be paid by an amount up to what is allowed under the Housing Benefit (General) Regulations

Where we cannot recovery the overpayment by these methods we will consider:-

- asking for deductions to be made from specified Department Of Works & Pensions (DWP) benefits
- asking another Local Authority to recover from any housing benefit it may be paying
- deducting the overpayment from earnings. Direct Earnings Attachment is allowed under the Social Security (Overpayment and Recovery) Regulations 2013
- a debt collection agent
- recovery from deceased estates where this is appropriate
- taking legal action through the County Court and any follow up action necessary to enforce an order of the Court

Methods of Payment

There are several options available for making a payment:-

- Debit/Credit Card – visiting our offices, telephone or internet payments
- Cash
- Cheque
- Standing Order
- BACS payment

Housing Benefit Overpayments not recovered

Under housing benefit regulations, the council can decide not to recover the overpayment.

The regulations require the council to consider each overpayment separately and to use discretion in deciding whether or not to recover.

In the Housing Benefit Overpayment Write Off Policy the following circumstances are considered in our decision to not recover the overpayment:-

- the customer cannot be traced to consider further recovery action. These are reviewed to ensure that overpayments are reinstated for recovery wherever possible.

- the overpayment becomes unrecoverable due to the Limitations Act
- the council cannot substantiated the overpayment for legal challenge
- the customer is deceased and there are no funds in the estate
- the overpayment is “too small” to recover, or, is uneconomical to pursue
- Our policy is not to pursue court action on overpayments less than £50.00 as it would be uneconomical to do so.
- the customer has demonstrated exceptional circumstances or extreme financial hardship

All decision are recorded, authorised and comply with the housing benefit overpayment write off policy and procedures.

Dated: December 2014

Lead Officer: L Swaine (Debt & Payments Manager)

Date of Next Review: December 2015