

WYRE FOREST DISTRICT COUNCIL

CABINET
26th JULY 2007

HOUSING BENEFITS – OVERPAYMENTS POLICY – UPDATE

COMMUNITY STRATEGY THEME	Internal Organisational theme
CORPORATE PLAN THEME:	Delivering Quality Services
KEY PRIORITY:	Improving Customer Services
STRATEGY:	Benefits service
CABINET MEMBER:	Councillor John-Paul Champion
RESPONSIBLE OFFICER:	Head of Financial Services
CONTACT OFFICER:	Joan Hill Extension No. 2102 Joan.hill@wyreforestdc.gov.uk
APPENDIX 1	Housing Benefits – Overpayments Policy - update
AN OPEN ITEM	

1. PURPOSE OF REPORT

- 1.1 To propose an updated Housing Benefits – Overpayments policy for adoption by the Council

2. RECOMMENDATION

The Cabinet is asked to RECOMMEND to Council:-

The Housing Benefits – Overpayments Policy – July 2007, attached as Appendix 1 be adopted.

3. BACKGROUND

- 3.1 Housing Benefit overpayments arise as a result of information coming to light that claimants or landlords have received housing benefit paid by the Council to which claimants were not entitled for example as a result of a change in circumstance of starting work or for landlords for example as a result of a change in tenant. This information can be from the claimants, landlords or arising from referrals to the Benefits Fraud team.
- 3.2 The identification of overpayments and from whom recovery may be sought is covered by legislation. Further the legislation governing the administration of benefits is prescriptive in the actions that the Council has to follow to recover monies as well as setting maximum levels that the Council may deduct from ongoing housing benefit payments for the recovery of an overpayment debt.

- 3.3 The Benefits section has procedures and controls in place to ensure all overpayment debts are recovered on a cost-effective basis. The housing benefit overpayment debt position is reviewed on a day-to-day basis by the section. In addition a monthly review by senior officers is undertaken to ensure appropriate recovery action is being taken.
- 3.4 The Benefits section actively pursues all overpayments with any request for write-off being prepared in accordance with Council procedures as a last resort. Records of all benefit overpayments are retained even when written off, to enable recovery in the future should there be a subsequent benefit award or other change of circumstances.
- 3.5 The Council receives from the Department of Work and Pensions 40% of Benefits Subsidy on those payments identified as housing benefit overpayments. However should the Council recover the full or any part of an overpayment then those recovered monies are retained by the Council.
- 3.6 Examples of the recovery action on overpayment debts taken by the Benefits section include:-
- agreements to pay by the debtor. This includes arrangements to make deductions from ongoing benefit entitlement;
 - debts with debt collection agency to pursue; and
 - debts with the Council's legal services to action.
- 3.7 The recovery action taken is determined in accordance with the circumstances of each case.
- 3.8 Members are advised of the Housing Benefit Overpayments debt position as at 31st March and 30th September each year together with details of performance against targets. The last report giving information as at 31st March 2007 was considered by Cabinet at its meeting of the 28th June 2007.
- 3.9 External consultants have reviewed the procedures for the recovery of overpayments in February 2007 and minor recommendations on process improvements have been made. An action plan has been prepared for implementation during the current financial year.

4. KEY ISSUE

- 4.1 The current Housing Benefits – Overpayments policy was approved by Council on the 20th July 2005 minute CM. 40 (d) refers. To ensure that the policy remains current it is timely that an update is prepared and approved by members.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications associated within this report.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 It is a statutory requirement that this authority administers Housing and Council Tax Benefits in accordance with legislation and Department of Work and Pensions (DWP) requirements.

7. RISK MANAGEMENT

- 7.1 If action is not taken on a timely basis to recover housing benefit overpayment debts the likelihood of full recovery is reduced. Procedures and controls are in place to reduce this risk.

8. CONCLUSION

- 8.1 The Housing Benefits – Overpayments policy has been updated in accordance with best practice and DWP requirements.

9. CONSULTEES

- 9.1 No consultation required

10. BACKGROUND PAPERS

- 10.1 Department of Work and Pensions – Performance Standards
30th June 2005 Cabinet & 20th July 2005 Council – Housing Benefits Overpayment Policy



HOUSING BENEFITS

OVERPAYMENTS POLICY

JULY 2007

WYRE FOREST DISTRICT COUNCIL

HOUSING BENEFITS OVERPAYMENTS POLICY

1. Introduction

- 1.1 Housing Benefits overpayments are established through the review of the entitlement to Benefit or in some instances the correction of an error or from the set aside of an original benefits determination.
- 1.2 An overpayment is as an amount of benefit which has been paid but to which there was no entitlement under legislation. This can relate to both Housing Benefit and Council Tax Benefit; however this document will deal only with Housing Benefit overpayments. For information Council Tax Benefit overpayments are recovered directly through the Council Tax accounts.
- 1.3 Housing Benefit overpayments can occur for various reasons including claimants, landlords or relevant third party not giving the correct notification of change of circumstances or providing incorrect information to support a claim.
- 1.4 The Authority receives subsidy from the Government in respect of certain types of overpayment and therefore, it is important that overpayments are correctly classified.

2. Purpose

- 2.1 It is essential that Wyre Forest District Council demonstrates that it undertakes the administration and recovery of Housing Benefit overpayments efficiently and effectively and by doing so it:
 - reduces any loss to public funds
 - demonstrates the Authority's commitment to accuracy;
 - provides a quality service to customers
 - provides revenue for the Authority in addition to the reduced level of subsidy received on overpayments; and
 - deters fraud and error.
- 2.2 The policy complies with the Performance Standards determined by the Department of Work and Pensions (DWP) and guidance contained within the CIPFA Good Practice Guide to the Financial Managements of Housing Benefits. It will be published on the Council's website and subject to regular monitoring to ensure it remains in accordance with the Council's approved Vision for the Benefits Service.
- 2.3 At six monthly intervals, the Benefit Section will report to the Cabinet the Benefit Overpayment Debt Position. The report will analyse the debts between less than and more than 3 months old and for those debts more than 3 months a detailed

position is reported of the action being taken together with performance measured against targets.

- 2.4 In line with central government's national Best Value Performance Indicator (BVPI) requirements and good performance management the Benefit Section will set annual targets to improve the level of recovery with the objective of reaching and maintaining recovery action equal to or greater than the top quartile BVPI for the recovery of overpayments to ensure continuous improvement. This performance is reported six monthly to the Cabinet.

3. **Identification of Overpayments and Decisions on Recoverability**

- 3.1 Accurate and prompt identification of an overpayment 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.

- 3.2 Correct decision making on whether or not there is an overpayment and whether it is recoverable is essential because:

- There are consequences for the rights of claimants and other affected persons;
- The decision can affect the finances of the Authority if it is not recoverable; and
- Decisions made and the reasons for them can provide an indication of the levels of fraud and error

- 3.3 An overpayment is recoverable generally unless it is due to an official error. However, the overpayment is recoverable where the claimant or 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.

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

4. **Who to recover the Overpayment from?**

- 4.1 A recoverable overpayment can be recovered from the customer or from the person who received the payment – e.g. a 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). All relevant factors will be taken into account when coming to a decision as to who recovery will be sought from and it should be noted that such a decision can be the subject of an appeal.

- 4.2 If an overpayment has occurred due to a misrepresentation or failure to disclose a relevant fact by the customer, 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.

5. **Recovery of the Overpayment**

5.1 The recovery of the overpayment will be by one or a combination of two methods:

- From on-going entitlement using wherever possible the recommended rate of recovery from the Department of Work and Pensions, but taking into account the customer's individual circumstances where applicable;
- By means of a Sundry Debtor Invoice where there is no continuing entitlement to Housing Benefit.

5.2 It should be noted that recovery from on-going Benefit is counted as recovery from the claimant and not the landlord. Consequently the landlord is not the person affected and cannot apply for a revision of the decision or make an appeal. Should the Housing Benefit paid not cover the full rent then the claimant must make up the shortfall in the rent in order to avoid any rent arrears. If a rent arrears situation develops the landlord should pursue recovery on that basis.

5.3 In the event that the debt is not repaid within the required time the recovery process of a Sundry Debtor Invoice will be the current Council procedures.

6. **Writing off the Debt**

6.1 As a last resort the debt will be considered for write off in accordance with Council's procedures.

6.2 Examples of the reasons for a debt being passed for write-off are:

- The overpayment is not recoverable, including where the overpayment has arisen as a result of an official error and the customer could not reasonably have been expected to realise the overpayment was occurring;
- The amount outstanding is not economical to pursue;
- The debtor is deceased and there are insufficient funds with which to discharge the debt;
- The debtor cannot be traced; and
- All recovery options, including legal action, have been exhausted with no result.

6.3 For all debts considered for write off a report is prepared of the action taken. The requirements for writing off debts are detailed in the Council's Financial Procedure Rules contained in the Council's Constitution.

6.4 All debts written off will be monitored on a monthly basis to identify if either the claimant (having moved out of the area) returns to the Wyre Forest district; and/or the claimant commences claiming Housing Benefit again. Once identified the overpayment debt will be resurrected and (providing it was deemed to be

recoverable) recovery will either be sought from on-going benefit or by means of a Sundry Debtor invoice where the claimant has not been awarded housing benefit.

July 2007