

# WEST DUNBARTONSHIRE COUNCIL

## Housing & Council Tax Benefit Overpayment Policy

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## **Contents**

- 1. Introduction**
- 2. Background**
- 3. What is an overpayment of benefit**
- 4. Prevention of overpayments**
- 5. Calculation of overpayments**
- 6. Classification of overpayments**
- 7. Decisions on recoverability**
- 8. Who to recover from**
- 9. Deceased persons**
- 10. Equal opportunity / Human rights issues**
- 11. Decision notices**
- 12. Appeals**
- 13. Methods of recovery**
- 14. Methods of payment for overpayment accounts**
- 15. Non payment**
- 16. Vulnerable customers**
- 17. Arrangements**
- 18. Returned mail**
- 19. Fraudulent overpayment**
- 20. Financial control**
- 21. Training & awareness**
- 22. Maximising customers ability to meet their liabilities'**
- 23. Complaints and disputes**
- 24. Review of policy**

## **1. Introduction**

West Dunbartonshire Council is committed, through sound administration, to the prevention and detection of Housing and Council Tax Benefit overpayments in order to reduce the loss to public funds and to maximise the subsidy income the Council receives from Central Government. We will take firm but fair action when recovering overpayments of benefit and it is envisaged that this will encourage claimants and landlords to give correct and timely information regarding benefit claims and help to deter benefit fraud and error.

The aim of this policy is to act as a guide to West Dunbartonshire Council's administration of Housing and Council Tax Benefit Overpayment recovery and set out a clear debt recovery strategy in conjunction with our Corporate Debt Policy. It is to be used together with more detailed procedural guidance for staff.

## **2. Background**

Where overpayments of housing & council tax benefit occur we are committed to recovering debt in a timely manner, taking into account the circumstances of the individual. Training and clear procedures are available to staff within the Benefit Section to enable them to:-

- Promptly identify overpayments
- Prevent where possible the overpayment occurring
- Decide whether the overpayment is recoverable, and if so from whom
- Notify claimants and other affected persons promptly
- Assess the impact of recovery on vulnerable claimants and take recovery action that is appropriate to their circumstances
- Pursue recovery by the most timely, cost effective and efficient method available in line with legislation
- Correctly classify overpayment and maximise the subsidy available to the Council
- Ensure that there are effective financial monitoring processes in place

## **3. What is an overpayment of benefit?**

An overpayment is any amount of benefit paid to or in respect of a customer to which he/she is not or was not entitled. Overpayments can be caused by a failure to report a change in circumstances, late notification of 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. Prevention of overpayments**

We will ensure that processes are in place to prevent and minimise overpayments. To achieve this we will:

- Prioritise the suspension of a claim (where appropriate) and reassess entitlement when we receive notification of a change in circumstances, which may lead to an overpayment,
- Encourage customers to report changes of circumstances.
- Encourage landlords to report changes of circumstances.
- Remind customers and landlords on our notification letters of their duty to notify us of changes in circumstances.
- Carry out quality checks on new benefit decisions to ensure the benefit calculation is accurate and where errors are identified taking appropriate action to correct them.
- Stop a cheque where it is known to have not been cashed to prevent an overpayment occurring or to reduce an overpayment.

#### **5. Calculation of overpayments**

We will calculate the amount and period of an overpayment in accordance with the relevant Housing and Council Tax Benefit Regulations. When calculating the overpayment we will:-

- Ask customers to provide information to establish any underlying entitlement to benefit to reduce the amount of the overpayment.
- Calculate underlying entitlement wherever possible.
- Reduce the overpayment if there are any un-cashed and/or returned cheques or underpayment of benefit

#### **6. Classification of overpayments**

In order to make sure that the Council claims the correct level of subsidy from Central Government it is important to ensure that each overpayment is correctly classified.

To maximise housing and council tax benefit subsidy we have monitoring and quality checking processes in place to ensure that overpayments are accurately classified and recorded and confirm to audit requirements.

#### **7. Decisions on recoverability**

An overpayment is not recoverable if:

- It arose because of an 'official error' and the claimant (or someone acting on their behalf) could not reasonably have been expected to realise it was an overpayment.

An overpayment is recoverable if:

- It arose because of an 'official error' and the claimant (or someone acting on their behalf) could reasonably have been expected to realise that it was an overpayment, or
- It is due to an error or fraud of the claimant or
- It is no-one's fault

In most instances overpayments caused by claimant error are recoverable. However we will consider whether recovery will be pursued in these cases taking into account:

- financial hardship
- terminal illness/ severe medical conditions
- senility or learning disabilities
- any other relevant factors

All "non recoverable" benefit overpayments caused by official error and overpayments classified as non-recoverable due to the above must be authorised by the Section Leader (Revenues & Benefits) or more senior officer.

## **8. Who to recover from**

A recoverable overpayment may be recovered from the claimant, their partner (providing they lived at the property at the time the overpayment occurred), the person to whom the payment was made (including the claimant's landlord), or a person who misrepresented or failed to disclose a material fact that led to the overpayment.

The overpayment will not be recovered from a landlord, when the overpayment of Housing Benefit has arisen due to misrepresentation or failure to disclose a relevant fact by the claimant or someone acting on their behalf such as an appointee or agent.

The overpayment will not be recovered from a landlord where they have notified West Dunbartonshire Council of a possible fraudulent claim.

Where there is more than one party that the overpayment may be recovered from we will take all relevant circumstances into consideration, these include:

- Who caused the overpayment

For example, the overpayment may have come about through a claimant's failure to declare their earnings promptly

- Each party's knowledge of the overpayment.

For example a landlord may suspect a property is unoccupied but fail to take action to notify us

- Whether each party could reasonably have expected to take action to prevent the overpayment.

For example, a landlord may continue to cash payments after a claimant has left their property

- The likelihood of recovering the overpayment.

For example, if the claimant's whereabouts are unknown the only option available to the Council is to recover the overpayment from the landlord.

## **9. Deceased Persons**

Overpayments of Housing Benefit may be recovered from the estate of a deceased person. Where the debtor has died we will issue all invoices to the executors of the estate. Where recovery action is taken in the above circumstances we will deal with the matter with sensitivity. Any housing benefit paid to a landlord after the date of death will be recovered directly from them before the above is considered.

## **10. Equal Opportunity/Human Rights Issues**

In reaching its decisions, we will act with impartiality and apply this policy equitably and consistently. This policy will meet current equalities legislation, including race, gender and disability duties.

## **11. Decision notices**

When a decision is made to recover a recoverable overpayment we will send a decision notice to the person that we are going to recover from and any other person affected by the decision.(in most cases this is the landlord) within 2 days of the decision being made or as soon as reasonably practicable thereafter.

Our decision notices will comply with the Housing and Council Tax Benefit statutory requirements giving the person sufficient information to understand how the decision was made and to decide whether they want to request a review or appeal the decision.

If the overpayment is being recovered from a third party, for example a landlord, we will only disclose sufficient information (in accordance with Data Protection legislation) to the third party to allow them to understand how the decision was made.

## **12. Appeals**

In accordance with the relevant statutory legislation, the council will notify all people affected by an overpayment decision of their right of appeal.

Appeals must be made within one calendar month of the decision notice. We will suspend overpayment recovery when an appeal is lodged with the Appeals Service or when the customer has requested that recovery be suspended until the matter has been concluded.

### 13. Methods of recovery

An overpayment of Housing Benefit may be recovered in one or a combination of the following ways.

- (1) Full repayment of the overpaid Housing Benefit
- (2) By deduction from on-going entitlement to Housing Benefit

The rate of recovery will be no more than the statutory maximum applicable to the person from whom the overpayment is to be recovered. However this amount can be increased with consent from the debtor.

We will consider any request for a reduction in the amount being deducted from a customer's weekly housing benefit entitlement made by the customer or someone on their behalf. Each decision will be made on the individual merits of the case. Such requests should be made in writing and supported by a financial statement showing the customer's income and expenditure.

- (3) By deducting overpaid HB/CTB from a claimant's or partner's DWP benefits
- (4) By deducting HB from a landlord's payments or by issuing an invoice asking for payment one month from the date of the invoice.
- (5) By deducting overpaid HB from a 'blameless tenant's HB This method is where the overpayment is recovered from the landlord via another tenants' entitlement. This is shown on the payment schedule issued to the landlord.
- (6) By issuing an invoice / sundry debtors account. Where the customer is no longer in receipt of benefit an invoice will be sent to the claimant giving an instalment plan to repay the overpayment. If they are unable to pay the instalments set they will be advised to contact the Overpayment Section to come to a suitable arrangement.

All invoices will include:-

- The amount payable and a description of the charge
- The payment options available (on reverse of the invoice)
- A contact number for queries in relation to the accuracy of the account
- A contact number for discussing payment arrangements where the debtor has difficulty in paying the account requested.

In cases where an invoice has been raised to a claimant and the claimant subsequently receives further Housing Benefit, the outstanding debt will be recovered from future Housing Benefit by means of deduction from ongoing entitlement.

- (7) For Local Authority tenants by posting the debt to the customer's rent account when a credit is held on the rent account, where the claimant has died or for a "technical overpaid period" after the tenancy termination date.
- (8) By charging overpaid CTB to the claimant's council tax account and recovered through the normal Council Tax recovery procedures.

The information detailed above is guidance only, each decision on how, how much and who we will recover from will be decided on the individual circumstances of the case.

#### **14. Methods of payments for overpayment accounts**

We recognise the importance of offering customers a variety of payment methods. This increases our ability to maximise income whilst also ensuring that customers are not excluded from meeting their liabilities due to restrictions on the type of payment methods accepted.

We can accept payment by:-

- Standing Order
- Telephone - using the automated payment line on 01389 732376 and paying by Debit or Credit card.
- Post – Cheque payments should be made payable to 'West Dunbartonshire Council' and sent to the Finance Department, Council Offices, Garshake Road, Dumbarton G82 3PU
- Via the Internet – by logging onto [www.west-dunbarton.gov.uk](http://www.west-dunbarton.gov.uk)
- At a bank – By completing the bank giro slip along with payment
- At the Council Offices – Payment by either cash, cheque or debit card.

We will continue to review the payment methods available to customers to make sure that they continue to meet customer preferences and expectations.



## **15. Non payment**

Thirty days after the issue of an invoice if a customer has not made a payment or agreed a suitable arrangement to pay we will issue a reminder invoice, this gives them 7 days to make payment or agree a suitable arrangement plan.

If we have not received a payment after 7 days we will issue a final reminder. This allows the customer a further 14 days to make payment or set up a suitable arrangement plan.

If payment has not been made or a suitable arrangement entered into we will either submit an application to the Department for Works and Pension Debt Centre for an attachment of benefit or refer the case to our Sherriff Officers.

## **16. Vulnerable customers**

We understand that an effective debt recovery function must pursue debts in a timely manner. However, we also recognise that customers who are vulnerable may require a more sympathetic and sensitive approach to debt recovery. The policy will recognise the Council's anti-poverty strategy and, as such, we will seek to ensure that vulnerable persons are not harmed by this policy.

Those who might be potentially vulnerable include:

- the elderly;
- lone parents and their children;
- people with disabilities or a long term illness and their carers;
- unemployed people and others reliant on benefit;
- young people and people on low incomes; and
- black and minority ethnic people

## **17. Arrangements**

If the debtor is unable to pay the instalments set we will encourage them to contact the Overpayments Section immediately so that a mutually acceptable repayment arrangement can be made.

Each case is considered on its own merits taking the amount due and the debtor's personal and financial circumstances into account.

The aim is to agree a realistic arrangement to collect unpaid debts within a reasonable time scale, without the need for more serious recovery action.

It may be necessary to issue an Income and Expenditure form in order to obtain a clear picture of the debtor's financial circumstances. This should help in reaching a mutually acceptable instalment plan.

We will periodically review an arrangement where it considers the debtor has had a relevant change in his/her circumstances.

## **18. Returned Mail**

If correspondence is returned undelivered and/or marked “gone away” and forwarding address has subsequently been found then the contact address details will be updated and a revised invoice/reminder/final reminder etc will be issued.

If the forwarding address is unknown the Overpayments section will make every effort to establish the whereabouts of the debtor.

West Dunbartonshire Council will make legally allowable checks on different records and systems to trace the individual with the aim of recovering the debt. The main system used will be the Customer Information System (CIS). This is the Department for Work and Pensions (DWP) database. Where a customer has left the West Dunbartonshire Council area but still receives welfare benefits, this database will provide a current postal address. This facility will also be used when making an application to the DWP Debt Collection Centre, as it will confirm whether there is a benefit that can have an attachment made against it.

## **19. Fraudulent Overpayments**

In all cases where a fraud has led to the overpayment of Housing and/or Council Tax Benefit we will prioritise the recovery of the overpayment.

## **20. Financial Control**

We will set clear performance measures and targets. We will monitor and maintain information regarding the value, and classification of the overpayments created, the level of debt, the amounts made non-recoverable and the amounts written off.

We will ensure that we have systems in place to provide the information required by Government agencies such as the Department for Work and Pensions, external auditors and Audit Scotland.

We will record and monitor our overpayment performance on the Council's performance monitoring system (Covalent) which is reviewed by the Head of Finance & ICT and the Director of Corporate Services.

We will review all reporting and monitoring arrangements annually to consider their effectiveness and relevance following any changes in policy or legislation.

## **21. Training and awareness**

We will train all staff directly involved in the overpayments process to carry out their duties in accordance with this Overpayments Policy.

Additionally, where appropriate, we will provide overpayment awareness training to staff not directly involved in the overpayment process such as Contact Centre staff, Visiting Offices and Fraud Investigation officers.

We will carry out refresher overpayment training on a regular basis.

This policy will form part of the training package already in place for all employees who will deal with overpayments of benefit.

## **22. Maximising customers' ability to meet their liabilities'**

We will maximise the customer's ability to meet their liabilities' by advising them of the availability of any appropriate benefits, exemptions, discounts or relief which may either reduce the level of liability for the debt or increase their income.

Such benefits, exemptions, relief and discounts include:-

- Housing and Council Tax Benefits
- Council Tax Discounts, Relief and Exemptions
- Working Tax Credits
- Pension Credit
- Income Support & Job Seekers Allowance
- Disability Benefits, and
- Discretionary Housing Payments

We will publicise the availability of the above in mail shots, billing documentation, at local Housing Offices and receptions and on the Council's website.

## **23. Complaints and disputes**

We will try to resolve any disputes in relation to debt collection at the earliest possible opportunity and will ensure that debtors are fully aware of the ways in which they can contact us in order to discuss any dispute they may have.

Where part of a debt is disputed, we will continue to collect the undisputed amount at the earliest possible stage whilst also dealing with the disputed debt.

If a customer wishes to make a complaint regarding how we have recovered a debt, we will advise them of the Corporate Complaints Procedure and will be given every assistance in registering a complaint.

## **24. Review of Policy**

The HB/CTB overpayment policy will be reviewed in the light of any legislative changes, trends or other factors that impact on the effectiveness of the policy. A full review will be undertaken every three years.

**We can provide this document in Braille, in large print, on tape or on computer disk. We can also provide it in Chinese, Urdu, Punjabi and Hindi. Please phone the strategy staff on 01389 737288 or 01389 737541**

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請致電01389 737288或01389 737541聯絡策劃部(strategy) 職員。

ہم یہ دستاویز بریل (ناویجا افراد کے لیے ابھرنے والے حروف کی لکھائی) اور بڑے حروف کی چھپائی میں اور ٹیپ یا کمپیوٹر ڈسک پر بھی فراہم کر سکتے ہیں۔ ہم اسے چینی، اردو، پنجابی اور ہندی زبانوں میں بھی فراہم کر سکتے ہیں۔ برائے مہربانی ٹیلیفون نمبر 01389 737288 یا 01389 737541 پر سٹریٹجی سٹاف سے رجوع کریں۔

ਅਸੀਂ ਇਹ ਦਸਤਾਵੇਜ਼, ਬਰੇਲ, ਵੱਡੇ ਅੱਖਰਾਂ, ਟੇਪ ਜਾਂ ਕੰਪਿਊਟਰ ਡਿਸਕ ਰਾਹੀਂ ਪ੍ਰਦਾਨ ਕਰ ਸਕਦੇ ਹਾਂ। ਅਸੀਂ ਇਹ ਦਸਤਾਵੇਜ਼, ਚੀਨੀ, ਉਰਦੂ, ਅੰਗ੍ਰੇਜ਼ੀ ਅਤੇ ਹਿੰਦੀ ਭਾਸ਼ਾਵਾਂ ਵਿਚ ਵੀ ਪ੍ਰਦਾਨ ਕਰ ਸਕਦੇ ਹਾਂ। ਕਿਰਪਾ ਕਰਕੇ ਸਟ੍ਰੈਟੇਜੀ ਸਟਾਫ਼ ਨੂੰ ਇਸ ਨੰਬਰ 01389 737288 ਜਾਂ 01389 737541 ਤੇ ਫੋਨ ਕਰੋ।

हम यह अभिलेख, ब्रेल, बड़े अक्षरों, टेप अथवा कंप्यूटर, डिस्क द्वारा उपलब्ध करा सकते हैं। हम यह अभिलेख, चीनी, उर्दू, पंजाबी और अंग्रेज़ी भाषाओं में भी उपलब्ध करा सकते हैं। कृपया स्ट्रैटजी स्टाफ को इस नंबर 01389 737288 या 01389 737541 पर फोन करें।