

HOUSING BENEFIT
&
COUNCIL TAX BENEFIT
OVERPAYMENTS POLICY

Introduction

Stafford Borough Council is committed to providing a high quality Benefits service to all its customers through the efficient and effective administration of the Housing Benefit and Council Tax Benefit schemes.

As part of this commitment, every effort will be made to minimise loss to public funds by ensuring that overpayments of benefit are fairly pursued and recovered and that measures are in place to deter fraud and error.

The effective recovery of benefit overpayments maximises revenue with which to improve service delivery and provides assurance that the Council is safeguarding public money.

The Benefits Service is responsible for the prevention, identification and recovery of overpayments of Housing Benefit and Council Tax Benefit. It will prevent overpayments arising where possible and will use the most speedy, cost effective and efficient methods of recovery available in line with current legislation and in accordance with the Council's Credit Control Policy.

Stafford Borough Council is committed to the robust and equitable collection of recoverable overpayments however, the level and method of recovery will be appropriate to the amount of the debt, the means of the debtor and the cost effectiveness of taking enforcement action.

All customers will be treated with due courtesy and respect and in accordance with the Council's Policies.

Reasons for overpayments:

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

In most cases, overpayments can arise as a result of:

- Claimants or other relevant persons failing to notify of changes in circumstances promptly
- Claimants or other relevant persons providing false and/or incorrect information in support of a claim
- Official errors by the Council
- Official errors by other Government bodies.

It will be the Council's policy to:

- Apply this policy to all cases where an overpayment of benefit has occurred
- To be flexible in its approach to the recovery of overpayments with each case being treated on its own merits. The Council recognises that recovery in all cases without due consideration is unlawful.
- Seek opportunities to prevent overpayments occurring and continuing where they are caused by undeclared changes of circumstances
- Identify changes of circumstances that affect benefit entitlement at the earliest opportunity and take action to ensure that they are dealt with quickly and accurately and within specified local and national targets
- Monitor, maintain and improve systems that seek to prevent overpayments caused by official error
- Ensure overpayments are classified correctly for subsidy purposes
- Determine whether or not an overpayment is recoverable and from whom it should be recovered
- Notify the claimant and other affected persons of decisions made
- Maintain and develop procedures to ensure all legal avenues of recovery of outstanding debt are appropriately followed
- Promptly submit uncollectable debts for write-off at intervals agreed with the Head of Financial Services .
- Monitor the level of outstanding debt and take action based on specified management information

Prevention of overpayments

- The Council will attempt to minimise overpayments by ensuring that staff are fully trained, the gateway to benefit is secure and by ensuring that assessments of entitlement are correct
- Assessment staff will be fully trained and provided with comprehensive procedure notes, documentation, support and guidance on the overpayment process
- Refresher training will be included in each annual training plan for Benefits and Customer Services staff and regular awareness sessions will be held with other appropriate Council Services
- At the outset of a claim, new claimants and landlords will be informed of their duties to inform the Council promptly of any changes in circumstances that may affect benefit entitlement and the consequences of not doing so
- The Council will publicise the need to report changes of circumstances and will continually review the methods available for claimants/landlords and any person affected, to do so
- The Council will act upon notifications of changes in circumstances speedily and within specified local targets
- Overpayments caused by official error will be monitored on a regular basis and results will be analysed to determine areas of weakness to be addressed by further training and support

- Claims will be processed in line with robust local and national verification procedures and will be subject to the Quality Assurance process
- Office procedures will be put in place wherever possible to identify and act upon predictable changes of circumstance before they happen
- Regular reviews of claims deemed to be at a high risk of experiencing a change in circumstance will be undertaken, for example: self-employed, caravan dwellers, board and lodging claimants
- The Council will publicise that positive action to recover overpayments will be taken speedily and sanctions will be imposed where appropriate.

Identification and action of declared changes of circumstance

- Procedures to identify changes of circumstances promptly will be maintained and developed to ensure early identification of overpayments
- Changes of circumstances that could cause overpayments of benefit will be actioned by the next pay date for Housing Benefit claims or the Monday following notification of the change for Council Tax Benefit claims

Detection of undeclared changes of circumstance

- Review activity will be undertaken during the life of a claim to identify undeclared changes in circumstances and to act as a deterrent for failure to promptly notify of changes in the future. Subsequent failures may result in a sanction being imposed
- Notified and unnotified visits will be made as part of review activity
- Review activity will be based on risk data supplied by the Housing Benefit Matching Service and in relation to locally determined risk groups
- Improved information sharing with stakeholders will be encouraged where allowed by law
- Joint detection activities with stakeholders will be undertaken where appropriate.

Calculation of overpayments

The Council will calculate the final amount of overpaid benefit within 14 days, or as soon as reasonably practicable thereafter, of receiving sufficient information to enable it to do so. The calculation will take into account any underlying entitlement to benefit and uncashed/returned cheques

Classification of overpayments

All overpayments will be classified correctly to ensure the accurate recording for subsidy purposes and to comply with the law.

- Training and procedures will be maintained and developed to ensure the correct classification
- Management checking will include the correct classification of overpayments.

Recoverability and who an overpayment should be recovered from

The decision as to whether or not an overpayment is recoverable and from whom recovery should be sought will be made in accordance with the legislation and guidance from the Department for Work and Pensions.

In all cases, the Council will consider whether an official error has caused or contributed to an overpayment. If it has, a decision will be made as to whether recovery of the overpayment is appropriate.

Methods of recovery

The Council will use the methods of recovery as laid down by law and will have regard to the particular circumstances of the claimant when deciding the most appropriate method to use. Home visits will be arranged where appropriate.

Recovery action will not commence until the statutory time limit for appeal has lapsed.

The recovery of overpayments caused by fraudulent activity will be prioritised.

The Council will use the following recovery methods:

- Deductions from ongoing Housing Benefit entitlement

The Council will take into consideration the health and financial circumstances of the person before deductions are implemented, to ensure that hardship is not caused to that person or any of their dependants. Deductions lower than the statutory rates may be made where appropriate and the reasons for doing so will be documented.

- Deductions from certain DWP benefits
- Deductions from Housing Benefit paid to a landlord/agent for another tenant ("blameless tenant provisions")
- The issuing of an invoice requesting repayment of the whole amount - payments by instalments will be considered
- Civil proceedings

- Applying to another Local Authority to ask them to recover an overpayment from the Housing Benefit entitlement in their area
- By claim on the estate of a deceased person who has an overpayment
- Council Tax Benefit only – from the Council Tax account.

The Council may reconsider the method of recovery of an overpayment at any time where it is considered appropriate to do so.

Write Offs

The Council recognises that there will be some debts that cannot be recovered for a variety of reasons and will use its discretion to write off all or part of those debts that it considers reasonable to do so.

Consideration will be given to writing off debts in the following situations:

- Financial hardship where the debtor does not have the means to repay
- Health grounds where there is terminal illness, senility or severe medical conditions
- A debtor cannot be traced to consider further recovery action
- When all action to recover has been taken and it is decided that there is no realistic prospect of recovery
- Where it is not cost-effective to pursue a debt further - this would be relevant to debts of less than £50 that have reached the civil proceedings stage
- Where the debt is time barred (in respect of County Court action only).

This list is not exhaustive and each case must be considered on its own individual merit.

Overpayments that have been written off may be resurrected and recovered at a later date where appropriate but only where the claimant has not been informed that the debt has been written off.

The Council's procedures for write offs are contained in the Credit Control Policy

Decision notices

The Council has a statutory duty to inform the claimant or any other person affected by a decision that an overpayment of benefit has arisen, that it is recoverable and that the Council has exercised its right to recover it.

The Council's decision notices will comply with Schedule 9 of the Housing Benefit Regulations 2006 and Schedule 8 of the Council Tax Benefit Regulations 2006. These regulations lay down the matters to be included in the notices.

The Council will issue decision notices within 14 days of a decision being made.

Performance Indicators

The purpose of the indicators set for overpayment recovery is to focus attention on how quickly and how fully, identified recoverable overpayments can be recovered.

The standards for overpayments cover the Council's performance in acting to avoid overpayments arising and the management of the calculation, classification and recovery of debt.

The Council will set targets that are challenging and achievable to ensure that performance, as measured against the performance indicators and standards, is assessed as being in the top quartile nationally. This will indicate that the Council is providing a modern, efficient, effective, secure and customer-focused Benefits service.

There will be a continual review of processes and procedures and adjustments will be made to incorporate changes in legislation, changes in software and other changes that will result in improvement.

Take-Up

As part of the Council's Housing Benefit and Council Tax Benefit Take-Up Strategy, potential entitlement to other welfare benefits will be identified where possible during the overpayment recovery process.

Working with Stakeholders

The Council will seek opportunities to work in partnership with its stakeholders to improve service delivery. In particular, close-working arrangements will be established with the local Citizen's Advice Bureaux with significant emphasis on the provision of debt advice.

Benchmarking performance with other comparable Local Authorities and those Authorities that are included in the CIPFA Benchmarking Consortium will be undertaken

Close working relationships will be maintained and developed with all other stakeholders associated with the benefits overpayment process, for example: Debt Management Services (DWP), Registered Social Landlords, Private Sector landlords, County Court Service, Advice and Support Agencies.

User consultation/satisfaction surveys of stakeholders will be undertaken periodically to identify areas for improvement.