

## **HOUSING BENEFIT OVERPAYMENT RECOVERY POLICY**

### **1 SUMMARY**

- 1.1 Members to consider the adoption of a revised policy on Housing Benefit Overpayment Recovery (HBOR) following the adoption of the Housing Benefit Performance Standards (HBPS).

### **2 INTRODUCTION**

- 2.1 In February 2002 the Finance and General Purposes Committee considered a report of the Head of Service which set out a policy and procedures on HBOR. This was the first review of the management of HBOR for many years and was driven by the Enforcement Concordat adopted by the Council in July 2001 (Minute 255/01 refers).
- 2.2 An internal review recommended that a complete overhaul of the management policy and procedure should be implemented as soon as was practicable.
- 2.3 Recent guidelines on the collection of such debts stressed the need to provide an effective service to the customer which was both fair and equitable, maximising income in order to alleviate poverty and taking a firm but sensitive approach to those in debt.
- 2.4 As the Council's recovery of overpaid Housing Benefit is monitored via the Best Value Performance Indicators, it needed a policy that aimed to improve collection rates and to be in the top quartile of Local Authorities, in terms of performance. This was achieved by adopting a policy set to succeed in those areas.

### **3 Housing Benefit Performance Standards (HBPS)**

- 3.1 In June the Council adopted the HBPS, a mechanism for improving the delivery of Housing Benefit across a whole range of service areas. There is a co-lateral report elsewhere on this agenda setting out a 5-year work plan to achieve these standards. It is now necessary to review the policy for the administration and recovery of Housing Benefit and Council Tax Benefit overpayments in the light of HBPS and this is set out on the Appendix to this report.
- 3.2 The Policy works side-by-side with the operational procedures and guidance manual available to all Benefit Team members and has been drafted to take into account prevailing legislation, corporate policy and best practices operated by other local authorities.

- 3.3 It is now necessary to demonstrate to external agencies the highest level of commitment to the Policy, as with the HBPS. Para 1.3 of the Policy assumes that commitment by Members.

#### **4 Crime and Disorder Implications**

- 4.1 This policy has broad crime and disorder implications, mainly by addressing poverty and deprivation and improving the quality of life of claimants.
- 4.2 Where overpayments of benefit do occur it is important that they are recovered, so that the limited resources available are directed to those in need and not into the pockets of fraudsters.
- 4.3 Rochford has a creditable record of overpayment recovery but there is still scope for improvement. Adoption of the new policy will focus Members and Benefit Team Members' minds on this important area of Benefit work.

#### **5 RESOURCE IMPLICATIONS**

- 5.1 The cost of implementing this policy is minimal, involving some in-house printing of letters, additional staff training on the range of welfare benefits available and in-house training to ensure the familiarity of the policy to the front line staff dealing with Revenue and Benefit issues.

#### **6 RECOMMENDATION**

- 6.1 It is proposed that the Committee **RESOLVES**

That the Housing Benefit Overpayment Recovery Policy, as specified in the Appendix, be adopted. (HRHM)

S J Clarkson

Head of Revenue and Housing Management

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#### **Background Papers:**

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APPENDIX

## **Rochford District Council**

### **Policy for the Administration and Recovery of Housing Benefit and Council Tax Benefit Overpayments**

Version 1.0 September 2002

- 1.1 The administration of the Housing Benefit and Council Tax Benefit (HB/CTB) Schemes require Local Authorities to calculate and recover any payment, made by way of benefit entitlement, to which there is subsequently no entitlement. This document defines the policy, strategy and performance targets for the administration of overpayments by Rochford District Council (the Council).
  - 1.2 The policy is intended to be used in conjunction with the operational procedures and guidance maintained by the Benefit Service and has been drafted to take into account all current prevailing legislation, corporate policy and best practice.
  - 1.3 The policy and associated procedures are endorsed by the Head of Revenues & Housing and Members.
  - 1.4 The overall aims of the Policy are to:
    - Prevent and minimise the number and value of overpayments via effective administration and publicising of the duty of any persons claiming or receiving HB/CTB to report relevant change of circumstances;
    - Prevent the occurrence of overpayments through timely administrative procedures and fulfilment of the Verification Framework and associated verification visits;
    - Minimise the occurrence of Local Authority error overpayments through effective administration, documented procedures, quality control and staff training;
    - Maximise the recovery of overpaid benefit through effective and documented recovery procedures and the use of all recovery methods available to the Council;
    - Maximise subsidy income through the accurate classification of overpayments;
    - Ensure that any anti-poverty guidance is considered and addressed by recovering each overpayment based on the claimant's circumstances;
    - Monitor the effectiveness of the administration of overpayments through effective monitoring and reporting of overpaid benefit against set targets.
  - 1.5 The Benefit Service Operational Plan sets out the timescales for achievement of the targets detailed in this Policy.
  - 1.6 The following sections of this document detail the specific policy and performance targets relating to the individual elements of the administrative process.
- 2. Calculation and Classification**
- 2.1 The accurate, effective and timely calculation and classification of overpayments has a direct effect on the level of overpaid benefit and the amount of subsidy claimed.

2.2 The Council will seek to:

- Prevent the continuance of an overpayment and minimise Local Authority error by ensuring that changes of circumstance are identified and the ongoing payment of HB/CTB ceased or reduced within 7 calendar days of receipt of the relevant correspondence;
- Process the calculation of the overpayment within 14 calendar days of receipt of the correspondence;
- Ensure that the appropriate subsidy classification is allocated to each overpayment and that sufficient management checks are carried out to maximise accuracy;
- Ensure that un-cashed or un-issued Rent Allowance cheques are stopped to reduce the overall overpayment;
- Seek to reduce the total overpayment through publicising and applying of the underlying entitlement provision;

### 3. Notification

3.1 The notification of an overpayment is a statutory requirement that can be contested during the recovery stage should the requirements of the Regulations not be met.

3.2 The Council will:

- Ensure that all notifications are compliant with HB regulation 77(1), CTB regulation 67, Schedule 6 of the Housing Benefit (General) Regulations 1987, Schedule 6 of the Council Tax Benefit (General) Regulations 1992 and any subsequent amendment to the regulations;
- Ensure that notifications are issued to all persons affected within 14 days of the calculation of the overpayment;
- Issue notifications in conjunction with any revised notice of Council Tax liability or invoice within the specified timescales;
- Maintain copies of all notifications;
- Carry out visits to vulnerable persons, where requested or considered appropriate, in order to explain the notification and proposed recovery action.

### 4. Recovery

4.1 The effective recovery of overpaid benefit is essential to minimise the outstanding value and number of overpayments and the management of debt to the Council.

4.2 The Council will seek to maximise the recovery of debt by:

- Documenting, maintaining and making the procedures used for recovery action available to all relevant persons;

- Ensuring that overpayments are recovered from the appropriate person, depending on the nature and reason for the overpayment;
  - Utilising all recovery methods at the Council's disposal to maximise recovery;
  - Recovering from ongoing entitlement to benefit wherever possible;
  - Utilising Rent Account credits to offset overpayments of Rent Rebate in all appropriate circumstances;
  - Recovering overpayments of Council Tax Benefit by direct debiting of the Council Tax account;
  - Issuing invoices within 14 days of the calculation of the overpayment;
  - Agreeing payment arrangements that will recover the overpayment within an acceptable period;
  - Periodically review instalment arrangements for any change in the debtor's circumstances;
  - Maintaining records of debts where no recovery action is currently possible for future recovery;
  - Providing an annual budget to achieve upper quartile performance against the relevant BVPI.
- 4.3 When determining the person from whom recovery should be sought, the Council will give relevant consideration to;
- The person to whom payment was made;
  - The reason for the overpayment occurring;
  - Any information relating to the fact that an overpayment was occurring that was available to any person affected and from whom recovery may be sought;
  - Whether the overpayment was caused by fraudulent activity.
- 4.4 When determining the maximum amount that shall be deducted from ongoing entitlement, the amount shall be determined by the amounts specified by the Regulations plus 50% of any income of specific earnings or income disregards.
- 5. Write-Offs**
- 5.1 In certain circumstances the Council will give consideration to the non-recovery of overpayments and the subsequent write-off of the debt.
- 5.2 The circumstances in which this consideration will be applied are as follows:
- Where the overpayment was caused as a result of Local Authority Error and where the claimant or the person receiving the payment could not reasonably have been expected to know that the overpayment was occurring;

- Where the recovery of the overpayment will cause undue hardship;
- Where the recovery process has been exhausted and there are no realistic prospects for recovery.

5.3 In considering a debt for write-off the following stipulations will be applied:

- Each case will be considered on the merits of the individual's circumstances;
- Each request will be supported by relevant documentation;
- Each case will receive authorisation from the appropriate authorised officer and/or Members;
- Financial authorisation limits will be set for authorised officers;
- Appropriate records of all authorised write-offs will be maintained;
- The relevant operational procedure and guidance will be followed in all cases.

## **6. Reporting and Monitoring**

6.1 The monitoring of overpayments is essential to maintaining a secure and effective Benefit Service. The financial implications of maintaining inadequate resources for administering and recovering overpaid HB/CTB will be directly reflected in the amount of income accruing to the Council.

6.2 The Council will seek to maximise accuracy and highlight any financial implications by the effective reporting and monitoring of:

- The value, number and type of overpayments not currently in recovery;
- The value, number and type of Local Authority overpayments;
- The value, reason, classification and duration of overpayments;
- The amount of debt in recovery / out of recovery;
- Payment arrangements and the periodic review against change of circumstances that may allow for an increase in the arrangement to be negotiated;
- The length and age of debt;
- Potential trends in the occurrence of overpayments.

6.3 The Head of Revenues and Housing will provide information to Members relating to the value, number, age of debt and recovery performance at agreed times.

## **7. Security Against Fraud & Error (SAFE) and Weekly Incorrect Benefit (WIB)**

7.1 The Security Against Fraud and Error (SAFE) scheme replaced the Weekly Benefit Savings (WBS) scheme from 01/04/02 although authorities were allowed to adopt the SAFE scheme (then known as the New Incentive Scheme), on a purely voluntary basis from April 2001.

- 7.2 The SAFE scheme, just as the WBS scheme before it, aims to provide further funds to LAs to help implement and run anti-fraud measures.
- 7.3 The main difference between the schemes is that whilst WBS was only concerned with fraudulent overpayments, the new SAFE scheme also includes incentives to identify overpayments due to other unofficial errors (e.g. changes of circumstance reported late by the claimant). Therefore the main aim of the SAFE scheme is to act as an incentive for LAs to ensure the accuracy of all HB/CTB claims.
- 7.4 From April 2002 LAs are able to claim a Weekly Incorrect Benefit (WIB) reward for any claim where an overpayment or part of an overpayment is identified as one of the following reasons:
- **Claimant Error**
  - **Fraud Error**
  - **Other Error**
- 7.5 If a LA achieves its WIB threshold target, then it will receive an additional subsidy award. However if a LA does not reach its specified WIB threshold, then no additional subsidy will be awarded and a penalty may be applied.
- 7.6 The Council will seek to maximise overpayment WIB rewards by ensuring that:
- The appropriate subsidy classification is allocated to each overpayment and that sufficient management checks are carried out to maximise accuracy;
  - The appropriate WIB reward is claimed in all relevant cases and that sufficient management checks are carried out to maximise accuracy;
  - Changes in circumstances that affect a WIB reward are actioned in an accurate and timely manner;
  - Rewards relating to changes in BA benefits are notified and claimed as appropriate;
  - Documentation required to support a WIB claim is maintained;
  - WIB rewards are claimed at the appropriate time.

## 8. **Anti-Poverty Policy**

- 8.1 It is essential that corporate anti-poverty guidelines are referred to when making a decision to recover an overpayment in order to avoid causing undue hardship to the debtor.
- 8.2 The Council will ensure that:
- Each case is dealt with on its own merit when determining recovery action;
  - A recovery rate is set with reference to the debtor's circumstances;



- A decision to recover, or the rate of recovery, will be reviewed should the debtor's circumstances change;
- A decision to recover, or the rate of recovery, will be reviewed on request, supported by relevant evidence, be submitted by the debtor;
- Debts are considered for write-off where it is considered appropriate, taking into account the debtor's circumstances.