

# Overpayment Recovery Policy

## Document Control

- Responsible department: Revenues and Benefits Service
- Review date: Annually or as per legislative changes

## Revision History

Date	Previous Version	Description of Revision
April 2014	2013	Updated 7.3 with 2014/15 recovery figures Added 7.10 Direct Earnings Attachment (DEA) Updated 10.3 with 2014/15 Targets
April 2015		Update Policy Wording Updated 7.3 with 2015/16 recovery figures
Dec 2015		Amended Performance Indicators in line with Corporate Plan 2015-2019 Removed Targets 10.3
April 2016		Updated 7 to remove reference to actual financial year Updated 7.3 to current amount instead of stating a financial year Updated 7.4 to include the current recovery methods listed on reverse of invoices Updated 7.5 with current list of DWP benefits Updated 7.8 to list all current options available for tracing debtors Updated 9 to detail the corporate debt policy
April 2017		No changes
April 2018		No changes
April 2019		No changes
April 2020		Removed 6.6 Updated 7.1 to amend Pre-Debt Collection letter to Letter Before Action, failure to respond from 14 days to 21 days and amended return from Debt Collection Agency from start Court action to for further action Updated 7.3 to 20/21 recovery amount as per HB A1/2020 Updated 7.5 to include New State Pension and amended CIS to Searchlight Updated 7.8 to amend CIS to Searchlight Updated 13.1 to amend Citizens Advice Bureau to Citizens Advice
April 2021		No changes
April 2022		Updated 3 due to post changes due to staff restructure Updated 7.3 with 2022/23 recovery figures Updated 7.7 due to changes in department Updated 8 to remove Cash payment details Updated 13 due to change in department name
April 2023		Updated 2.3 name change of software supplier Updated 6.2 name change of software supplier Updated 7.3 with 2023/2024 recovery figures

		Updated 7.7 due to change of department
April 2024		Updated 7.3 with 2024/2025 recovery figures Updated 10.2 Management Indicators in line with Corporate Plan 2023-2027 Updated 13.1 to removed Housing Options team

## 1. Introduction

Gravesham Borough Council (GBC) is committed to providing an excellent service to customers as well as minimising fraud and error in the Benefits system. We are striving to maximise recovery of overpayments through all the various methods of recovery open to us.

One of the key areas of our Service is the way in which we present, administer and collect overpayments of Housing Benefit (HB).

Within this policy overpayments of Housing Benefit are referred to as “*Overpayments*”.

## 2. Background Housing Benefit Overpayments

### What is an overpayment?

#### Housing Benefit Rent Allowance

An overpayment of HB is any amount which has been paid to either the claimant or a Private Landlord but to which there is no entitlement.

This includes any amount of rent allowance paid on account, which is in excess of entitlement to HB.

#### Rent Rebate

An overpayment of rent rebate is any amount of HB credited on to a customer's rent account but to which there is no entitlement

### Causes of overpayment

Overpayments can be caused by a number of reasons including;

- a change in the claimant's circumstances
- a Local Authority (LA) official error
- a Departmental official error
- a payment irregularity
- claimant error or fraud caused by a failure to notify a change of circumstances

### Identification of overpayments

All HB overpayments will be identified and actioned at the earliest possible date by minimising the level of outstanding work. All incoming post which is likely to produce overpayments will be identified, recorded, and then suspended on NEC, so that no further payments are issued.

When identifying overpayments, we will:

- Decide why the overpayment has arisen.
- Work out the value of the overpayment.
- Decide whether or not to recover the overpayment.
- Decide from whom to recover the overpayment.
- Notify the person that they have been overpaid and advise them of their appeal rights.
- Decide how to recover the overpayment.

### **3. Prevention of Overpayments**

Minimising fraud and error is a key aim. We will aim to minimise the level of error and therefore the level of overpayments within the system by taking the following measures:

- Continuing to verify the claimant's income and identity
- Identifying individual error rates for each member of staff and implement training as required
- Advising claimants and landlords of the requirement to report changes in circumstances
- Regular publicity of fraud prevention and prosecution activity
- Regular training sessions by our Service Change Team Leader to ensure staff knowledge is up to date. This will include other departments such as Council Tax and Housing to help reduce the level of errors in the system
- Continue to monitor the levels of performance including accuracy checks.

### **4. Classification of Overpayments**

#### **4.1. Classification types**

On identification, all overpayments are categorised into specific types to record reasons for overpayments occurring and for subsidy purposes. The types of overpayments are claimant error, LA error, Department for Work and Pensions (DWP) error, other error, future error, liability reduction, fraud, Indicative Rent Level error, administrative delay, liability ceased and technical error. Classification of overpayments is the responsibility of Assessment Staff to check at the time they make amendments to benefit claims.

#### **4.2. Revising classification**

In the event of an error in classification the error will be amended by the Overpayments Officer or a Senior Officer within the Benefits Service who has not been involved in the initial decision.

## **5. Calculation and Notification of Overpayments.**

- 5.1. The final overpaid amount is determined by taking into account any underlying entitlement to benefit and any unpaid or returned BACS payments, within a period of 14 days following the date of receipt at the Council offices.
- 5.2. They will be calculated accurately and in good time to;
  - Provide a quality service to claimants and landlords
  - Meet regulatory requirements
  - Give accurate Management Information on the value of overpayment debt
  - Ensure only the correct overpayment amount is recovered from the debtor by using the proper effective date of change
  - Enable the correct calculation of subsidy claims and avoid subsidy loss

## **6. Recovery of Overpayments**

- 6.1. The majority of HB overpayments are recoverable. A recoverable HB overpayment may always be recovered from the claimant and/or person to whom it was paid. Some debts are irrecoverable, for example, those caused by Official Error where the claimant could not reasonably have known that they had been overpaid or where they hadn't contributed to the error.
- 6.2. Officers assessing claims will decide if the overpayment is recoverable at the time of processing the overpayment. Any overpayment considered to be irrecoverable will be referred to a Senior Officer for a final decision. The Overpayments Officer will monitor the level of recoverable overpayments that the Council decides to recover by using reports from the NEC system.
- 6.3. It is at the discretion of the Council whether to recover an overpayment. Where known, the personal circumstances of the claimant should be taken into account when deciding whether to recover the overpaid amount.

Whom to recover from

- 6.4. Any recoverable overpayment will be recovered from the claimant or the person to whom payment was made (this could be a landlord or the claimant's appointee). When deciding who should repay the debt all factors must be considered such as the likelihood of the person receiving the payments knowing that they were being overpaid. Where payments are made to a landlord, we will make a judgement based on evidence available on whom to recover from.
- 6.5. Where the overpayment has been made due to misrepresentation or failure to disclose a relevant fact by the customer, someone acting on their behalf, their landlord or an agent, then recovery will be sought from the person to whom the payment was made.

## **7. Recovery Methods**

Councils can recover overpayments by any lawful means. We will adopt one or more of the following methods of recovery dependant upon the individual circumstances of each case. The amounts specified in each case are in relation to the current financial year.

### 7.1. Recovery of Rent Rebate/Rent Allowance from Future Benefit

Action	Timescale	Follow Up
Notification	Within two working days	
Customer requests to renegotiate recovery rates	10 working days	Letter to customer confirming new recovery rate within two working days

### 7.2. Recovery of Rent Rebate/Rent Allowance by Sundry Debtors

Action	Timescale	Follow up
Invoice sent	Within two days	Due date deferred by one calendar month
1st Reminder	On due date	Failure to pay invoice within 14 days will result in Final Reminder being issued
Final Reminder	14 days after 1st reminder	Failure to pay invoice within seven days
Chase up telephone call	Weekly report run to identify outstanding invoices	Failure to respond to call will result in either a Letter Before Action being issued
Letter Before Action	Failure to respond to letter within 21 days	Refer to debt collection agency
Debt collection agency	Failure to respond to agency	Returned to GBC for further action
Letter before action	Failure to respond within 21 days	Apply for a direct earnings attachment
Direct earnings attachment	Failure to respond to all of above	
Letter before action	Failure to respond to letter before action within 21 days	Refer for court proceedings within 14 days
Court Proceedings	Failure to respond to all of above	

### 7.3 Recovery from ongoing benefit - Rent Allowance or Rent Rebate

Where a claimant continues to receive HB we will make deductions from ongoing payments of HB having regard to their financial circumstances. Where appropriate we will recover debts at the weekly amounts recommended by the DWP.

The current rates are:

- Standard recovery - £13.65 per week

- Fraud recovery - £22.75 per week

As well as the above mentioned rates of recovery we will also increase deductions, where appropriate, by half (50%) of any of:-

- the earnings disregard, if applicable
- regular charitable income or voluntary payments, if applicable
- War Disablement or War Widows Pension, if applicable

In all above-mentioned cases, the recovery amounts are subject to an overall maximum deduction which does not reduce the benefit payable to less than £0.50 pence per week.

#### **7.4 Arrangements**

On the reverse of every invoice issued there are details of how to contact the Overpayments Section and information regarding methods of payment available. There is also advice to contact Housing Benefits if an arrangement to pay in instalments is required. The Overpayment Officer will keep a central list of all arrangements to pay.

#### **7.5 By deduction from certain Department for Work and Pensions (DWP) benefits**

We may ask the DWP, Debt Management Office, to recover a Housing Benefit overpayment by deduction from certain DWP benefits, as prescribed by Regulations. These are

- Attendance Allowance
- Bereavement Allowance
- Bereavement Benefits
- Carer's Allowance
- Disability Living Allowance (care component only)
- Employment and Support Allowance (ESA) and ESA New Style
- Incapacity Benefit
- Income Support
- Industrial Death Benefit
- Industrial Injuries Disablement Benefit
- Jobseeker's Allowance (JSA) and JSA New Style
- Maternity Allowance
- New State Pension
- Personal Independence Payment
- State Pension Credit
- State Retirement Pension
- Severe Disablement Allowance
- Universal Credit
- War Pension
- War Disablement Pension
- Widowed Parents Allowance

Where necessary entitlement to benefits will be identified through Searchlight connected to the Department for Work and Pensions database.

## **7.6 Recovery from benefit payments made by another authority**

Where possible we will recover overpayments from Benefit payments being made by other Local Authorities.

## **7.7 Debt Collection / County Court action**

Where standard recovery action has failed to recover the debt it will either be passed to a Debt Collection Agency or recovered in the County Court by the Council's Legal Department.

## **7.8 Tracing Debtors**

All available resources will be used to trace debtors including data matching options, internal department searches, LoCTA searches, social media searches, and utilisation of the DWP Searchlight. External Tracing Agents will also be deployed when all other avenues have been explored and it is cost effective to do so.

## **7.9 Recovery from a Blameless Tenants Housing Benefit**

If a debt is recoverable from the Landlord/Agent and they still receive HB payments for other tenants, we may deduct the debt from future payments due to them.

## **7.10 Direct Earnings Attachment (DEA)**

From 8 April 2013 the Social Security Act 1992 was amended allowing Local Authorities to recover overpayments by attachment to earnings without the need to obtain a Court authority.

Where the debtor has not made an arrangement to repay the overpayment and it is found that they are working for an employer, the Local Authority will issue a DEA order to the employer instructing repayment at the appropriate rate as per the net earnings.

The effectiveness of the above recovery methods will be reviewed annually by the Assistant Revenues & Benefits Manager and the Overpayments Officer.

## **8. Payment Methods / How to Pay**

We will accept a variety of payment methods as outlined below:

- Cash
- Credit/Debit Card
- Direct Debit
- Standing order
- Recurring Card Payment

Payment can be made:

- [Pay online via our website.](#)
- Internet (direct into the Council's bank account)
- Post Office & Paypoint

- By Phone (Dial 01474 33 77 88 automated service available 24 hours a day)

## 9. Corporate Debt/Write Off

- 9.1. Where all recovery action has been attempted and the overpayment is still outstanding the debt will be passed to the Corporate Debt Section. The Corporate Debt Section will endeavour to recover the overpayment with any other outstanding debts.
- 9.2. Write Off action will be taken in accordance with the principles set out in the Council's Corporate Write off Policy and the principles laid out in the Financial Rules. Debts will be recommended for write off by the Overpayments Officer or an authorised officer within the Local Authority's Debt Recovery Section. The Overpayment Officer will retain details of all outstanding overpayments where HB is no longer in payment, in the event of future HB being awarded, enabling recovery in the future.

## 10. Performance Indicators

- 10.1. The Overpayments Officer will keep a breakdown of all overpayments being recovered by different methods, (e.g. by deductions from DWP Benefits). Statistics will be given to the Assistant Revenues & Benefits Manager on a monthly basis on all outstanding overpayments. We will monitor the age of overpayment debt so that it does not become statute barred and therefore unrecoverable.
- 10.2. The Performance Indicators are
  - MI57 The total amount of Housing Benefit overpayment outstanding
  - MI58 The total amount of Housing Benefit recovered

## 11. Best Practice

The Overpayments Officer will endeavour to follow Best Practice by referring to the Housing Benefit Overpayments Guide. They will also attend the Kent County Overpayments Network Group meeting to share best practice with other Overpayment Officers from across Kent.

## 12. Appeals

12.1. If the claimant believes the **HB overpayment** decision to be wrong they can ask us to:

- explain our decision;
- look at our decision again - this is called a 'reconsideration'; or
- pass their case to an independent tribunal - this is called an 'appeal'.

12.2 There are time limits for reconsiderations and appeals. If the claimant wants to ask us to look at a decision again, or if the claimant wants to appeal against a decision, they should do so within **one month** of the date on the Housing Benefit notification letter.

12.3 If the claimant misses the one-month time limit, it is still worth contacting us as there are special circumstances in which it may be possible to extend the time limit.



12.4 The claimant can ask us to explain our decision at any time but after the one-month time limit we may not be able to reconsider a decision if, after looking at our explanation, the claimant decides that they think the decision is wrong.

### **13. Debt advice**

13.1. Anyone experiencing debt problems will be advised to contact Citizens Advice for free, confidential, and unbiased advice on debt.

They will also be advised to contact other free debt advice agencies such as the Money Advice Service and Step Change.