

HOUSING SCRUTINY COMMITTEE – 9TH MARCH 2004

Report of the Head of Benefits and Revenues Services

ITEM: 5 RECOVERY OF HOUSING BENEFIT OVERPAYMENTS

Purpose of the Report

To update the Committee of the current situation relating to the recovery of Housing and Council Tax Benefit Overpayments.

Background

At the August 2003 Housing Scrutiny meeting the Committee had received a letter from Cllr.Vincent asking that a review of current procedures for the recovery of overpaid Housing Benefit be included in the work programme.

It was agreed at that meeting that the situation be:

- Monitored for a further six month period
- That the Benefits Service would include Money Advice Centre letters along with Invoices
- Overpayment letters were to become 'less threatening'
- Overpayment letters would advise claimants that independent financial advice was available from both the Bridge and Money Advice Centres.

The Benefits Service is required to look at each claim on its merits, and where the overpayment has been caused by the claimant failing to report a change in their circumstances, they are notified of the overpaid amount and advised that the amount is required to be repaid.

If the overpayment has been caused by the Benefits Service making an error then the debt is not recovered and is written off. If the overpayment is caused by a landlord or DWP error then the debt is recovered from them.

Rate of Recovery:

The current rules, which prescribe the maximum permitted rate of recovery where deductions are to be made from a claimants on-going housing benefit came into effect in October 2000 and are updated each April. There are two maximum permitted rates of deduction depending on whether or not the overpayment has arisen as a result of fraud. Where the claimant has been found guilty of fraud the maximum deduction is £10.80. In any other case the permitted maximum deduction is £8.25.

Current situation:

Rent Allowances – Total weekly benefit £356,311.09

Weekly deductions from ongoing benefit £ 3,110.98(1% of total)

Council Tenants- Total weekly benefit £143,251.08
Weekly deductions from ongoing benefit £ 1,366.04(1%)

During the last 6 months the Benefit Overpayment Team has monitored the situation as requested. There have been an average of 4 cases per month where the rate of deduction has been questioned and there have been NO cases in the entire period where a reduction has not been agreed. However, in February we have had 9 enquiries 4 of which were where the case had reached the Notice Seeking Possession stage. 7 enquiries had come direct from the claimant. To date 7 out of the 9 have been reduced and the other 2 are awaiting financial information from the claimant.

It is possible that the increase in the number of enquires requesting a reduction of the housing benefit overpayment is as a result of Housing Rent Arrears staff increasingly advising tenants of this option. That being the case, the number of enquires for that purpose is likely to continue to increase.

As a comparison that when Housing Rent Arrears staff make an application to the County Court for the repayment of rent arrears, the largest individual amount of repayment of rent arrears that the Judge will permit is £2.75 per week.

It is interesting to note that, following extensive monitoring by the overpayments team, in 79% of cases where the ongoing benefit overpayment figure had been reduced the claimant had in fact still failed to pay any rent whatsoever.

Although this comment may seem to indicate that tenants' who are required to repay benefit overpayments are in fact in the category of people with a 'won't pay attitude', it is not necessarily the case. Experience of Rent Arrears staff is that in the majority of cases the reduction of their benefit by £8.25 per week, which is then transferred to the Housing Rent Accounts, for the lowest income families, creates a 'can't pay' situation.

On average there are 340 Invoices produced each month. This means that 99% of cases where overpayment recovery is instigated at the statutory amount are never requested to be reduced.

This proves that the numbers of claimants and financial sums involved are relatively small in terms of benefit paid out. However, the Service accepts that the cases involved are vulnerable people in need of expert financial assistance. There is a commitment from the Benefits Service to work closely with both the Bridge and Money Advice Centres to alleviate financial hardship wherever possible.

The letters have been changed and advice leaflets are being issued.

The overpayment team issue the invoices and make arrangements/negotiate and visit claimants in order to recover the overpaid amounts.

It is suggested by Housing staff that a system similar to that adopted by the WPD for ADP's when a letter of explanation about the overpayment is sent to the tenant asking them to make contact say within the next 14 days to agree an affordable sum for repayment. If the tenant has made no contact, the letter should state quite clearly that the deduction will be made at £8.25 per week. Housing staff are more than willing to work with Housing Benefit staff to agree this new procedure.

The methodology relating to the recovery of overpayments needs to also take into account the requirement on the Benefit Service to meet BVPI 79. This indicator requires the authority to confirm the % of overpayments recovered in the quarter. At present this authority is in the top quartile.

There was a specific section on overpayments in the CPA submission for Benefits, which was submitted to the Benefit Fraud Inspectorate on 16th February 2004. The answers to these questions will form part of the inspection here in March 04.

There are also financial implications for reducing the rate of overpayment recovery. These costs directly impact on the cost of the Service and any reduction in recovery rates would increase the 'cost per claim'. This cost is reported as Best Value Performance Indicator 77.

The Committee should be aware of the delicate balance that exists between the functions of Housing Benefit and Rent Arrears sections. The positive impact of the actions of Housing Benefit on their Best Value Performance Indicators 77 & 79, of placing Housing Benefit overpayment claw-backs on the rent account does contribute to the worsening of the Best Value Performance Indicator 66a which refers to rent arrears. In contrast Best Value Performance Indicator 66a is now in the bottom quartile for performance. There is real concern that the actions of Housing Benefit to which this Report refers, can and does cause financial hardship to those families who in many cases are least able to pay. There is anecdotal evidence from tenants to Rent Arrears Officers' that because of their poor financial state additional financial burdens do affect their ability to feed, clothe their family, and also contributes to this Authority taking legal action to repossess their home for Rent Arrears.

It is important to note that any recommendation to reduce the level of overpayment recovery will have to be from **ALL** claim types and cannot be carried out in isolation. The Benefit Service is required to administer the scheme in a fair and consistent manner to all recipients.

Scrutiny Committee(s): Housing

Key Decision: NO

Background Papers: none

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