



Sandwell Metropolitan Borough Council

Housing Benefit Overpayment Recovery Policy

2022/23

Meeting Ambition 10

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Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.

1. Introduction

This policy document sets out Sandwell MBC commitment to the recovery of Housing Benefit Overpayment in accordance with the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have attained State Pension Age) Regulations 2006

It is essential that Sandwell MBC demonstrates that it carries out recovery of Housing Benefit Overpayments efficiently and effectively.

By doing so the Council:

- Reduces losses to Public Funds
- Provides revenue for the Council
- Helps reduce the loss from overpayments
- Deters fraud and error
- Demonstrates commitment to accuracy and provision of a quality service to customers.

2. General Principles

Overpayments are established through a review of benefit entitlement, where the original decision is superseded or in rare instances the correction of an accidental error. They are amounts of benefit that have been paid to which there is no entitlement.

Prevention of overpayments

We will endeavour to minimise the level of overpayments by:

- Paying Housing Benefit promptly;
- Continuously reviewing and improving our systems and working practices;

- Actively encouraging customers to promptly report changes in circumstances.

Identification

Accurate and prompt identification of overpayments is important in order to ensure we maximise the successful recovery of the overpayment and reduce the number of complaints and appeals.

To help identify overpayments the council will:

- Establish the cause of the overpayment and whether it is recoverable and from whom it should be recovered.
- Calculate underlying entitlement in all cases
- Ensure that every overpayment has been classified correctly,
- Notify the customer of the overpayment in accordance with current legislation
- Determine the best method of recovery.
- Not commence recovery until the individual has had the right to dispute the decision (in accordance with the timescales set out in the legislation).
- Offer help and advice to customers wishing to dispute the decision to recover the overpayment.
- In the event of being unable to recover an overpayment, promptly submit the debt for 'write-off'.

Recoverability

If the overpayment was caused by misrepresentation or failure to disclose information, then the overpayment must be recovered from the person who actually misrepresented or failed to disclose that information.

If the overpayment was caused by official error it must be recovered from the person who at the time of receiving the payments, could reasonably have been expected to know that they were being overpaid.

An overpayment can be recovered from:

- The claimant
- The partner, if they were members of the same household at the time of the overpayment was created
- The person to whom the overpayment was paid

If a deceased person has an outstanding overpayment recovery can be sought from their estate.

Recovery from on-going Benefit

Where the claimant is still entitled to Housing Benefit the overpayment should be recovered from their on-going entitlement.

The maximum deduction in 2022/23 are:

£19.25 where the overpayment resulted from fraud

£11.55 in any other case

Where the claimant's Housing Benefit includes an earnings disregard, a disregard for Charitable / Voluntary payments or a War Pension disregard, the Housing Benefit Regulations allow 50% of the statutory disregard to be added to the claw-back rate. (It does not include the additional earnings disregard)

However, a customer can request any alternative method of recovery and each request would be considered on its own merits.

Where there is no on-going Benefit entitlement

If there is no on-going benefit entitlement the overpayment will be recovered via an Invoice after 31 days of an overpayment being created. This allows the customer to request a revision, appeal or make a new claim for Housing Benefit.

The invoice will request a first payment within 14 days from the date of the invoice. If the total overpayment is less than £60.00 the invoice will request the overpayment to be paid in one instalment. If the overpayment is over £60.00 that the overpayment will be split over 12 monthly instalments.

If the debtor is unable to pay in full or the instalment amounts it is possible to make alternative arrangement which will be covered in a later paragraph.

Methods of Payment

It is essential to provide flexible and convenient methods of payment. At present the Council can accept payment by the following means:

- Direct Debit
- Online using our online payment system

- Credit / Debit card
- Payment Line
- Standing order
- Cheque
- Cash

Non-Payment

If payment or an arranged payment is not made a reminder will be issued 20 days from the date of the original Invoice along with a text reminder.

A final demand will be issued if no payment or an arranged payment is not made after 40 days from the original invoice. This will request a full payment of the Housing Benefit Overpayment within 7 days.

Arrangements

If the customer cannot pay the overpayment invoice or meet the instalment amounts in full. The customer is encouraged to contact the council immediately, as it may be possible to make a payment arrangement.

Each request will be considered on its own merits taking the amount due, personal circumstances and financial circumstances into account. The aim is to agree a realistic arrangement to collect the unpaid invoice within a reasonable time. It may be necessary to issue an Income and Expenditure form in order to obtain a clear picture of the customer's financial circumstances.

Once the arrangement is agreed a letter confirming the details will be issued to the customer.

Monitoring Arrangements

If the customer defaults on their arrangement a final notice will automatically be issued. The instalment / arrangement plan will be cancelled, and the customer will be asked to make the payment in full or alternative recovery action will be taken as stated below.

Further recovery action

Where the customer fails to make a payment on their arrangement or no payments are received against the outstanding invoice, further recovery action will be taken.

The type of action that may be taken is as follows:

- **Recovery from the Department for Work and Pensions (DWP) Benefits.** Deductions from certain DWP Benefits will be considered
- **Recovery from Landlord payments.** Where the overpayment is recoverable from the landlord the overpayment can be deducted from their next Housing Benefit payment.
- **Council Rent account that are in credit.** If the customer is a Council tenant and has a outstanding overpayment and their rent account is in credit. The credit can be used to reduce or clear the outstanding overpayment.
- **Direct Earnings Attachment.** The Council can ask an employer to deduct any Housing Benefit Overpayment of an employee direct from their earnings.
- **Debt collecting Agency.** The Council will forward any outstanding overpayment of Housing Benefit to an agreed debt collecting agency where that customer has failed to engage, and all the above alternatives are not an option.

Change of Address “Gone Aways”

If correspondence is returned undelivered and marked “Gone away” or similar and a forwarding address is not already known every effort is made to find a new address for the customer.

The Council will make all legally allowable checks on different records and systems to trace the customer to continue the recovery action.

Unrecoverable Overpayment

In certain circumstances the Council can decide not to recover an overpayment. Examples include:

- The customer is deceased and has left no estate to recover the overpayment from
- The customer has gone away, and the Council has been unable to trace them
- Where the overpayment is uneconomical to pursue

4. POLICY REVIEW

The policy will be reviewed annually, or sooner if appropriate, to take account of operational adjustments and or changes to legislation.

5. EQUALITIES

This policy has been produced in line with the Council's obligation to the Public Sector Equality Duty provided by the Equality Act 2010. No adverse impact on any protected characteristic has been identified because of this policy.