

**Report to the Finance and  
Performance Management Cabinet  
Committee**



**Epping Forest  
District Council**

**Report Reference: FPM-026-2010/11**

**Date of meeting: 17 January 2011**

**Portfolio: Finance and Economic Development**

**Subject: Housing Benefit Overpayment Recovery Policy**

**Responsible Officer: Janet Twinn (01992 564215).**

**Democratic Services Officer: Gary Woodhall (01992 564470).**

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**Recommendations/Decisions Required:**

**(1) That Overpayment Officers be allowed to negotiate with debtors in the limited circumstances set out in the report.**

**Executive Summary:**

The report sets out the position with the recovery of Housing Benefit overpayments and requests that Overpayment Officers be given the authority to negotiate the repayment of Housing Benefit sundry debts over 2 years old where all other methods of recovery have been exhausted.

**Reasons for Proposed Decision:**

To increase the recovery rates for debts which may otherwise ultimately be written off.

**Other Options for Action:**

To not allow the Overpayment Officers to negotiate the level of repayment of debts and to continue to always seek repayment of the full debt.

**Report:**

1. When Housing Benefit overpayments occur, subsidy from Central Government is received for the overpayment. The amount of subsidy is dependent on the reason for the overpayment. The majority of overpayments arise either as a result of a failure by the claimant to report a change in circumstances on time, or as a result of claimant fraud. In both these scenarios, subsidy is received at a level of 40% of the overpayment. When an overpayment arises as a result of the authority failing to act upon information provided (known as LA error), the level of subsidy is determined by thresholds. If the total amount of LA error overpayments does not exceed 0.48% of total correct payments, subsidy is paid at 100% of the overpayment. If the LA error overpayments are greater than 0.48% but less than 0.54% of total correct payments, 40% subsidy is paid and above 0.54%, nil subsidy is paid. LA error overpayments have always been kept at a level low enough to ensure that the Authority receives the 100% subsidy rate for these overpayments. Overpayments occurring as a result of an error by the Department of Work and Pensions receive subsidy at a rate of 100%. In 2009/10 Housing

Benefit overpayments totalled £714,509 for which £336,360 subsidy was received.

2. When overpayments occur, there are several recovery options available. The two methods most often used are by instalment recovery from ongoing benefit entitlement and by issuing a sundry debtor. Recovery is also sought by instalments from other Social Security benefits, although the weekly instalment recovery rate is a minimal amount and can take several years to clear a debt in full. Depending on the size of the overpayment, consideration is also given to putting a charge on a property and recently we were successful in securing the repayment of £33,103 using the Proceeds of Crime Act. Although the Benefits Division is proactive in recovering overpayments, there are always debtors who are hard to trace, or where there is little prospect of recovery of the sums outstanding. Even when we are successful in tracing them, many people who have claimed benefit are still on low incomes, with little or no capital, and who have accumulated several debts. They therefore have several agencies pursuing them for repayment of monies that they no longer have.

3. The two Overpayment Officers currently in post both formerly worked in debt recovery at Lloyds TSB. Whilst working there, they had the authority, as a last resort at recovery, to negotiate the level of the debt. For example if a person owed £200, they could ask for an immediate £150 payment in full and final settlement of the debt. Whilst contacting debtors with Housing Benefit overpayments, there have been situations recently where the ability to be able to negotiate would have brought in the repayment of a large proportion of the debt at that time, instead of which the debt is now being considered irrecoverable with all recovery options exhausted. In one case, the debtor had a lump sum to pay off debts but was having to choose which of her several debts to pay. As her lump sum would not clear her debt and the Overpayment Officer had to insist on payment in full, she opted to pay other debts.

4. It is proposed that the Overpayment Officers should be able to negotiate the level of debt to be repaid in certain situations. The debt should be more than 2 years old, it should be a last resort at recovery, with no other recovery options available before being recommended for the debt to be written off, and at least 60% of the debt must be repaid. Any offer of a negotiated sum must be paid at the time of the agreement otherwise the debt will revert to the full amount. A minimum repayment of 60% of the debt will ensure that the Authority will make no financial loss and any negotiated amount above 60% will result in a profit. Southend Council has successfully been operating a similar policy for some time although they have a policy of a minimum of 60% repayment for debts over 1 year old.

5. There are currently 281 Housing Benefit sundry debts amounting to £624,090 that arose prior to January 2009. Of these, £182,451 has been referred to the Legal & Administration Service for recovery through the Courts and £52,773 has been recommended for write off. The majority of the remaining debts have arrangements in place for recovery of the debt in full but there are still some debts which are proving difficult to recover. It is these debts that would be targeted.

6. In the Audit Commission's Inspection Report of the Benefit Service in 2010, overpayment recovery was an area of work which was recognised as being of a good standard. It is considered that the ability to negotiate the repayment of old debts would enhance the service for the authority, result in an increase in income for the authority and result in fewer debts being recommended for write off.

### **Resource Implications:**

The majority of these old debts arise through claimant error for which 40% subsidy is received from Central Government. If the minimum level of repayment is set at 60%, it will ensure that there is no financial loss to the Authority. Any negotiated repayment above 60% of the debt will result in additional income for the Authority. Although a greater income could be achieved by

insisting that the debt is repaid in full, there are occasions when the debtors simply do not have the funds to repay the full debt and this invariably leads to the full debt being written off.

**Legal and Governance Implications:**

No specific implications.

**Safer, Cleaner and Greener Implications:**

No specific implications.

**Consultation Undertaken:**

None.

**Background Papers:**

None.

**Impact Assessments:**

Risk Management

The risk of having no policy is that income to the authority may not be maximised.

The risk of agreeing to the policy is that too much money may be lost, although cases where the amounts are negotiated will be agreed by the Assistant Director of Finance & ICT (Benefits).

Equality and Diversity:

*Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?* No

*Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?* N/A

*What equality implications were identified through the Equality Impact Assessment process?*  
N/A

*How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?*  
N/A