

SUBJECT:	HOUSING BENEFIT OVERPAYMENTS
DIRECTORATE:	CHIEF EXECUTIVE AND TOWN CLERK
REPORT AUTHOR:	CLAIRE MOSES, REVENUES AND BENEFITS MANAGER (SHARED SERVICE)

1. Purpose of Report

- 1.1 To provide Revenues and Benefits Joint Committee with an update on the recovery of Housing Benefit overpayments, as agreed by this committee on 5 September 2017.

2. Executive Summary

- 2.1 This report sets out how officers intend tackling the outstanding Housing Benefit (HB) overpayments debts.
- 2.2 Appendix 1 to this report show the outstanding HB overpayments by status for both Council and Private tenants. A verbal explanation of this appendix will be given at the meeting of this committee, on 28 November 2017

3. Background

- 3.1 Housing Benefit overpayments can occur for a variety of reasons;
- Customers not promptly notifying of a change of circumstances affecting their entitlement to HB;
 - Delays in re-assessment of HB once a change has been reported to the Benefits Officer;
 - Fraudulently-claimed HB;
 - Error made in assessment of HB by the local authority; and
 - Error made by the Department for Work and Pensions (DWP) and Her Majesty Revenues & Customers (HMRC) in one of the benefit or incomes used in the assessment of Housing Benefit entitlement.
- 3.2 Due to the nature of the relatively large amounts of HB being paid over an extended period, individual overpayments can be sizeable and for some debts, these take many years to recover at standard weekly rate deductions from ongoing HB entitlement and DWP benefits.
- 3.3 In February 2012, a joint Recovery Team was formed as part of the shared service staffing restructure. The team is responsible for the recovery of outstanding HB overpayments – as set out in paragraph 5 of this report.

4. Value and Extent

- 4.1 Currently, the value of outstanding overpayments for City of Lincoln and North Kesteven are £4,121,223 and £1,853,275 respectively. The recovery of overpayments can be at different stages and these are usually broken down into two areas – Live HB claim or Sundry Debtor.

Appendix 1 to this report shows the current recovery status of HB overpayments for both City of Lincoln and North Kesteven. It provides a breakdown of the number and value of overpayments for both council and private tenants. Officers have used a number of reports to obtain the figures within this appendix, however, it has been noted that there is minor duplication of some figures – this is being investigated and an updated table will be provided at the meeting of this committee on 27 February 2018.

- 4.2 To provide context in relation to these figures, the table below shows the value of overpayments raised so far in 2017/18 and how this equates, in percentage, to the total value of HB paid out to (as at the mid-year estimate for 2017/18): -

Authority	Total Overpayment value	Total HB estimated to be paid	%
City of Lincoln	£864,369	£31,190,713	2.77%
North Kesteven	£482,321	£17,101,374	2.82%

- 4.3 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 advise that the amount is required to be repaid.

Overpayments caused by claimant error will always be recoverable unless there are very exceptional circumstances, for example, terminal illness or severe medical condition of the customer.

If an overpayment is caused by a landlord or DWP error, the debt is recovered directly from them.

If the overpayment has been caused by the Benefits Service making an error, the overpayment will also be recoverable providing the authority are satisfied that it was reasonable to assume that the customer would have been aware from calculation notices that there was an error.

- 4.4 It is important that each overpayment is classified and a record of it is maintained so the correct rate of subsidy can be claimed and informed decisions can be made on recoverability.
- 4.5 The subsidy arrangements also act, at least in part, as an incentive for Local Authorities to classify and recover overpayments correctly. In most cases when overpayments are recoverable a LA may keep both the amount they recover and the subsidy. For example, a claimant is overpaid £200.00 and this is claimant error – this attracts 40% subsidy – as a result, the maximum amount the LA is allowed to keep is £280.00 (£200 from the original overpayment and £80 from the 40% subsidy).

4.6 Classifying an overpayment is essential to the overpayment process and should be correctly carried out at the outset when an overpayment is identified. Each overpayment type will also have its own subsidy rate as shown below (2017/18 rates):-

- Eligible overpayments
 - Claimant error – 40% subsidy rate
 - Claimant Fraud – 40% subsidy rate
- Local Authority (LA) error
 - If lower than the lower threshold set by DWP – 100%
 - City of Lincoln = £148,096
 - North Kesteven = £81,093
 - If greater than the lower threshold but does not exceed upper threshold set by DWP – 40%
 - City of Lincoln = £166,068
 - North Kesteven = £91,230
 - If exceeds upper threshold – 0%
- DWP error
 - Department error – 100%
- Technical error (benefit created in advance of entitlement) – 0%

To provide context, for 2016/17, the table below shows the maximum amount each District could keep if overpayments raised were recovered in full: -

City of Lincoln:

Total paid during 2016/17 (£)	HB out	Overpayment error type	Value of error (£)	Subsidy Rate %	Additional Subsidy (£)
£32,947,300		Claimant error + Fraud	£846,507	40%	£338,603
		LA error	£129,988	100%	£129,988
		DWP error	£4,528	100%	£4,528
		Technical error	£10,945	0%	£0
		Total errors	£991,968		£473,119

North Kesteven:

Total paid during 2016/17 (£)	HB out	Overpayment error type	Value of error (£)	Subsidy Rate %	Additional Subsidy (£)
£18,129,929		Claimant error + Fraud	£389,919	40%	£155,968
		LA error	£53,230	100%	£53,230
		DWP error	£727	100%	£727
		Technical error	£1,358	0%	£0
		Total errors	£445,234		£209,925

4.7 The information in the tables above show, if overpayments are recovered in full, each authority would benefit from a maximum additional income in subsidy – City of Lincoln by £473,119 and North Kesteven by £209,925 – this is total additional subsidy of £683,044 to the shared service.

5. Current Roles and Responsibilities

5.1 Overpayments can be costly to recover and money lost through reduced subsidy and the costs of recovery overpayments comes from the LAs overall budget. Therefore, it is important to ensure that in addition to preventing overpayments occurring, every effort is made to recover them.

5.2 As part of their duties, Benefit Assessment staff are responsible for analysing new information received and declared changes in claimants' circumstances, and actioning any resulting amendments to entitlement. Where an amendment gives rise to an overpayment, staff will also be responsible for determining, in accordance with specific rules and guidance, the classification of the overpayment (for correct subsidy rate), whether the overpayment is actually recoverable and if so, the appropriate mechanism for recovery.

During 2016/17 the Housing Benefit Section actioned 37,674 change in circumstances across the shared service and this is broken down into each authority as follows: -

- City of Lincoln = 23,927
- North Kesteven = 13,747

The above figures do not include changes received during March as the majority are rent increase and new financial year uprating's which are unlikely to create an overpayment – a total of 18,076.

5.3 The Benefits Officers undertake specific actions with regards to the recovery of the overpayment – with the most effective being: -

- **From arrears of HB that become payable:** If the customer has a payment of Housing Benefit arrears at the time an overpayment is created, the arrears, or underpayment, can be used to reduce or offset the overpayment;
- **Deduction from ongoing Housing Benefit:** If a HB claim is in payment, the Benefits Officer will set recovery from ongoing HB entitlement – this will result in the customer receiving a reduced rate of HB until the overpayment has been recovered in full. As current claims for HB move over to Universal Credit (UC) (only those within the scope of UC), this recovery function will no longer be available as there will no longer be a live HB claim in payment. As a result of this, the overpayment will be classed as a sundry debt and recovery from ongoing Universal Credit award would need to be sought. Currently, the recovery of Housing Benefit overpayments from ongoing UC is 14th on the debt recovery list (with debts such as rent arrears, Council Tax, Water, gas, electric and preceding this)
- **Transferring to the rent account:** Where the customer is a Council tenant

5.4 The current rules which prescribe the maximum permitted rate of recovery where deductions are to be made from a claimants on-going HB 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 £18.50 per week. In any other case, the permitted maximum deduction is £11.10 per week. These are revised / updated by Department for Work and Pensions each year.

5.5 A separate overpayment recovery team will deal with debt negotiation, payment monitoring and the more specialised recovery procedures as detailed below: -

- Deduction via the Department for Work & Pensions (DWP) from another state benefit
- Deduction from on-going Benefit via other authorities where the customer is currently claiming
- Debit against the Rent Account (Council Property, Rent Rebate) normally only in cases where the claimant has requested, or there is a credit on the rent account
- Debit against Council Tax Account (Council Tax Support only)
- Deduction from Landlord direct payments
- Invoice to claimant or invoice to landlord (direct payment only)
- Attachment of earnings - with leave of a Court Order

5.6 Both teams will aim to ensure that customers are receiving all assistance / benefits they are entitled to, so refer cases to the Welfare Team / Citizens Advice wherever appropriate.

6. Review of HB Overpayments During 2017

6.1 During the last nine months, a Recovery Officer has been tasked with undertaking a review of City of Lincoln overpayments, not at sundry debt stage and currently set with a deduction from ongoing Housing Benefit – a total of 1,006 cases. The officer has worked on average 1.5 days per week and in this time has reviewed 782 cases.

6.2 The officer was issued with guidance which is included in Appendix 2 of this report. The guidance provided minimum weekly recovery values – for all overpayments types, with an increased value for overpayments classified as ‘Fraud’.

6.3 The table below shows the outcome of this work, and the reduction of outstanding overpayments by £102,130: -

City of Lincoln:

	Number of customers with an outstanding overpayment	Outstanding overpayment not at Debtors
December 2016	1,006	£920,737
October 2017	816	£818,607
Reduction	190	£102,130

6.4 It is clear, that having an officer working on the outstanding list for City of Lincoln has made a significant reduction on the outstanding overpayments. In reviewing the work undertaken so far, Officers are confident more can be done – which is detailed in paragraph 7.1 of this report.

7. Action Plan – 2017/18

7.1 The following actions will be undertaken during quarter 3 and 4 of 2017/18: -

1. The recovery officer will continue to review the remaining City of Lincoln cases during November and December 2017;
2. A review of the City of Lincoln overpayments will begin – as the overpayments guide (Appendix 1) requires a 12 month review of the deductions which have been set. It is important to keep these under review and customers can contact the team and ask them to be changed (if they have had a change in their income / HB award);
3. Once the second review of the City of Lincoln overpayments have been completed, these will then be reviewed every 2 months - to ensure deductions are not being reduced unnecessarily and recovery of the overpayment is on track;
4. The recovery officer will begin the review of the North Kesteven cases in January 2018 and will adjust the ongoing Benefit in line with the guidance. There are currently a total of 511 cases totalling £401,593;
5. A review of the adjusted North Kesteven overpayments will begin 2 months after the start of the above action (4) – to ensure deductions are not being reduced unnecessarily and recovery of the overpayment is on track;
6. During Quarter 3, there will be a detailed analysis of cases at sundry debtor.

8 Action Plan – 2018/19

8.1 A report will be brought back to this committee on 27 February 2018, analysing the outcome of the work undertaken above, along with a timetable of work for 2018/19 which is likely to include: -

- a) At this stage, Officers do feel that in order for this project to be successful and to effectively reduce outstanding overpayment levels, the resource requirement in this area would need to be increased to at least 1 FTE. The role would be obtained from the current Benefits establishment and would lead and actively monitor both City of Lincoln and North Kesteven outstanding balances, ensuring the correct rate of recovery is applied, making and reviewing arrangements, ensuring write off's are actioned quickly, ensuring overpayments are sent to debtor quickly and efficiently.
- b) Ensure ongoing reviews of outstanding and new overpayments are undertaken every 2 months to maximise the available recovery rate and ensure proactive recovery is being undertaken. This will be particularly important for overpayments created by Right Benefit Initiative (RBI) –

whilst processing RBI ensures a reduction in fraud and error within the system, there is a significant impact to the number of overpayments raised and the required recovery of these. Since July 2017, a total of 355 overpayments have been created for City of Lincoln and 423 for North Kesteven. This has resulted in an increase of overpayment levels of £140,122 and £97,348 respectively. It is important that both Councils continue with the RBI work – the information is provided directly from HMRC and allows for Housing Benefit claims to be updated automatically without the need to contact the customer and wait for them to provide the information. Although the overpayments created are significant, in undertaking this work, once changes have been made, the customers claim is accurate

- c) A review of large overpayments / older debt where weekly deductions are minimal – for example, North Kesteven have a case where the overpayment is £14,249 and is being recovered at £6.50 per week. Whilst this is effective recovery in that money is being recovered, it would take 2,192 weeks, or 42 years to recover in full. Officers will undertake a review of all overpayments with an outstanding value above £1,000. This will then be put into a table to show the value of the overpayment, weekly recovery rate and the balance by 2020 (undertaken for working and pension age). In doing this, the information will be used for future decision making with regards to potential write offs of ‘uncollectable’ overpayments.
- d) A separate action plan will be devised for overpayments at sundry debt stage.

9. Strategic Priorities

9.1 Both City of Lincoln and North Kesteven have a number of strategic priorities. Two that have an impact on the Revenues and Benefits Service are:-

- Lincoln: “Let’s Reduce Inequality”.
- North Kesteven: “Our Community and Our Economy”.

9.2 Both authorities look to protect the poorest people. The Benefits Service plays a key role in reducing poverty and disadvantage by ensuring residents receive the benefits they are entitled to and providing money / debt advice. The Revenues Section are also mindful of the strategic priorities when engaging with business ratepayers as they recover the business rate. Digital Inclusion, Channel Shift, Financial Inclusion and Partnership Working are all key priorities for the shared service.

10. Organisational Impacts

10.1 Finance: There would be a positive financial implication arising from this report in relation to the reduction in outstanding Housing Benefits overpayments.

10.2 Legal Implications including Procurement Rules: There are no direct Legal or Procurement implications arising from this report.

- 10.3 Land, Property and Accommodation: There are no direct implications arising from this report.
- 10.4 Human Resources: There are no direct implications arising from this report.
- 10.5 Equality, Diversity & Human Rights (including the outcome of the EA attached, if required) – There are no direct Equality, Diversity or Human Rights implications arising from this report.
- 10.6 Significant Community Impact: There is no change in policy / strategy or the way the service is being delivered.
- 10.7 Corporate Health and Safety implications: There are no corporate Health and Safety implications.

11. Risk Implications

- 11.1 A Risk Register is in place for the Revenues and Benefits Shared Service.

12. Recommendation

- 12.1 Members are asked to note this report and note that an update will be brought to Revenues and Benefits Joint Committee on 27 February 2018; and
- 12.2 Support plans to continue with the ‘Housing Benefit Overpayment Action Plan’ in relation to the areas outlined in this report, for 2018/19, including re-allocation of resources to undertake this work.

Is this a key decision? Yes/No

Do the exempt information categories apply? Yes/No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? Yes/No

How many appendices does the report contain? Two

Appendix 1: Outstanding HB overpayments by status
Appendix 2: Overpayment recovery guidance

List of Background Papers: None

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