

London Borough of Barnet

Housing Department

Housing Benefit Service

Housing Benefit Overpayments Policy

The London Borough of Barnet is committed to providing a high quality benefit service to all its customers through the Housing Benefit and Council Tax Benefit Schemes. Every effort will be made to minimise overpayments and where appropriate to pursue recovery. The level and method of recovery will be appropriate to the amount of the debt, the means of the debtor and the cost effectiveness of taking enforcement action. Methods of recovery will include deduction from Housing Benefit, deductions from other social security benefits, instalment arrangements with the debtor and registering the debt with the County Court. Where a landlord or agent owes the debt, recovery can be made against Housing Benefit owed to other tenants.

The registration of the debt with the County Court will enable enforcement action through the County Court. This can include instruction of the County Court Bailiff to seize goods; instruction of the Sheriff of the High Court to do the same; attachment of earnings (instructing employers to make deductions from wages); charging orders; and third party debt orders.

The Council will monitor, maintain and improve systems that seek to prevent overpayments caused by official error and minimise overpayments caused by the misrepresentation or failure to report changes of circumstances. It will also monitor the success rate for recovering all overpayments including those caused by fraud and will report this information to senior officers and members, as appropriate. (See also the Council's "Benefit Fraud Prosecution Policy").

Senior officers and members will regularly review this policy to take account of any legislative changes and the result of any analysis. The review will take into account the cost of recovery, the income from overpayments reclaimed and subsidies and incentives paid by central government. It will also take note of the deterrent effect of the policy.

The Policy

- Officers will treat overpayment debtors with due courtesy and respect and taking full account of the Council's Equalities Policy.
- The Council will not operate blanket recovery policies, with each case being considered on its merits.
- The Council will attempt to minimise overpayments by operating the Verification Framework that secures the gateway and ensures that assessments are correct in the first place; telling claimants and landlords to promptly notify the Housing Benefit Office of changes in their circumstances; quickly reassessing the claim which will reduce any ongoing overpayment; and by pursuing debtors which will have a deterrent effect.

- The decision as to whether a customer has been overpaid will be made by trained staff in accordance with all the relevant legislation. The amount adjudged to have been overpaid will be reduced by any underlying entitlement and/or any uncashed cheques. The officer will also assign the correct reason for the overpayment so that the appropriate subsidy and National Incentive can be claimed.
- When an overpayment decision is made the customer will be offered the right to request a reconsideration or explanation of the decision or appeal to an independent tribunal as laid out in the regulations. Once these rights have expired they can only be granted again where the law allows.
- The decision as to whether or not the overpayment is recoverable and from whom recovery should be sought will be made in accordance with the legislation and guidance from the D.W.P. together with best practice as suggested by the Benefit Fraud Inspectorate.
- Overpayment staff will be fully trained and provided with comprehensive procedure notes, documentation and guidance on recovering debt in line with the Council's debt management strategy. Their line managers, members and the Council's Law and Probity Service will actively support them in carrying out their duties.
- The following methods will be used to recover overpayments:
 - Deduction from the customer's Housing Benefit
 - Deductions from other Social Security Benefits, where the law allows
 - Repayment from the debtor by instalments if necessary.
 - Repayments from the person to whom the benefit was paid such as a landlord or agent
 - Deduction from benefit owed to the landlord or agent for a third party tenant
 - Registering the debt in the County Court followed where appropriate by enforcement action.
- Overpayments will be recovered from ongoing benefit at a rate prescribed by the regulations. Recovery at a higher rate can only be done at the debtor's request.
- Overpayments will not be recovered from a council tenant's rent account unless the account is in credit, the customer paid the correct level of rent at the time of the overpayment, the customer requests recovery in this manner or the overpayment is due to death or vacation of a property.
- Overpayments of Council Tax Benefit will be recovered from the Council Tax Account.
- Where there is a recovery from the rent account it will always be shown as an overpayment recovery so that housing officers can distinguish overpayment recovery from rent arrears.
- Arrears of Housing Benefit can be used to reduce an overpayment outstanding.
- Where the debtor is experiencing hardship consideration will be given to reducing the rate of recovery. A reduced rate of recovery should be allowed where the debtor is at

risk of being made homeless, where there are multiple debts to the authority or where through health problems, a debtor has additional expenditure.

- Where members wish to advocate on behalf of their constituents with a view to varying the rate of recovery or suggesting that a debt be written off they should only do so via the Head of Housing, the Head of Benefits or the Principal Officer in charge of overpayments. Any such advocacy must be in writing to enable transparency in accordance with the Council's probity policy.
- The Council recognises that with recovery of Housing Benefit overpayments they are dealing with potentially some of the poorest members of the community and while an overpayment might be recoverable under the law, there is always the separate decision as to whether or not recovery should be sought. This means that some debts will have to be written off because, for example, the debtor has no means to repay, it is not in the Council's interests to request repayment, the debtor has died, become bankrupt or absconded, recovery action is not cost effective or the debt is time barred.
- The overpayment debt will be managed in accordance with the Housing Benefit Overpayments Debt Management Strategy. The order of priority will be:
 - Fraud Overpayment
 - Recent Overpayments
 - Large overpayments
 - Older Overpayments.
- The effects of this policy will be monitored and reported to members. The policy will be revised when there are changes in legislation and to improve its effectiveness in preventing and recovering overpayments.