

Stroud District Council

Policy on Overpayments of Housing Benefit and Council Tax Benefit

General

This policy contributes to the implementation of Stroud District Council's corporate aims of working with others to make the district a better place to live and work, which incorporates the objective of helping those in particular need.

Unless otherwise specified, this policy refers to overpaid housing benefit as well as overpaid Council Tax benefit ("excess benefit"). Housing benefit includes rent rebates to council tenants and rent allowances to other tenants.

When making decisions about overpayments and excess benefit, we will have regard to the Housing Benefit (General) Regulations 1987, the Council Tax Benefit (General) Regulations 1992. Decisions about overpayments will be made fairly and judged on the individual circumstances of each case.

Purpose

Stroud District Council will aim to

- Pay Housing and Council Tax benefit accurately and promptly
- Continually review and improve our systems and working practices
- Encourage customers to report promptly changes in circumstances
- Identify and recover overpayments in accordance with legislation and our policies

Minimising overpayments

Stroud District Council recognises that our actions can influence the level of overpayments, but accepts that some overpayments will inevitably occur. To minimise overpayments we will:

- ensure that all staff dealing with benefit claimants are fully trained.
- ensure that the public are reminded about the need of reporting their full circumstances and any changes. Details regarding change of circumstances will also be included on the forms.
- where an overpayment is found, use the "notional underlying entitlement" provisions wherever possible to minimise the amount of debt. Uncashed or returned cheques will be credited against overpayments if appropriate.

Decisions on recoverability

In all cases where benefit is found to have been overpaid, we will decide whether the overpayment is recoverable, based on the criteria stated in the Housing Benefit (General) Regulations 1987, 99(2) and Council Tax Benefit (General) Regulations 1992, 84(2).

When making decisions on recoverability, officers will consider:

- the facts
- any supporting evidence
- the Regulations

An overpayment may be recovered from the Claimant or the person to whom it has been paid. Overpayments may be recovered from a landlord where Housing benefit has been paid direct. The authority must act reasonably in recovering the amount due. Council Tax Benefit overpayments will be debited to the relevant Council Tax account

Methods of recovery

In cases where the claimant still has some entitlement to housing benefit after the overpayment has been calculated, the preferred method of recovery will be by deductions from ongoing entitlement unless there are special reasons why this would be unsuitable or undesirable.

In all other cases we will consider what will be a fair and effective method of recovery from those listed below:

- recovery from arrears of benefit owed to the customer
- recovery from benefit payable when entitlement restarts at a later date
- recovery from payments made to a landlord in respect of other tenants
- invoicing the customer -
- deductions from social security benefit payments
- County Court proceedings
- any other legitimate method of recovery
- Debt Collection Agency

Debt management

We will monitor the level and age of debt on a monthly basis.

In cases where overpaid benefit has proved irrecoverable or uneconomic to recover, officers shall consider writing off any remaining debt, in accordance with the Write Off policy.

Each financial year we will set a target for the recovery of overpayments, working towards the top quartile Best Value Performance Indicator. Performance statistics will be produced and reported monthly.

We will report to Members on the level of recovery achieved each year.

The decision to write off a debt as irrecoverable or uneconomic shall not be made without full consideration of available methods of recovery.

A dedicated Overpayments Officer is attached to the Council Tax and Business Rates Recovery Team and all Recovery Team members will periodically be trained to deal with enquiries or make payment arrangements relating to benefits overpayments.

The Overpayments Officer will participate in fortnightly meetings with the benefit team to ensure that (s)he is aware of any legislation, practices or procedures that may affect the administration and recovery of benefit overpayments.

Appeal rights and exercise of discretion

Persons affected by decisions on recoverability have a statutory right of appeal against:

- the decision that an overpayment has occurred
- the decision that it is recoverable
- the decision to recover it from them (i.e. not from some other person)

Persons affected do not have a statutory right of appeal against decisions to recover an overpayment once it has been deemed as recoverable.

However, they may make representations and we will exercise reasonable discretion in deciding whether to recover in full, in part or not at all.

We will not issue invoices for less than £20.00 and will not take legal action to recover a debt under £50.00. Other than these two guidelines, every case will be judged on its own merits.

When considering write-off requests, we will have regard to the claimant's age, state of health, and any evidence of hardship

Fraud

Allegations of fraud will be investigated fairly and in accordance with the Council's fraud awareness and prevention policy. Where necessary action will be taken in accordance with the Council's prosecution policy.

Commitment

All of our customers will be treated in a fair and equitable manner having particular regard to the Human Rights Act, Race Relations Act and any other legislation or Policies, which may have an impact.