

Housing Benefit Overpayments

Introduction

Overpayments occur when we pay Housing Benefit you are not entitled to. This could be because you did not tell us of a change in your circumstances such as:

- Your income increased;
- Someone moved into your home;
- You left the home you were claiming for.

It is a fraudulent overpayment if, to get or keep benefit, you deliberately:

- Give us a false document or statement; or
- Fail to tell us about a change in your circumstances.

We have a duty to recover overpaid benefit. We may take criminal proceedings for fraudulent overpayments.

Why overpayments happen

We may have to work out the amount of your benefit again because of a change or because we've found we've made a mistake. If your benefit goes down and we've already paid you the higher amount there will be an overpayment. The reasons for overpayments could be:



- The time it takes between a change happening, you telling us and for us to deal with it. Even if you tell us straightaway and we deal with it quickly it is often impossible to avoid an overpayment.
- You may have given us wrong information.
- You may not have told us something we needed to know.
- You may have been slow to tell us about a change.
- We may have been slow to deal with something you told us.
- We may have made a mistake.

How to reduce your overpayment (Underlying Entitlement)

Underlying Entitlement can help to reduce the amount you need to pay back.

If you did not tell us of a change in your circumstances and an overpayment results, we can look back over the period the overpaid benefit occurred and look again at your entitlement.

If you want us to do this, you need to give us proof of your income and savings for the period the overpaid benefit occurred. We can then work out the amount you would have been entitled to if we had known your correct circumstances at the time.

For example, if you started work but didn't tell us we would cancel your benefit back to when you started work and an overpayment would result. If you then provide proof of your wages and we work out that you are still entitled to Housing Benefit, we will deduct the amount you are due from your overpayment. We will then tell you of the remaining overpayment balance that you need to pay back.

If we do not have enough proof of your income and savings, we will not be able to work out a claim for Underlying Entitlement and the overpayment will remain recoverable. You normally need to provide evidence of your income and savings within 1 month of the letter telling you about the overpayment.

We can only use Underlying Entitlement to reduce an overpayment. If you fail to tell us immediately about a change that would mean you are due extra benefit, we will only take this information into account from when you tell us. This is because the law says this is an "advantageous change" and you will not get the extra benefit you may be due if you fail to tell us at the time the change occurs



Can you ask me for the money back?

We must firstly decide if the overpayment is “recoverable”. Most overpayments are recoverable, regardless of the cause of the overpayment. The only exceptions to this are some official errors. We will treat an overpayment as recoverable if:



- It was your fault that we overpaid you.
- It was not our fault. This could be if you got a pay rise in June that was backdated to April. We would work out your benefit again from April using the higher wage. This would create a benefit overpayment.
- Even if it was our fault, but you could have realised we were overpaying you. For example, if your wages go up then you should expect your benefit to go down. If your benefit hasn't changed, you should realise something is wrong and let us know.

We will not treat an overpayment as recoverable if it's our fault and you could not have realised we were paying you too much benefit. We will always write to you if you tell us about a change in your circumstances. Our letter will let you know the effect on your benefit. You must contact us if you do not get our letter.

We may consider the overpaid benefit to be recoverable if:

- If you continue to receive benefit at the same rate as before the change in your circumstances **and**
- You cannot show you made reasonable attempts to contact us to find out the effect on your benefit

If we decide overpaid benefit is recoverable, we must then decide if we are going to recover it. We will look at every overpayment on an individual basis to decide if it is appropriate to recover it. The types of things we consider are the person's age, any disability, or hardship that we may cause.

Who will you recover the overpaid Housing Benefit from?

In deciding who to recover overpaid Housing Benefit from, we will usually seek payment from the person that we feel is most responsible. We can recover overpaid benefit from the following people:

- The person claiming the benefit (the claimant); **or**
- The claimant's partner if they were living with the claimant at the time the overpayment occurred; **or**
- The person who received the benefit (the claimant, their appointee, the landlord or the agent) ; **or**
- The person who misrepresented or failed to tell us something that caused the overpayment.



In general, if we decide the tenant caused the overpayment and the landlord couldn't have known about it, we would expect the tenant to repay. But we have a responsibility to recover this money and, if necessary, we will ask the person who is more likely to be able to repay us. We will never ask a landlord or agent to repay benefit when they tell us about a fraudulent act by the claimant and an overpayment results, unless the landlord or agent contributed or colluded with the claimant in a fraudulent act.

We will decide who to recover the overpaid benefit from and we will write to you with our decision. You have a right of appeal if we decide you should repay the money. If you're a landlord, you have a right of appeal if you did not receive the overpaid benefit, or if you think we have not properly considered whether to ask the tenant to pay us back.

If we ask your landlord to repay the money this could mean that you owe more rent.

How we tell you

We have to tell you about overpayments and action we take on them. First we will tell you the new, lower amount of benefit you're entitled to or we'll tell you when you stopped being entitled to benefit. We also tell you how much we have overpaid you altogether.

The overpayment rules are a difficult subject and the letters you receive will try to make our decisions as clear as possible, but if you don't think it's clear what we've decided, ask us for more details - you have a legal right to ask for reasons for our decision.

Our letters will explain your rights relating to each decision and tell you about any time limits for using these rights. The date of our decision is the date on our letter. If you don't agree with our decision you can ask us to look at our decision again or you can appeal against it.



How we recover overpaid Housing Benefit

Weekly deductions

If you still get Housing Benefit, we can take money out of each week's benefit to take back what we have overpaid you. There are legal limits to how much we can take each week. In 2016/17 we won't usually take more than £11.10 a week unless you have committed fraud. If you have committed fraud, then we will take £18.50 a week. Contact us if we're taking so much each week that it's causing you a serious problem.

It is important to remember that if we pay your Housing Benefit directly to your landlord, the amount your landlord gets while we are taking deductions will not be enough to cover your rent. You must keep track of the amount of rent due and make extra payments to your landlord so you don't fall into rent arrears.



As an alternative to weekly deductions from your Housing Benefit, if you would prefer to repay your overpayment as a one-off payment, phone us on 01643 703704 and ask for an invoice to be sent to you instead.

Using other money we owe you

If we owe you benefit to pay for some other period, we can keep the money and use it to repay what we have overpaid you.

Other ways we can get the money back

- We can ask the Department for Work and Pensions to take money out of your benefits.
- We can ask another council to take money out of any Housing Benefit they are paying you.

Bill/Invoice

We may send you a bill (we call it an invoice). Please make arrangements to pay it within 28 days. If you can't pay all at once, we can arrange instalments, and there are several ways you can pay. But if we don't hear from you or you don't make payments when they are due, we will take further action to get the money back from you. This could include:

- Direct Earnings Attachments (DEA). From April 2013, we can recover overpaid Housing Benefit by deductions from your earnings without having to apply for a court order. If we chose to recover the overpaid Housing Benefit through a DEA, you have a legal obligation to give us information we request about your employment. If you fail to do so you could be subject, on conviction, to a fine of up to £1,000.
- Registering the debt with the county court and asking them to force you to pay it back. This is the same as having a court order against you so it will affect your credit rating. This could make it difficult for you to get a loan or credit in the future.
- Using a collection agency who may call at your home.
- If you owe us a large amount of money we may also take steps to make you bankrupt.

Ways to pay the bill

If we've sent you a bill for an overpayment, there are several ways you can pay.

By instalments

If you can't pay it all in one go, you may be able to pay by instalments. Please phone us on 01643 703704 between 8.30am and 5pm from Monday to Thursday and on Friday from 8.30am to 4.30pm.

Online

You can use our secure online payment service. Go to our website: www.westsomersetonline.gov.uk and click on the "Make Payments to the Council" option. Select "Invoices (Housing Benefits)". You can pay with Visa, Mastercard, Visa Debit, Visa Electron and Maestro credit/debit cards. You will need to enter your invoice and reference numbers. These are shown on the invoice.

By phone

If your bank offers a bill paying facility and you wish to make a payment using the telephone/internet banking/automated credit transfer, the bank account details to quote for the transfer of funds are:

Sort code: 60-14-30

Bank account name: West Somerset Council - Sundry Debtor Account

Account Number: 95319379

Please include your 5 digit number shown on the invoice starting with 5.

By cheque

If you need to pay by cheque, make it payable to West Somerset Council and write the 5 digit number shown on the invoice starting with 5 on the back of the cheque. Please send the cheque to:

Revenues and Benefits Service, West Somerset House, Killick Way, Williton, TAUNTON, TA4 4QA

By BACS payment

This is our preferred method of payment, because of its security and quick clearance times. When setting up a payment by this method, you will need the following information:

Bank account name: West Somerset Council - Sundry Debtor Account

Bank sort code: 60-14-30

Account number: 95319379

Please include your 5 digit number shown on the invoice starting with 5.

This information is only intended to give general advice that we hope will be helpful.

People have different circumstances so for more individual advice please contact us

For more help and advice contact the Revenues and Benefits Service:

Telephone: 01643 703704 (lines open Monday -Thursday 8.30am - 5.00pm, Friday 8.30am - 4.30pm)

Email: benefits@westsomerset.gov.uk

Post: Revenues and Benefits Service, West Somerset House,
Killick Way, Williton, TAUNTON, TA4 4QA

In person: WILLITON : West Somerset House, Killick Way, Williton, TA4 4QA
Monday to Thursday 8.30am to 5.00pm, Friday 8.30am to 4.30pm
MINEHEAD: Customer Centre, 1-3 Summerland Avenue, MINEHEAD, TA24 5BP
Monday to Thursday 9.00am to 12.30pm and 1.30pm - 5.00pm
Friday 9.00am to 12.30pm and 1.30pm - 4.30pm

Download: Forms, factsheets and information from our website at www.westsomersetonline.gov.uk



Independent Advice

The **West Somerset Advice Bureau** can offer a wide range of advice on benefits and can help those who are dealing with financial difficulties.

Telephone: 01643 704624

Website: www.westsomersetadvice.org.uk

**If you need this document in another language or format,
such as large print, audio cassette or Braille, please call: 01643 703704
or e-mail: benefits@westsomerset.gov.uk**