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| NAME OF COMMITTEE | Overview and Scrutiny Committee |
| DATE | 27 January 2015 |
| REPORT TITLE | Housing Benefit Overpayment Process and Recovery |
| Report of | Customer Service Manager |
| WARDS AFFECTED | All |

Summary of report:

This report explains how Housing Benefit Overpayments arise and the processes the Council goes through to recover the debts before they are presented for write off. This report has been produced at the request of Resources Committee on 7th October 2014.

Financial implications:

£487,269.31 of overpayments were created between 1st April and 21st November 2014. During this period £383,524.48 were recovered and £47,345.34 were written off. The amounts recovered and written off do not necessarily apply to this financial year. To put this into perspective, the write off amount accounts for 0.4% of the £11.2 million of benefits awarded during that period.

RECOMMENDATIONS:

The Overview and Scrutiny Committee resolve to note the report.

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1. BACKGROUND**How an overpayment is created**

- 1.1 Overpayments of housing benefit occur as a result of a financial change in the customer's circumstances that the Council was not aware of. Housing benefit then continues to be paid using the incorrect information. Once the Council has the correct information, the claim is updated and this will generate an overpayment on our systems.
- 1.2 In all cases if officers believe that the customer would have been aware that the change would impact their benefit, the overpaid money can be recovered, so if their wages increase or they move house and don't notify us, this would be classed as customer (claimant) error and would therefore be recoverable.

- 1.3 If the overpayment was created as the result of an error by the Council, either a processing error or a delay due to a backlog, then the overpayment can still be recovered depending on the circumstances. If it is considered that it is not in the Council's interests or is unfair to the customer to pursue then it is passed immediately for write off.
- 1.4 Examples where the Council would recover the overpayment are:
- DWP benefits end and we do not get notification from DWP until after the change and the customer also fails to tell us.
- Customer moves house and doesn't tell us. This would create an overpayment because the benefit is assessed not only on the customers income but also on the property they live in.
- Change in wages and not notifying us.
- 1.5 Examples where the Council would not recover and therefore pass immediately for write off are:
- If the overpayment is created as a result of the LA's error and it was considered unfair or not in the interests of the Council to pursue
- If the overpayment is created as a result of an error by the DWP.
- If the debt is over 6 years old and has had no recovery action made on it during that time we would look to write off the debt. We would only do this once all other avenues have been exhausted – this is in line with the Council's policy and guidelines.
- 1.6 Customers have the right of appeal and all requests are considered and any information looked at that is subsequently provided. The whole claim would be reviewed again to double check the overpayment was correct and take into account any extenuating circumstances that may have contributed to the overpayment. For example:
- If they failed to tell us of an increase in income and their reason was because they didn't know they had to, we would look at their claim history and see how long they had been claiming benefit and if that seemed reasonable. If they had been claiming for a considerable length of time it would normally be assumed that they would have sufficient knowledge of the benefits system to know they needed to notify us.
- 1.7 A recent example of where the overpayment was customer error and the Council decided to write it off was a lady whose husband had died suddenly in May. She was awarded bereavement allowance (a DWP benefit) in July, backdated to May and failed to tell us because she had assumed that the DWP would. Her husband had always dealt with the family paperwork, she was new to the benefit

system and we considered that under those circumstances it was reasonable for us not to recover the overpayment but to write it off.

- 1.8 Each case is considered on its merits and officers try to recover wherever possible by making attachments to ongoing benefit, both DWP and housing benefit, by invoice and by recovering from other LA's if the customer has moved out of our area.

2. THE RECOVERY PROCESS

- 2.1 If an overpayment is deemed recoverable an invoice is raised and sent to the customer. The customer is given the option of paying by website, internet or telephone banking, debit or credit cards and the Council offer to make arrangements to pay weekly or monthly to clear the outstanding balance depending on the customer's circumstances.

- 2.2 If no response is received within 28 days, a reminder is sent.

- 2.3 After another 28 days a final notice is sent. These are raised automatically by our systems.

- 2.4 At the final notice stage a list is produced which is looked at manually. The officer will make checks on the account and select the best course of action. These include:

An attachment of benefit – This depends on whether the customer is a current claimant and whether or not they already have attachment in force. Officers request the deduction from the DWP and they decide how much to deduct.

An attachment of earnings – This can be effective for those claimants now in paid employment.

The customer is visited in their own home by a Visiting Officer to assess case and discuss a payment plan.

The debt is passed to Ross and Roberts, working as Collection Agents.

Ongoing entitlement -If claimant goes back on to Housing Benefit officers can collect the outstanding debt by a deduction from the live benefit claim

If the claimant has moved out of area and is still claiming benefits, officers can request that their Local Authority collect the debt on our behalf.

County Court Judgement. The Council would only consider this if the debt is over £500.00.

High Court Enforcement (debt must be over £600 & have a CCJ). The Council would only consider this if the debt is over £600.

- 2.5 If a customer moves address officers use tracing software to locate customers.

- 2.6 When all avenues are exhausted the Council would consider whether the debt should be written off. Other scenarios when the debt would be written off is when the claimant has gone bankrupt, applied for a debt relief order, has a very small balance which is not cost effective to pursue or where the claimant is considered to be vulnerable.
- 2.7 Even after a debt has been written off, if that customer's circumstances change or new information comes to light, officers are able to write the debt back on to the system and collect the outstanding debt.
- 2.8 On average the team spend 22.5 hours per week (for both authorities combined) attempting to collect the outstanding Housing Benefit Overpayments. Depending on other workloads within the team officers would then carry out a review of debts that need might need putting forward for write off. Therefore the quarterly amounts on the report do not necessarily suggest peaks and troughs in overpayments created but rather the amount of time that has been spent on recovery and review.

3. LEGAL IMPLICATIONS AND STATUTORY POWERS

- 3.1 The Council has powers to recover overpayments of benefits under The Housing Benefit Regulations 2006 and The Housing Benefit (Persons who have attained the age for state pension credit) Regulations 2006.

4. FINANCIAL IMPLICATIONS

- 4.1 £487,269.31 of overpayments were created between 1st April and 21st November 2014. During this period £383,524.48 were recovered and £47,345.34 were written off. The amounts recovered and written off do not necessarily apply to this financial year. To put this into perspective, the write off amount accounts for 0.4% of the £11.2 million of benefits awarded during that period.

5. RISK MANAGEMENT

- 5.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

6. OTHER CONSIDERATIONS

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| Corporate priorities engaged: | Community Life, Economy |
| Considerations of equality and human rights: | Customer's individual circumstances are always taken onto account to ensure that vulnerable people are protected |
| Biodiversity considerations: | There are no biodiversity considerations to this report |
| Sustainability considerations: | There are no sustainability considerations to this report |
| Crime and disorder implications: | There are no crime and disorder considerations to this report. |
| Background papers: | Welfare Reform Act 2012 |
| Appendices attached: | None |

STRATEGIC RISKS TEMPLATE

| No | Risk Title | Risk/Opportunity Description | Inherent risk status | | | | Mitigating & Management actions | Ownership |
|----|----------------|---|----------------------------|----------------------------|------------------------------------|---|---|--------------------------|
| | | | Impact of negative outcome | Chance of negative outcome | Risk score and direction of travel | | | |
| 1 | Loss of income | Uncollected Housing Benefit Overpayments represent lost income to the Council | 2 | 3 | 6 | ↑ | All attempts are made to recover any recoverable debt. However, the financial climate does mean that debts are becoming increasingly hard to recover. | Customer Service Manager |
| 2 | Reputation | Any risk to reputation is managed carefully by prompt recovery of amounts due wherever possible. | 3 | 2 | 6 | ↓ | This risk is also mitigated by taking a balanced view and ensuring that resources are not expended on debts which are not cost effective to pursue | Customer Service Manager |
| 3 | Write Off | The obvious risk of debtors subsequently being able to pay a debt which has been written off is mitigated by the activity outlined in issues for consideration. | 2 | 1 | 2 | ↔ | Any individual debt exceeding £5,000 is referred to members for consideration prior to write-off which accords with Financial regulations. | S151 Officer |

Direction of travel symbols ↓ ↑ ↔