

Housing Benefit and Council Tax Benefit overpayments guide

The Housing Benefit and Council Tax Benefit overpayments guide has been archived.

The new Housing Benefit overpayments guide is at:

<https://www.gov.uk/government/publications/housing-benefit-overpayments-guide>

What is an overpayment?

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What is an overpayment?

Housing Benefit

1.00 An overpayment of Housing Benefit (HB) is any amount which has been paid but to which there was no entitlement. This includes any amount of

- rent rebate or rent allowance paid in excess of entitlement
- rent rebate credited to a rent account in advance of entitlement

HB Reg 99 & (SPC) 80

- rent allowance paid on account, which is in excess of entitlement

HB Reg 93 & (SPC) 74

1.01 An overpayment occurs when there is no or reduced entitlement on either the initial decision or a revision/supersession. You must identify each decision made during the overpayment period and revise or supersede those decisions in order to create an overpayment decision.

Example of HB overpayment

A claimant receives full HB from 2 August 2010.

On 5 October 2010 his adult daughter, who is in full time employment, comes to live with him.

The claimant fails to inform the Local Authority (LA) of this change of circumstances until 3 November 2010.

The LA decide a non-dependant deduction should have been made for the daughter from the benefit week commencing 11 October 2010, the date on which the change of circumstances should have taken effect.

The claimant received full benefit entitlement up to and including week ending 7 November 2010.

An overpayment of HB occurred for four weeks for the period 11 October 2010 to 7 November 2010.

Council Tax Benefit

1.02 An overpayment of Council Tax Benefit (CTB), known as 'excess' CTB, is benefit paid or allowed for a claimant, and to which they have no entitlement under the regulations. Benefit payments include a direct payment to a claimant or more usually a reduction in the amount of Council Tax (CT) they are liable to pay

CTB Reg 82 & (SPC) 67

1.03-1.29

Example of excess CTB

A claimant receives full CTB from 5 July 2010.

On 25 August 2010 she starts full time employment, which means that she no longer qualifies for CTB.

The claimant fails to inform the LA of this change of circumstances until 16 September 2010.

The LA decides CTB should have terminated from the 29 August 2010.

The claimant received full benefit entitlement up to 19 September 2010.

Excess CTB has occurred for 3 weeks for the period 30 August 2010 to 19 September 2010 and there will be a technical overpayment for the remainder of the financial year.

1.03-1.19

What to do when an overpayment is identified

1.20 LAs have primary responsibility for all the action on HB/CTB overpayments. You must
SSAA Sections 75 & 76

- establish that there has been an overpayment
- establish the cause of the overpayment
- identify the period and calculate the amount of the overpayment, see *Calculation of overpayments* later in this guide
- classify and record overpayments so the correct rate of recovery can be made, see *Classification and recoverability* later in this guide
- decide whether or not the overpayment is recoverable, see *Classification and recoverability* later in this guide
- decide from whom the recovery should be sought, see *Recovery of overpayments* later in this guide
- consider whether or not recovery should be sought, see *Recovery of overpayments* later in this guide
- notify any 'person affected', see *Decision notices* later in this guide

1.21-1.29

Causes of overpayments

- 1.30 Overpayments can occur as a result of
- claimant error or fraud when making a claim for HB/CTB
 - a delay in reporting a change of circumstances, which means the claimant is
 - no longer entitled to HB/CTB, or
 - entitled to less HB/CTB than originally awarded
 - a Departmental official error, eg a mistake made by Department for Work and Pensions (DWP) staff when processing an award of Income Support (IS)
 - an LA official error, ie a mistake made by LA staff such as an input error
 - an administrative delay, eg a delay by the LA in processing a change of circumstances
 - payment irregularity, eg fraudulent encashment of a cheque
 - a delay in awarding a reduction of CT under sections 13 or 80 of LGFA 1992 and benefit is awarded on liability to pay the higher amount
 - a delay in awarding a CT discount under sections 11 or 79 of LGFA 1992 and benefit is awarded on the liability to pay the higher amount
- 1.31 It is important that the cause of an overpayment is established as soon as possible, as this information must be
- taken into account when
 - classifying overpayments
 - deciding if the overpayment is recoverable
 - deciding who to recover from
 - included in the overpayment decision notice

Note: Issue a decision notice within 14 days of making the overpayment decision, see *Decision Notices* later in this guide.

Change of circumstances

- 1.32 Overpayments may occur when LAs are not notified about a change of circumstances. Claimants, their appointees/agents, or landlords to whom a direct payment is being made, must report to LAs, all changes of circumstance they could reasonably be expected to know may affect entitlement to HB/CTB.

*HB Reg 88 & (SPC) 69; CTB Reg 74 & (SPC) 59
Reg 3 (D&A Regs)*

1.33-1.34

1.33 A person who has a duty to notify the LA about a change of circumstances must be informed by the LA about the

- kind of changes likely to affect HB/CTB entitlement, and
- the need to report the changes when they occur

*HB Sch 9, Part 2, 3 & 4 & (SPC) Sch 8;
CTB Sch 8, Part 2, 3 & 6 & (SPC) Sch 7*

Note: Claimants or those acting on their behalf are usually notified about these obligations in the declaration part of the HB/CTB application form. You must however, include such information in entitlement decision notices, ensuring landlords are informed of their responsibilities before setting up direct payments.

Examples – change of circumstance

- a change of address
- changes in the amount of rent charged by a private landlord
- changes in the family income, eg earnings
- changes in the number and status of dependants, eg leaving school or the birth of a baby
- changes in
 - the number of non-dependants
 - non-dependant's income
- Employment and Support Allowance (income-related) (ESA(IR)), IS, Jobseeker's Allowance (income-based) (JSA(IB)) or Pension Credit guarantee credit ends

HB Reg 88 & (SPC) 69; CTB Reg 74 & (SPC) 59

1.34 Claimants do not have to report changes in

- rent payable to a housing authority
- the age of
 - the claimant
 - any member of the claimant's family, or
 - any non-dependants
- the HB/CTB regulations
- circumstances, which affect the amount of ESA(IR), IS, JSA(IB) or Pension Credit payable, but not HB/CTB. However claimants must report the end of entitlement to ESA(IR), IS/JSA(IB) to LAs.

- 1.35 Claimants must, however, report to LAs when
- a member of their family ceases to be a child or young person, or
 - a young person leaves full time education, or
 - Child Tax Credit (CTC) or Child Benefit (CHB) ceases
- 1.36 The DWP will pass on to LAs, details of any change of circumstances for claimants in receipt of ESA(IR)/IS/JSA(IB)/Pension Credit/Tax Credits that
- have been reported to them, and
 - should have been reported to the LA
- 1.37 Legal responsibility for reporting changes of circumstances remains with claimants. There are however exceptions to this. See *Classification and Recoverability* later in this guide.
- 1.38 It is important to stress to all claimants and people who are required to notify a change of circumstances the importance of reporting any changes of circumstances, and advise them how, when and to whom they should report the change and what may/will happen if they fail to do this.
- 1.39 You should also send any details you become aware of that may affect the claimant's entitlement to ESA(IR)/IS/JSA(IB)/Pension Credit promptly to the DWP.

Note: For details of good practice and example forms on 'Changes of circumstance', see *Good practices* later in this guide.

1.40 - 1.99