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Housing Benefit (HB)

1.00 An overpayment of 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, 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 to create an overpayment decision.

Example

A claimant receives full HB from 5 August 2019.

On 8 October 2019 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 6 November 2019.

The LA decide a non-dependant deduction should have been made for the daughter from benefit week starting 14 October 2019, the date the change of circumstances should have taken effect.

The claimant received full benefit entitlement up to and including week ending 10 November 2019.

An overpayment occurred for four weeks for the period 14 October 2019 to 10 November 2019.

Council Tax Reduction

1.02 Council Tax Benefit (CTB) was abolished and replaced by Council Tax Reduction (CTR) on 1 April 2013. CTR is **not** a benefit. For information on CTR see Main Primary Legislation – Local Government Finance Act 1992, Main Secondary Legislation – Council Tax Reduction Scheme.

The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regs 2012

The Council Tax Reduction Scheme and Prescribed Requirements (Wales) Regs 2012

The Council Tax Reduction (Scotland) Regulations 2012

Note: CTR overpayments cannot be passed to Department for Work and Pensions (DWP) for recovery. If there are any CTB overpayments still to be recovered and you have no means of recovery, but the claimant is in receipt of a DWP benefit, you can send these to DWP for recovery.

1.03-1.09 Spare

What to do when an overpayment is identified

1.10 LAs have primary responsibility for all the action on HB overpayments. You must

Social Security Administration Act (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 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 recovery should be sought or not - see Recovery of Overpayments later in this guide
- notify any 'person affected' - see Decision Notices later in this guide

1.11-1.19 Spare

Causes of overpayments

1.20 Overpayments can occur as a result of:

- claimant error or fraud when making a claim for HB
- landlord/agent error or fraud
- a delay in reporting a change of circumstances, which means the claimant;
 - is no longer entitled to HB, or
 - entitled to less HB than originally awarded
- a Departmental official error, e.g. a mistake made by DWP staff when processing an award of Income Support (IS), Employment and Support Allowance (Income Related) ((ESA)(IR)), Jobseekers Allowance (Income Based) (JSA(IB)); or Pension Credit (PC) Guarantee Credit ends
- an LA official error, i.e. a mistake made by LA staff such as an input error
- an administrative delay, e.g. a delay by the LA in processing a change of circumstances
- payment irregularity, e.g. fraudulent encashment of a cheque

1.21 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.

1.22-1.29 Spare

Changes of Circumstance

1.30 Overpayments may occur when LAs are not notified about a change of circumstance. 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, which may affect entitlement to HB.

HB Reg 88 & (SPC) 69

Reg 3 (D&A Regs)

1.31 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 entitlement, and
- the need to report the changes when they occur

HB Sch 9, Part 2, 3 & 4 & (SPC) Sch 8;

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

Example – changes of circumstance

- a change of address
- changes in the amount of rent charged by a private landlord
- changes in the family income, e.g. earnings
- changes in the number and status of dependants, e.g. leaving school or the birth of a baby
- changes in
 - the number of non-dependants
 - non-dependants' income
- Universal Credit, ESA(IR), IS, JSA(IB) or PC Guarantee Credit, ends
- changes in people moving into and out of the property

HB Reg 88 & (SPC) 69

1.32 Claimants do not have to report changes in

- rent payable to a local authority
- the age of the claimant
- the HB regulations

- circumstances which affect the amount of ESA(IR), IS, JSA(IB) or PC payable, but not HB. However, claimants must report the end of entitlement to Universal Credit, ESA(IR), IS/JSA(IB) to LAs.
- 1.33 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
- 1.34 DWP will pass to LAs, details of any change of circumstances for claimants in receipt of Universal Credit, ESA(IR), IS, JSA(IB), PC or Tax Credits that have been reported to them, and should have been reported to the LA.
- 1.35 Legal responsibility for reporting changes of circumstance remains with claimants. There are however exceptions to this - see 'Classification and Recoverability' later in this guide.
- 1.36 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 circumstance, and advise them how, when and to whom they should report the change and what may/will happen if they fail to do this.
- 1.37 LAs should also send any details they become aware of that may affect the claimant's entitlement to: Universal Credit, ESA(IR), IS, JSA(IB) or PC, promptly to the DWP.
- 1.38 – 1.999 Spare