



## AUDIT COMMITTEE REPORT

<b>Report Title</b>	<b>BENEFIT OVERPAYMENTS DEBT REPORT</b>
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**AGENDA STATUS: PUBLIC**

<b>Audit Committee Meeting Date:</b>	2 <sup>nd</sup> December 2008
<b>Policy Document:</b>	No
<b>Directorate:</b>	Finance & Support
<b>Accountable Cabinet Member:</b>	Councillor Malcolm Mildren

### 1. Purpose

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- 1.1 The Audit committee at its meeting of 24 June 2008 asked for a report providing for an overview of debt levels, types of debt and outlining progress in debt collection in this area.
- 1.2 This report sets out the current position with respect to the overpayments raised, the rates of collection achieved and an analysis between overpayments caused.

### 2. Recommendations

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- 2.1 That the contents of the report be noted and that Officers use all the legal recovery options available for recovery of Housing Benefit overpayments.

### 3. Issues and Choices

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#### 3.1 Report Background

- 3.1.1 This report explains benefit overpayments and sets out the position with regard to outstanding debt as of 31 July.

Latest figures will be supplied as an appendix to Members at the time of the meeting.

- 3.1.2 Overpayments are generally caused because claimants fail to notify the Council of changes to their circumstances. As a Social Security Benefit administered by the Council we have extensive, but tightly controlled powers to recover overpaid Housing and Council Tax Benefit.

Housing and Council Tax Benefits are, by their nature, also paid to the poorest and most vulnerable in the Community. This has a limiting effect on the ability of the Council to recover all overpaid benefits.

### 3.1.3 Overpayment Subsidy

In recognition of the difficulties recovering overpaid benefits the DWP pay Local Authorities a reduced level of subsidy to provide both an incentive to recover overpayments where lawful to do so and in part to offset the loss to the Council Tax payer caused by the inherent difficulty there is in recovering these overpayments.

Councils keep all of overpayment subsidy payable, even if they recover the full overpayment from the debtor. In order to ensure no loss to the Council Tax payer, overpayment recovery should be around 60% of the debt raised.

Ordinarily, Housing Benefit subsidy is payable at 100% of expenditure.

The text below details subsidy payable in respect of overpaid benefit.

### 3.1.4 **DWP Error** **100%**

Overpayments caused because the DWP or HMRC provided incorrect information about the circumstances of a claimant. These debts are generally not recoverable, which is why they are fully subsidised by the DWP.

### 3.1.5 **LA Error** **either 0%, 40% or 100%**

These errors are caused because the Council delayed taking action on a change or made a mistake when processing a claim.

This type of overpayment has incentives to keep the level of errors caused by the Local Authority down and also to reflect that an element of LA Error is inevitable.

If LA Error falls below 0.48% of benefit expenditure 100% subsidy is payable.  
If LA Error is below 0.54% of benefit expenditure 40% subsidy is payable.  
If LA Error increases to any amount above 0.54% of expenditure no subsidy is payable.

The Benefits Service closely monitors this area of expenditure and as a result our expenditure in this area meets the conditions for 100% subsidy.

### 3.1.6 **Other / Claimant Error / Fraud** **40%**

This is the most common type of overpayment caused by Landlords or claimants failure to notify changes of circumstances.

### 3.1.7 Performance

#### Debts Raised

In 2005 / 06 as a consequence of the Bedford Partnership, the Benefit Service implemented a new Revenues and Benefits system. Debts were left on the old system, IRAS.

Old debts become increasingly difficult to recover. Private Tenant benefit claimants are highly transient and move across Local Authority boundaries. Due to the short term nature of many of their tenancies they are also unlikely to go on the electoral register. This makes the process of locating them expensive as often Tracing Agents need to be employed. Once located, it is often common for the debtor to have no assets to enforce the debt against.

As a direct result of the partnership with Northgate Kendric Ash, the level of LA Error has reduced considerably. As a result of clearing the backlog of claims that became associated with the Housing Benefit Service, claimants notify changes much earlier and these changes are processed much quicker. This helps to ensure prompt recovery action.

Table 1 details the cost of LA Error to the local taxpayer and highlights the significant improvements that have been made in recent years.

	Non HRA	HRA	Private Tenants	CTB	Total	Cost to the LA
2004/05*	5,212	271,992	245,724	250,422	773,350	£773,350
2005/06*	72,459	229,961	277,051	130,557	710,028	£710,028
2006/07	13,450	58,586	113,048	63,715	248,799	£99,519
2007/08	6,977	66,406	112,801	45,674	231,858	0.00

\*Audited Figures

The improvements made to the Benefit Service have led to a large reduction in the level of LA Error overpayments.

Table 2 shows the comparative figures for Claimant Error raised in 2007/08, caused by the claimant or their landlord failing to promptly notify us of a change in circumstances, whether fraudulently or otherwise.

<b>Claimant Error Overpayments</b>	
Council Homeless (Non HRA)	£29,763
Council Tenant (HRA)	£572,245
Private Tenant (PT - General Fund)	£573,508
Council Tax Benefit	£347,256
Total	£949,264
% of expenditure	1.7%

### 3.1.8 Debts Recovered.

The Benefit Fraud Inspectorate was generally complimentary about the benefit service in their November 2006 report. They did however identify a number of

issues with regard to debt management. Officers have been pro-active in resolving those issues.

### 3.1.9 BFI Recommendations November 2006

- Recovery had remained inactive and as a result the overall level of debt was increasing and rigorous recovery methods were not being pursued.
- Set and monitor targets to reduce the level and age of debt, and reports performance to Members and senior officers
- Target old and large debt or to examine the effectiveness of its recovery processes.
- Setting targets that aim to reduce the level and age of debt, as well as monitoring and managing its recovery.
- Regular reporting to, and monitoring by, Members and senior managers will focus the council's efforts to recover public funds
- The implementation of overpayment policies and procedures had helped in the prompt identification of overpayments but the council was not yet providing an effective or efficient recovery process.
- Urgently consider the amount of inactive debt and review working practices to ensure that all available recovery methods are being utilised.

3.1.10 In response, the Benefit Service has employed a permanent Benefit Overpayments Officer to monitor and control overpaid benefit.

In addition the new staffing structure agreed by Members transfers the whole responsibility of overpayment recovery to Finance and more specifically the Revenues and Benefits Service.

Overpayments are managed to ensure that where claimants become entitled to benefit again, the system automatically starts clawback of the overpayment where a balance is still outstanding.

Our Performance in 2007/08 still suffered as a result of the legacy of old debts remaining on the IRAS system and poor management of the Northgate system on implementation.

### 3.1.11 2007/08 Performance

Starting Balance	£2,334,735
(of which Northgate debt)	£1,880,898
(of which IRAS debt)	£453,838
Total Overpayments Raised	£1,692,806
Total recovered on Northgate	£1,118,796
Total recovered through IRAS	£73,318
Amounts written off	£140,339
(of which IRAS)	£43,982
(of which Northgate)	£96,357

### 3.1.12 2008/09 Performance (to Quarter ending June 2008))

Starting Balance	£2,374,699
(of which Northgate debt)	£2,056,739
(of which IRAS debt)	£317,960
Total Overpayments Raised	£823,569
Total recovered on Northgate	£544,727
Total recovered through IRAS	£21,995
Amounts written off	£61,548
(of which IRAS)	£0
(of which Northgate)	£61,548
% Recovered	68.8%

As can be seen significant progress is being made in collecting this debt and the Borough is achieving over 60% that ensures that the local taxpayer is not meeting the cost of this recovery. There continues to be an increase in the overall arrears, which will happen if recovery rates do not exceed 100%.

It should be noted that within these figures are a significant number of cases where clawback is in operation. These cases recover at a low weekly rate (up to a statutory maximum of £9.15 per week). This therefore means recovery can and does take a prolonged period of time, and reduces the amounts that appear to be collected within the financial year.

The Benefit Service and the Council Income Team is however achieving a recovery rate of 68% of overpaid benefit raised during the year.

## 3.2 Issues

- 3.2.1 A substantial amount of the debt recorded on the old IRAS benefit system is now quite old and as a result it is unlikely that it will be recovered. Overpayments that are or are near time bars for collection will need to be written off. The Council has already provided for this factor in its bad debts provision and arrangements are being made to deal with this, whilst ensuring that the loss to the Council taxpayer is minimised.
- 3.2.2 The Revenues and Benefits Service have proven themselves to be effective at debt recovery and the experience gained by effectively managing Council Tax collection will be employed to better manage overpaid benefits.
- 3.2.3 It is of critical importance to pursue debts while they are still relatively new and in those circumstances we may be able to recover the debt even if this is by way of clawback.
- 3.2.4 The Council must clearly identify non payers and adapt the processes of recovery to effectively manage those who can repay the debts to the Council but choose not to and those who are actually unable to repay.

3.2.5 Officers are keen to utilise all the legal recovery options available for recovery of Housing Benefit overpayments, including the use of accelerated County Court judgments and the enforcement of joint and several liability.

### **3.3 Choices (Options)**

3.3.1 The Council can pursue further methods of debt recovery. An indication is required from Audit Committee of the extent of recovery action that is acceptable to the Council.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

4.1.1 Not applicable.

### **4.2 Resources and Risk**

4.2.1 Non recovery of debt has an adverse impact on the Council's revenue position.

### **4.3 Legal**

4.3.1 The Housing Benefit scheme is operated in accordance with statutory provisions contained in the Social Security Contributions and Benefits Act 1992 and Statutory Instruments that make up the Housing Benefit (General) Regulations 2006 (as amended).

### **4.4 Equality**

4.4.1 Benefit Overpayment debt is owed by some of the more vulnerable residents, however, more robust recovery methods can only be pursued once an individual is no longer on benefits, normally because they are in employment.

### **4.5 Consultees (Internal and External)**

4.5.1 None

### **4.6 Other Implications**

4.6.1 None

## **5. Background Papers**

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5.1 None

### **Report Author:**

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