

**Report of Chief Officer Welfare & Benefits Service**

**Report to Corporate Governance & Audit Committee**

**Date: 16<sup>th</sup> September 2016**

**Subject: Sundry Debtors – Housing Benefit Overpayments**

Are specific electoral wards affected? If relevant, name(s) of ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. Overpayments are an unavoidable feature of any means-tested benefit scheme. The Welfare & Benefits Service makes every attempt to provide a secure and accurate service but where overpayments occur a variety of recovery methods are used to recover the debt. Between 80% and 83% of debt is recovered over the life time of the debt and this means that the Council not only suffers no financial loss from the DWP's subsidy regime but is also able to contribute to help alleviate budget pressures.
2. As at March 2016 the Council had £25.2M in outstanding housing benefit invoices.
3. 62% of outstanding debt is on some form of weekly arrangement to settle the outstanding account, in excess of £10M currently being accounted for by deduction from ongoing housing benefit or DWP related entitlement.
4. The introduction of Universal Credit will in time see the number of housing benefit recipients reduce. The opportunity to recover housing benefit debts from ongoing housing benefit and from DWP related benefits will therefore reduce which will impact on the level of income to the Council.

**Recommendations**

5. Corporate Governance & Audit Committee is requested to note the information in the report and recognise the assurance provided through regular audit, both internal and external, of the Benefits Service.

## **1 Purpose of this report**

- 1.1 The report provides information on how and why Housing Benefit overpayments occur and also provides information on the financial implications for the Council arising from Housing Benefit overpayments.

## **2 Background information**

- 2.1 Housing benefit is a statutory scheme delivered by local Councils on behalf of the Department for Work and Pensions. The key elements of the scheme are:

- It is a means-tested scheme that takes into account household income, family size, disability, property type and size, rent liability and the presence of non-dependents i.e. adults other than the householder and partner who are part of the household (normally grown up children)
- There are complex subsidy rules that determine how much of the Housing Benefit spend by the Council is recouped from Government. Generally, around 97% of spend is recouped through Government subsidy – however, the 3% cost equates to around £10m. Rules which see Housing Benefit overpayments attract reduced subsidy account for most of the £10m (see Main Issues section for more information on this). The annual subsidy claim is subject to an extensive external audit which states whether HB payments have been properly made and whether the subsidy claim is accurate. Where there are doubts about the subsidy claim, the claim is ‘qualified’ and DWP will seek to reduce subsidy payments to the Council. There have been no financial qualifications of the subsidy claim in Leeds for over 15 years.
- As part of the annual external audit, auditors look at whether the Council has taken appropriate steps to a) ensure that new claims are properly verified before being put into payment and b) that appropriate steps are taken to identify changes in circumstances during the life of a claim. For information, Audit & Investment carry out a significant annual programme of audits within the Benefits Service. The following areas have been audited in 2015/16 in relation to Housing Benefit with each area deemed to provide substantial assurance against the control environment.
  - Assessments & Payments (which includes an overpayment audit)
  - Housing Benefit Reconciliations
  - Year End Reconciliation of Housing Benefit (and Council Tax Benefit)
- In addition to the above, the 2015/16 Counter Fraud audit gave “Good Assurance” in relation to the operational aspects of the system in respect of updating Housing Benefits (and Council Tax Support) information following information from the DWP and from LCC work being undertaken.

- 2.2 The value of Housing Benefit spend has grown each year. This is set out in the table below along with comparative information for Housing Benefit

overpayments. The comparative data shows the overall value of overpayments and also shows this as a percentage of total Housing Benefit spend.

	2010/11 - £m	2011/12 - £m	2012/13 - £m	2013/14 - £m	2014/15 - £m	2015/16 - £m
HB spend	247.1	263.8	279.1	286.9	292.2	287.8
Ops	5.94	6.78	6.67	7.90	12.2	15.8
OPs (% of spend)	2.4%	2.57%	2.39%	2.76%	4.19%	5.49%

### 3 Main issues

3.1 Overpayments are an inevitable factor of any benefit that is based on changeable personal circumstances. They occur because a) there are changes in people's circumstances, b) an official error has been made or c) there has been an attempt to commit fraud. For Housing Benefit purposes customers are required to report any change in their circumstances that relates to:

- Their weekly income (including benefit income)
- Their status as married, living with a partner or single
- Their family size
- The number and income of non-dependents
- Where they are living
- Their weekly rent
- Their disability status

Overpayments caused by customer delays in reporting a change in circumstance are known as Claimant Error overpayments.

3.2 Official error overpayments occur when there has been a delay in dealing with a change of circumstance or where there has been a mistake made in calculating benefit entitlement. Generally, local councils have the lowest levels of official error overpayments in comparison to benefits administered by the Department for Work and Pensions. The latest Fraud and Error stats provided by DWP show that for continuously reviewed benefits, the level of official error was:

- Housing Benefit 0.4% of overall spend
- ESA 0.6%
- Pension Credit 1.7%
- Universal Credit 1.7%
- Jobseekers Allowance 1.8%

3.3 Where Housing Benefit has been properly paid, DWP will normally provide 100% subsidy to the local council. However, where Housing Benefit has been overpaid, DWP provides different rates of subsidy:

- Subsidy for overpayments caused by claimant error is 40%. This means that if there has been an overpayment of £100, then the council will only get £40 from Government;

- Subsidy for official error overpayments is more complex. Where councils keep official error levels below 0.4% of properly paid Housing Benefit, then they will get 100% subsidy from the Government. This is because DWP accepts that a degree of official error is inevitable. If the value of official error overpayments exceeds 0.4% of spend, 40% subsidy is paid; if the value exceeds 0.59% then 0% subsidy is paid. Leeds has always secured 100% subsidy on official error overpayments.

3.4 The reduced level of subsidy provided by DWP for overpayments is intended to encourage local councils to seek to recover overpayments.

3.5 Overpayments occur because changes happen once a claim has been put into payment. A number of initiatives exist in order to help identify changes. These are:

- All communications to customers remind them of the need to report changes and set out the changes that need to be reported;
- A programme of reviews is undertaken each year with high risk cases which requires customers to re-state their circumstances and, where appropriate, provide proof
- DWP has developed an automated notification process to local councils that reports changes to benefits income for those claiming Housing Benefit. This is known as ATLAS (**A**utomated **T**ransfer of data to **L**ocal **A**uthoritie**S**). Councils receive notifications through ATLAS every day;
- Housing Benefit Matching Service (HMBS) is a monthly data-matching initiative run by DWP which provides details of cases where there appears to be a discrepancy in the income declared and the actual income from other records
- DWP initiatives such as the Right Time Initiative (RTI) which provides details of earnings for Housing Benefit customers and helps identify cases where the council may have been unaware that a customer is working, cases where earnings have been understated and cases where earnings have changed. The RTI initiative is a relatively new initiative and has led to a significant growth in overpayment in the last 2/3 years.

3.6 Where housing benefit is paid in excess of entitlement the Council is obliged by law to recalculate benefit entitlement. The council also has to consider whether an overpayment is legally recoverable – all overpayments are recoverable unless they have been caused by official error **and** the customer could not reasonably have been expected to know they were being overpaid

3.7 Housing Benefit is a difficult debt to recover. This is because many of the people who have been overpaid have low incomes and many may still be on benefits. The options for recovering Housing Benefit are:

- By weekly deductions from ongoing Housing Benefit entitlement;

- By weekly deduction from ongoing entitlement from other DWP benefits where recovery from HB is not an option. This option requires DWP approval and there may be other request to recover debt from a claimants DWP benefit;
- By issuing an invoice for recovery
- Where payment has been made to a landlord, recovery can be sought from the landlord and in some instances it is possible to recover an overpayment for one tenant that has been paid to the landlord by deducting from the payment to the same landlord for another tenant.

### **Housing Benefit Debt**

- 3.8 The total value of Housing Benefit overpayments has risen significantly over the last 3 years due, largely, to DWP initiatives that have provided greater access to HMRC data about earnings.

15/16: £15.3M in housing benefit related overpayments was raised

14/15: £11.9m in housing benefit related overpayments was raised

13/14: £7.8m in housing benefit related overpayments was raised.

- 3.9 Recovery of overpayments is challenging. Unlike Council Tax, where the majority of the debt is raised at the start of the year, Housing Benefit debt occurs throughout the year. However, overall collection rates over the lifetime of the debt are at 83.21% for private tenants and 80.63% for council tenants.

In 15/16, £8.5M was recovered in respect of housing benefit overpayments. Of this, £4.3M related to the £15.3M in overpayments raised in 2015/16.

In 2014/15, £6.2M was recovered in respect of housing benefit overpayments. Of this, £3.3m related to the £11.9M in overpayments raised in 2014/15.

In 2013/14 £5M was recovered in respect of housing benefit overpayments. Of this, £2.6M related to £7.8M overpayments raised in that year.

- 3.10 The value of housing benefit raised since 2004 is approximately £85M, with £35M of this being raised in the past 3 years. A significant proportion of this debt is being recovered by deductions from ongoing Housing benefit entitlement or from DWP benefits and this can take some time. This is because, where deductions are made from ongoing recovery from housing benefit entitlement, or from DWP benefits, recovery is usually at amounts of £3.00, £5.00 or £11.10 depending on circumstances.

- 3.11 The exception relates overpayments caused by fraud where the prescribed weekly deduction is £18.25. Overpayments are deemed to be fraud overpayments where it is shown that the customer deliberately set out to claim more Housing Benefit than they would otherwise have been entitled to or deliberately failed to report a change of circumstance in order to secure higher levels of benefit. Since December 2014, all instances of fraud or potential fraud

are investigated by the Single Fraud Investigation Service (SFIS) which is part of DWP. The Government removed a local authority's powers to investigate benefit fraud and local authority Benefit Fraud investigators were transferred to DWP to help form the Single Fraud Investigation Service.

- 3.12 Should the invoice not be paid, then further action is usually undertaken by the Council to recover the outstanding debt. The decision to undertake further action depends on the value and nature of the overpayment and the circumstances of the debtor.

### **Bad Debt Provision**

- 3.13 Based on activity to date, the current collection rates over the lifetime of the debt are 83.21% for private tenants and 80.63% for council tenants, which is up from 75% and 73% respectively in 2003/04. Part of this increase is due to the expanded use of recovering the overpayment from a customer's ongoing benefit entitlement.
- 3.14 A bad debt provision is made each year to mitigate against the possibility of not being able to recover all of the outstanding debt. The methodology on how to calculate this provision was agreed with the auditors KMPG some years ago and takes account of the most up to date information on collection rates. This means that the provision required is adjusted every year to ensure that any increases or decreases in recovery is reflected.
- 3.15 This current bad debt provision has been increased as it begins to take account of the implications arising from the implementation of Universal Credit. This is because the wider roll out of Universal Credit is expected to have a detrimental impact on the Council's ability to recover outstanding housing benefit debt. This is covered in more detail below

### **Universal Credit**

- 3.16 Universal Credit is one of the main elements of the Governments Welfare Reform programme that will replace a range of existing benefits for those of working age. Once Universal Credit is rolled out in full approximately 55k housing benefit claimants in Leeds will be claiming Universal Credit.
- 3.17 Universal Credit went live in Leeds in February 2016. Roll out is currently limited to new single job seeking claimants and therefore numbers have been limited. To date just over 3000 have claimed Universal Credit, of which approximately 700 are claiming help with housing costs from Universal Credit rather than claiming housing benefit.
- 3.18 Whilst numbers to date are minimal, volumes will increase as DWP look to bring more client groups onto the new benefit. From 2019, there will be no new housing benefit claims for working age claimants and DWP is expected to start the process to migrate the remaining caseload currently in receipt of housing benefit. This is expected to take until 2022 to complete. As a direct consequence of this, the Council will see a steady decline in housing benefit caseload up until 2022 when migration of the existing working age caseload should be complete.

- 3.19 The roll out of Universal Credit and the corresponding reduction in HB cases will have implications for the council. Firstly, the total value of overpayments will decline and for a council that recovers more than the subsidy it loses, this represents a loss of incomes. It also removes the opportunity to recover outstanding debts from ongoing Housing benefit entitlement and may impact on the ability to recover from DWP benefits which are replaced by Universal Credit. This could have implications for bad debt provision. These issues will form part of the Council's financial planning as Universal Credit rollout dates are confirmed.

## **4 Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 The report is for information only and does not require consultation.

### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 Not applicable.

### **4.3 Council policies and best council plan**

- 4.3.1 Financial Regulations (2) Income & (7) Budget Management.

### **4.4 Resources and value for money**

- 4.4.1 The report itself does not require any resource allocation.

### **4.5 Legal Implications, access to information and call In**

- 4.5.1 There are no specific legal implications or access to information issues with this report.

### **4.6 Risk management**

- 4.6.1 It is likely that Universal Credit will impact on both the future level of housing benefit overpayments raised and the level of collection. Some allowance has been made already within the bad debt provision but further work is required once roll out dates are more certain.

## **5 Conclusions**

- 5.1 The Council's Benefit makes every effort to deliver a secure and accurate benefits service. However, overpayments are an unavoidable feature of any means-tested benefit. Where overpayments occur, a range of recovery options are used to recover the debt and over the life time of the debt between 80% and 83% of debts are recovered. This helps ensure that the Council does not suffer financially from DWP's reduced subsidy scheme in relation to overpayments.
- 5.2 Universal Credit will impact on both the future level of housing benefit overpayments raised and the level of collection.

## **6 Recommendations**

- 6.1 Corporate Governance & Audit Committee is requested to note the information in the report and recognise the assurance provided through regular audit, both internal and external, of the Benefits Service.

## **7 Background documents**

- 7.1 None