

Bath & North East Somerset Council

DECISION MAKER:	Cllr Charles Gerrish, Cabinet Member for Resources	
DECISION DATE:	On or after 27.01.2017	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3036
TITLE:	Amendment to Housing Benefit Overpayment Policy	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Revised Housing Benefit Overpayment Policy		

1 THE ISSUE

The revised Housing Benefit Recovery of Overpayment Policy ("The Policy") provides guidance for officers administering Housing Benefit in the approach to take in recovering overpayments of Housing Benefit using powers under part 13 of the Housing Benefit Regulations 2006 ("The Regulations").

The Policy revision is required to ensure the Council maximises recovery of overpayments using effective methods of recovery and to set out the circumstances where it may be appropriate to exercise the discretion not to recover an overpayment of Housing Benefit.

2 RECOMMENDATION

The Cabinet Member is asked to approve the changes to The Policy on recovering Housing Benefit overpayments.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

There is no financial cost to the Council of undertaking these changes. The Council is likely to benefit financially from the changes to the Policy, which permit a more wide ranging use of recovery methods than is available under the current policy.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Regulations give the Council discretion to recover overpayments of Housing Benefit and sets out the methods by which this is to be achieved.
- 4.2 The decision on which method of recovery to use is not prescribed in the Regulation and is therefore discretionary. Nevertheless the Council should ensure that recovery of overpayments is undertaken as quickly and efficiently as possible and the Policy is designed to inform Customers and Officer in this regard
- 4.3 An additional method of recovery known as Direct Earnings Attachment has become available to the Council through S106 of the Welfare Reform Act 2012 and the Policy reflects this.
- 4.4 The Policy also requires an update to ensure that the framework used for exercising the discretion to write off recoverable overpayments is clearly set out for the benefit of customers and Officers.

5 THE REPORT

- 5.1 Overpayments of Housing Benefit are recoverable except those detailed in regulation 100 of the Regulations. The exceptions are where the overpayment arose as a result of official error, where the claimant or the person acting on his behalf or payment was made could not have reasonably been expected at the time of receipt of payment or of any notice of payment to realise that it was an overpayment.
- 5.2 The Regulations do not prescribe that overpayments of Housing Benefit must be recovered and therefore the Council has a discretion whether or in not to recover overpayments of Housing Benefit. It is in the authority's interest to maximise recovery of overpayments and there are a number of options open to the Council in this regard which are set out in the Policy.
- 5.3 An additional method of recovery known as Direct Earning Attachments has become available to the Council under sections 105 and 106 of the Welfare Reform Act 2012 which amended the Social Security Administration Act 1992 and this is reflected in the Policy.
- 5.4 The Council Policy has further been amended to acknowledge that Officers should use the most efficient and effective method of recovery and this includes taking action through the Civil Courts system.
- 5.5 The Policy has further been amended to set out the framework within which discretion is exercised not to recover a recoverable overpayment, for example, in the exceptional circumstances where customers can demonstrate that they are vulnerable and that recovering the overpayment would cause them severe financial hardship. In such cases, the hardship caused to a customer by recovery must outweigh the financial gain by the customer and costs incurred by the Council in the recovery process. .

6 RATIONALE

The Policy should be adopted in order to demonstrate that a transparent, robust and efficient recovery process is being followed to ensure the Housing Benefit scheme is

properly enforced. It is anticipated that by adopting the Policy and taking recovery action this will have the effect of raising awareness of the duty to report changes in circumstances to the Council and that failure to do so has consequences.

7 OTHER OPTIONS CONSIDERED

Not applicable

8 CONSULTATION

There has been some internal consultation on the Policy amendments within the Council. Because the recovery methods are permitted by statute, it is felt that further consultation is not required.

9 RISK MANAGEMENT

A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Ian Savigar, Divisional Director For Customer services</i>
Background papers	<i>None</i>
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