



Rushcliffe
Borough Council

Revenues Services

Collecting overpaid Housing Benefit

Recovery and Enforcement Policy

How do overpayments happen?

Benefit overpayments happen for a number of reasons:

- a claimant doesn't tell us about a change of circumstances.
- a claimant or landlord has deliberately claimed benefit to which they are not entitled, or they have given false information to get benefit.
- a mistake has been made by us, the Department for Work and Pensions or another government department.

How is the amount of overpayment worked out?

The amount of the overpayment will be the difference between the 'wrong' rate of benefit and any benefit you are entitled to based on your new circumstances.

For instance, your benefit may have stopped because you have started work and there has been an overpayment. If you give us details of your earnings, we will work out your benefit based on these new circumstances, even if you have not put in a claim. We will then reduce the amount of the overpayment by the benefit you should have had.

Do all overpayments have to be paid back?

Most overpayments have to be paid back and can be recovered from the person the benefit was paid to.

Overpayments that are caused by 'official error' might not be recovered, unless it was reasonable for the tenant or landlord to have known they were being overpaid. Each case is looked at separately

How are overpayments recovered?

We would usually send an invoice to recover overpaid housing benefit and send a new council tax bill to recover overpaid council tax reduction. If you can't afford to pay the invoice and/or bill all at once, phone us to make a repayment arrangement, or make an offer using the [online form](#). We may be able to accept payments by instalments if repaying the whole amount would cause hardship.

If you are receiving housing benefit, we will take an amount off your benefit payments each week. If the payments are made direct to your landlord, this will mean the benefit payment that is issued will be less. You are responsible for paying any difference between the rent due and the reduced amount paid to the landlord. If you are not receiving housing benefit, the overpayment may be recovered from other benefits or if you are employed deducted from your earnings at the set Government deduction rate which is a percentage of net earnings. Or we may send the landlord an invoice for payment.

If we have decided to recover an overpayment from a landlord, we will issue an invoice. Or if the landlord has other tenant's claiming housing benefit, we may make deductions from the other tenants' benefit paid to that landlord. The amount of these deductions should not be treated as unpaid rent for those tenants, and the landlord must not try to recover the shortfall from them.

Do we always recover an overpayment?

Sometimes we may decide not to recover an overpayment because of your circumstances. If you don't think that your overpayment should be recovered, contact us.

Is there a right of appeal?

If an overpayment is being recovered by deductions from your benefit, then only you can appeal or ask us to reconsider the decision. The deduction might be for an overpayment at a previous address. The landlord will be told about a deduction from your entitlement if housing benefit is paid directly to that landlord.

If an overpayment is being recovered from a tenant's benefit, Benefit Regulations do not allow the landlord to appeal or ask us to reconsider our decision. Neither can we discuss details of the tenant's claim with the landlord. A landlord can only appeal or ask us to reconsider a decision if the overpayment is to be recovered from them personally. In other words, if an invoice for payment has been sent to them, or a deduction is being made from the benefit they receive for other tenants. If the overpayment is owed by the landlord personally, they will be told in writing about a decision to recover from them. A claimant or landlord can write to us at any time asking for a written statement of reasons for the recovery of an overpayment from them.

For more information on appeals see ['I think my benefit is wrong – appeals'](#).

Vulnerability Guidelines

There is no national standard or legal definition of vulnerability. However, we recognise that some ways to recover debt may not be appropriate in such cases where the individual may be incapable of understanding or defending themselves properly from any proceedings.

In such cases we will take appropriate action to take this into consideration. This may include:

- Flag their account to show they may be vulnerable;
- Review their personal circumstances, where known, before taking any further debt recovery action, and place a hold on existing action where appropriate;
- Review any action being taken by our enforcement agents (bailiffs);
- Seek direct deductions from benefit where possible;
- Help them to claim Council Tax support and any relevant exemptions and discounts;
- Direct customers to other sources of debt advice;
- Work with advice agencies to agree repayment schedules that are affordable and recognise a customer's priority debts;
- Meet with advice agencies periodically to discuss practical ways to assist vulnerable customers.

Helping us to help you

If you think you may be vulnerable, let us know as soon as possible.

We are happy to discuss your account with someone else such as a financial adviser, case worker, friend or relative on your behalf if you give your consent.

If we advise you to seek advice from someone else, make sure you do so.

We may ask you for a doctor's letter, a financial statement or other information so we can see the nature/extent of your vulnerability.

Please let us know if your circumstances change, for instance

- You start/leave work
- Someone moves in/out of your home affects your Council Tax bill
- There is a change in your health
- You cannot pay the amount agreed

Last reviewed: July 2024

Next review due: July 2025