

## Briefing note to councillors

### **Subject: Write-off of a local authority error Housing Benefit overpayment**

Reason for note: Cabinet Members have requested a briefing note on this case asking how the error occurred, the period covered by the overpayment, whether or not the officer involved was subject to disciplinary action, and whether the error could have been spotted earlier than it actually was.

#### Details:

Total overpayment amount £26,787.65

Broken down into financial years as follows:

12/12/2005	31/03/2006	£1,296.11
01/04/2006	31/03/2007	£4,306.07
01/04/2007	31/03/2008	£4,093.17
01/04/2008	31/03/2009	£4,169.36
01/04/2009	31/03/2010	£4,904.13
01/04/2010	31/03/2011	£3,375.17
01/04/2011	31/03/2012	£1,047.86
01/04/2012	31/03/2013	£2,867.46
01/04/2013	23/06/2013	£728.32
		£26,787.65

Reason for overpayment:

Customer has been renting from a landlord who is the father of her children. Under Regulation 9 (1) (d) Housing Benefit (HB) cannot be awarded.

*“9 (1) A person who is liable to make payments in respect of a dwelling shall be treated as if he were not so liable where –*

*(d) he is responsible, or his partner is responsible, for a child of the person to whom he is liable under the agreement”*

#### Background to claim

The claimant was previously renting a property from her children’s grandfather. Under benefit regulations this is allowed and we were satisfied that the tenancy was commercial. HB was paid from 1998 to December 2005.

In December 2005 the claimant moved properties. Within her change of address form she confirmed the landlord was a relation to one of the children and wrote in, that it was her daughters’ father.

This information was missed by the assessing officer when the HB claim was processed and the claim was awarded.

### Why did this error occur?

Basically, human error. The HB claim form asked the following question:

*'Are you, your partner, any children you are claiming for or any other person living with you related to your landlord?'*

The claimant clearly stated 'Yes' to this question and said 'My daughter's father'. The officer assessing the claim failed to take this into account. As this happened in 2005, and the officer involved no longer works for the Benefits Service, any attempt now to explain why this happened would be pure conjecture. For the record, in 2005/06 the Benefits Service migrated from a fully paper-based records system to a document imaging system. It is possible that this transition contributed to the error being made, although not possible to say conclusively.

### Could the error have been spotted earlier?

The error came to light when another tenant contacted the office wanting to know why we had refused her claim (she also had a child by the same father and was renting a property from him) yet we were paying this claim.

At various points between December 2005 and 12 July 2013 the claimant's benefit claim was reviewed.

In November 2006 a review form was sent to her by post. This form was 'automatically filled in' by our computer system with details we held on her, and she was asked to sign the form to confirm the details were correct. It should be noted that this review form is not a full HB claim form – the Department for Work and Pensions (DWP) removed the requirement for full annual reviews of HB claims in 2004. The review form therefore did not contain the question asking about 'relationship to landlord', as asked on the full claim form. Therefore, when the claimant signed and returned the review form, this was not picked up.

Similarly, in June 2007 and August 2009 review forms were sent to the claimant by post. Again, these were not full claim forms therefore the 'relationship to landlord' question was not asked again.

There were various other changes in the claimant's circumstances during the period covered by the overpayment but these did not necessitate looking into the full circumstances of her claim e.g: if she had a change in her wages, we obtained confirmation of this via wage slips, and amended her HB accordingly, but that would not necessitate a full review of the claim.

### Was the officer involved subject to disciplinary action?

Disciplinary action was not taken in this case and would not have been, in my view, appropriate in this case, or any similar case, unless it formed part of a pattern of officer negligence. If it were part of a pattern of officer negligence it would be dealt with as a capability issue. Housing Benefit Team Leaders make officers aware of their errors on an individual basis, and from these discussions training needs are identified and delivered. The officer who made the mistake has long since left the Benefits Service.

## Conclusion

Clearly I would rather my officers assess each and every Housing Benefit claim correctly from the outset. However, it is unrealistic to expect that errors will never occur. I also think it is fair to say that in recent years there has been a far greater focus on 'getting things right' and a heightened awareness amongst officers that, due to the economic climate and raised political agenda on welfare reform, it is very important to ensure the right benefit is paid to customers. Currently, year-to-date, the accuracy level within HB assessments is 96.96% - the highest it has been in recent years. Whilst not excusing the error it should be pointed out that the overpayment in this case will not incur a cost to the local authority – it will be reimbursed 100% via the Housing Benefit subsidy scheme, because the level of local authority error overpayments at TDC is below the threshold level set by the DWP.

To help prevent and capture any future similar cases I shall arrange for a reminder about the scenarios falling under Regulation 9 (as above) to be sent to all HB officers.

I shall also look into amending the review form to include the question about 'relationship to landlord'.

Mark Gillmore

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EK Services

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