

South Derbyshire

District Council

Housing and Council Tax Benefit

Overpayments



In this booklet:

- *information about overpayments*
- *application form*

*plain English
approved*
by the word centre

**South
Derbyshire**

at the Heart of the National Forest

What is an overpayment?

An overpayment is when benefit has been paid to someone but they are not entitled to it.

How do overpayments happen?

Benefit overpayments happen for a number of reasons:

- a claimant does not tell us about a change of circumstances at the time, or not at all. (By law, claimants and landlords must tell us about changes in circumstances. They can be fined if not).
- 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 agency.

How is the amount of overpayment worked out?

The weekly 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. This means we can recover an overpayment from a landlord, even if they did not know about a change in their tenant's circumstances.

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.

An overpayment can be recovered from either the person who caused the overpayment, or the person who received the overpayment.

Recovering an overpayment does not affect any criminal proceedings we may take over a fraudulent claim.

How are overpayments recovered?

We would usually send a new Council Tax bill to recover overpaid Council Tax Benefit. If you can't afford to pay the bill all at once, phone the number on your bill and make a repayment arrangement.

We may be able to accept payments by instalments if repaying the whole amount would cause hardship. You must contact us quickly to arrange this otherwise we might start legal action. This would run up more costs which you will have to repay.

There is a limit to the amount we can recover each week from Housing Benefit. For example, the rate is £8.55 in 2005/6 or £11.20 if fraud has been proved and you get Income Support.

Do we always recover an overpayment?

Sometimes we may decide not to recover an overpayment because of your circumstances. If you want us to reconsider a decision to recover an overpayment from you, fill in the form in this booklet and send it back to us, with any supporting evidence.

How is benefit recovered from a tenant?

If the tenant is receiving Housing Benefit, we will take an amount off their benefit payments each week. If the payments are made direct to the landlord, this will mean the benefit payment that is issued every 4 weeks will be less.

The tenant is responsible for paying any difference between the rent due and the reduced amount paid to the landlord. If the tenant is not receiving Housing Benefit, the overpayment may be recovered from other benefits. We may send the tenant an invoice for payment.

How is benefit recovered from the landlord?

If we have decided to recover an overpayment from a landlord we will issue an invoice. If the landlord has other tenants 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.

Strictly Confidential

Request for overpaid benefit not to be recovered

Fill in and pull out this form and send it back to us at the address on page 11 of this leaflet together with any supporting evidence

Title

Your Surname

All other names

Your date of birth

National Insurance (NI) number

Get this from your NI number card, payslips, tax papers or other letters from social security

Your Address

Daytime phone number

Why do you think your overpaid benefit should not be recovered from you?

I think that the overpaid benefit should not be recovered from me because:

Continue over the page

Declaration and warning

If you give false information, or you do not tell us information that is relevant, you may be prosecuted under the Theft Acts 1968 and 1978 or the Social Security Act 1992.

Declaration

- The information I have given is true and complete.
- I authorise the local authority to check the information if they want to.
- I will write and tell you if there are any changes in my circumstances or my household's circumstances.
- I understand that my application may not be considered if I do not give all the information you have asked for.

We must protect the public funds we handle and so we may use the information you have given on this form to prevent and detect fraud. We may also share this information, for the same reasons, with other organisations which handle public funds. This information may be given to other departments within the council.

The information may also be used for statistical surveys. This means we may pass this information, in confidence, to the Department for Work and Pensions and agencies working on our behalf.

Do not delay in sending back this form otherwise your benefit may be affected

You must sign the declaration below

I have read the declaration and warning above and declare that to the best of my knowledge and belief, the information shown on this form is true and complete.

Your signature Date

Your partner's signature Date

Is there a right of appeal?

For more information on appeals see the leaflet - *'If you think our decision..... is wrong'*.

If an overpayment is being recovered by deductions from benefit, then only the tenant can appeal or ask us to reconsider the decision. The deduction might be for an overpayment at a previous address. The tenant would have been told in writing that a weekly deduction was being made.

The landlord will be told about a deduction from a tenant's 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 him personally. In other words, if an invoice for payment has been sent to him, or a deduction is being made from the benefit he receives for other tenants.

If the overpayment is owed by the landlord personally, he will be told in writing about a decision to recover from him.

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.

What will happen if an overpayment is not repaid?

If an invoice remains unpaid, or someone does not keep to an arrangement to repay the debt over time, we may take action to register the debt in the County Court, or take money from other benefits.

Important notes

Not telling us about changes of circumstances straight away is the biggest cause of overpayments. If your circumstances change, tell us straight away so that your benefit can be corrected before there is an overpayment. You must tell us even though you may not have to tell other agencies, such as the Department for Work and Pensions.

If a landlord makes a habit of not repaying overpayments that are recoverable from him, we can decide that the landlord is not a 'fit and proper person' under the Benefit Regulations. This means we can refuse to make direct benefit payments to the landlord.



We will look again at our decision if you ask us to. Please write to us saying why you do not agree with the decision.

Do I have to tell the council of any changes?



YES: If your circumstances change in any way, the law says you must tell the benefits section immediately

Would you like more information?



If you would like more information please phone the Housing and Council Tax benefit section on the following number.

01283 221000



South Derbyshire District Council
Revenue Services
Civic Offices,
Civic Way, Swadlincote,
Derbyshire
DE11 0AH



Website address:
www.south-derbys.gov.uk



Our Benefits Office is open during the following hours:

Monday, Tuesday, Thursday and Friday
9.30am to 2.30pm

Wednesday - closed

You can write to us at:

**South Derbyshire District Council
Revenue Services
Civic Offices, Civic Way
Swadlincote, Derbyshire DE11 0AH**

Telephone:
01283 221000

You can email us at:
revenues@south-derbys.gov.uk

For independent advice you should contact the following.

**Citizens' Advice Bureau,
48 Grove Street
Swadlincote,
Derbyshire DE11 9DD
Tel: 01283 210107**

FRAUDLINE

*Do you know someone who
is falsely claiming benefit?*

If you do please tell the
Benefit Investigation Unit
on the fraudline number

01283 595827

