

AGENDA ITEM: 5

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Meeting	Cabinet Resources Committee
Date	10 November 2005
Subject	Write-offs of Housing Benefit and Council Tax Benefit Overpayments
Report of	Cabinet Member for Resources
Summary	The report proposes to write-off amounts of housing and council tax benefit overpayments totalling £212,891.05.

Officer Contributors	Nigel Hamilton (Head of Housing) Lyn Sutherland (Benefits Manager)
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix A - History of Debts Over £20,000 Appendix B - Write Off Check List
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	N/A

Contact for further information: Lyn Sutherland on 0208359 2318

1. RECOMMENDATIONS

1.1 That the amount of £212,891.05 as detailed below is written off.

2. RELEVANT PREVIOUS DECISIONS

2.1 It is good accounting practice to write off old or otherwise unrecoverable debts; these are usually reported to Cabinet Resources annually, the last time on 21.07.2005.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 The write off of these overpayments is in line with good accounting practice, which requires that debit balances accurately reflect realisable income and that recovery proceedings need to be taken against unaffected debt.

4. RISK MANAGEMENT ISSUES

4.1 The recommendation to write off these debts will not have any effect on the subsidy paid or payable and recognises that there is no longer a realistic possibility of their economic recovery. All appropriate avenues have been exhausted in trying to recover these sums.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

5.1 Budgetary provision has been made for non-collection of these debts.

5.2 The breakdown of the debts is as follows:

<u>AMOUNT</u>	<u>No.</u>	<u>VALUE</u>
£5,000 to £10,000	11	75,601.30
£10,000.01 to £20,000	3	46,459.43
£20,000.01 to £30,000	2	49,616.75
£30,000.01 to £40,000	0	0
£40,000.01 to £50,000	1	41,213.61
Total	17	£212,891.09

Year debt raised	Number of cases
03.04.95 - 31.03.96	1
01.04.96 - 06.04.97	0
07.04.97 - 05.04.98	1
06.04.98 - 04.04.99	0
05.04.99 - 02.04.00	5
03.04.00 - 01.04.01	4
02.04.01 - 31.03.02	3
01.04.02 - 06.04.03	2
07.04.03 - 04.04.04	1

TOTAL NUMBER OF CASES 17

6. LEGAL ISSUES

6.1 None.

7. CONSTITUTIONAL POWERS

7.1 Constitution, Part 3 - Responsibility for Functions, Section 3 - Powers of the Executive, paragraph 3.6 - terms of reference of the Cabinet Resources Committee."

8. BACKGROUND INFORMATION

8.1 L B Barnet is responsible for the administration of Housing and Council Tax Benefits and last year paid in excess of £142m in benefits.

8.2 Overpaid benefit occurs either as a consequence of official error by the Benefits Agency /Local Authority or by claimant error. Almost all overpayments occur because of claimant error, either because the claimant failed to notify a change in circumstances that affects the amount of entitlement or because there is a fraud. Appendix A gives an outline history of debts over £20,000 being submitted for write off.

8.3 The appropriate rate of subsidy has been claimed from Central Government in each of the years in which the overpayments were raised. Overpayments that arose from claimant error attracted a subsidy rate of 25% or 40% and those arising from fraud 95%, 80% or 40% depending on the year that the fraud was identified. In each case the subsidy is payable whether or not the overpayment is actually recovered. The Authority is entitled to retain all recovered overpayments without having to net off any subsidy paid. The subsidy rates are therefore seen by Central Government as an incentive for Local Authorities to pursue the recovery of overpaid benefit.

8.4 Overpayments of benefit are recoverable accordance with Regulation 99 of the Housing Benefit (General) Regulations 1987, except where there is official error and the claimant could not reasonably be expected to know they were being overpaid.

8.5 Housing Benefit overpayments are normally recovered from ongoing entitlement to benefit by small weekly instalments. Where there is no ongoing entitlement a bill will be issued. If it is paid to directly landlord he or she may be billed. Following the bill a reminder will be sent. If there is not response to the reminder the next step can be a Notice Before Proceedings, an application to the DWP (Department of Works & Pensions) for attachment of any state benefits or the debt will be registered at court. Further action will be taken depending on the circumstances. Appendix B lists the issues considered and final checks that are carried out before a debt is submitted for write off.

8.6 Claimants can appeal against decisions on overpaid Housing and Council Tax Benefit and if requested, an independent tribunal may consider the case.

8.7 The write off of unrecoverable benefit overpayments was a matter examined by the BFI (Benefits Fraud Inspectorate) during the Corporate Performance Assessment inspection. One of the standards of performance expected by the BFI is that the authority has systems in place to write off debts regularly.

9 LIST OF BACKGROUND PAPERS

9.1 Housing Benefit (General) Regulations 1987.

9.2 Any person wishing to inspect the background papers listed above should telephone Lyn Sutherland on 0208359 2318.

BS: RB

BT: SE

Appendix A – History of Debts Over £20,000

Amount £	History
41,213.61	<p>Fraudulent claim –</p> <p>Reported by Environmental Health department. The claim was cancelled from the outset. The debtor had no entitlement under Regulation 7 of the Housing Benefit (General) regulation 1987. His landlady (his mother) was found to have been living on the same premises.</p> <p>The debtor has severe mental health problems and Legal department has advised it would not be in the public interest to prosecute. The debtor has only Incapacity Benefit income, as he is not a householder.</p> <p>In view of legal decision overpayment submitted for write off.</p>
27,014.75	<p>Fraudulent claim –</p> <p>Claimant failed to declare his pension, which led to the overpayment. Unfortunately, the claimant died. Recovery was sought from his daughter. The claimant left insufficient estate for the debt to be recovered.</p>
22,602.00	<p>Fraudulent claim –</p> <p>Unable to trace debtor. Debt now 6 years old.</p>

Appendix B – Write Off Check List

	RECOMMENDING CASES FOR WRITE OFF - CHECKLIST	PLEASE INDICATE
1.	Outstanding debt is uneconomical to pursue	<input type="checkbox"/>
2.	Tracing via RATS/DCI (DWP)	<input type="checkbox"/>
3.	Tracing via EXPERION	<input type="checkbox"/>
4.	Tracing via Council Systems CTAX, Saffron etc	<input type="checkbox"/>
5.	Debtor is bankrupt	<input type="checkbox"/>
6.	Evidence verified that pursuing the debt will cause financial hardship to the customer	<input type="checkbox"/>
7.	Terminal illness or severe medical condition	<input type="checkbox"/>
8.	Mental impairment	<input type="checkbox"/>
9.	Unable to trace executor	
10.	Traced executor - No money available from the estate/executor	<input type="checkbox"/>
11.	Absconded - All tracing methods exhausted	<input type="checkbox"/>
12.	Debt has been outstanding for more than 6 years	<input type="checkbox"/>
13.	All recovery action has been taken/considered and a decision has been made not to pursue any further	<input type="checkbox"/>
14.	The debt cannot be substantiated	<input type="checkbox"/>
15.	Has the case been checked thoroughly for possible underlying entitlement/other owed credit, which would reduce the debt?	<input type="checkbox"/>
16.	It is not in the interest of the authority to pursue the overpayment. Please provide details	<input type="checkbox"/>
	Comments:	
	Checklist Completed by:	
	Signature: 2005	Date: 27 October

REFERENCE XXXX

Mr H B Debtor