

## **Response to LGSCO Report – Focus on Housing Benefit**

### **1. BACKGROUND**

- 1.1 Housing Benefit is a means tested Social Security Benefit that has been administered by local authorities on behalf of the Department of Work and Pensions (DWP) since 1992.
- 1.2 Applications for Housing Benefit are made on-line and customers provide details of household composition and evidence of rental payments and income. When a Housing Benefit application has been assessed a decision notice must be issued. The Housing Benefit Regulations 2006 detail the procedures for making decisions on entitlement and appeal. Decision notices must include items such as:
- The amount of any entitlement or overpayment
  - How the amount was calculated
  - If the overpayment is recoverable, who is it recoverable from and how will it be recovered
  - The person's right to request a written statement setting reasons on any matter stated in the decision notice and the manner and timescale in which to do so
  - The person's right to apply for a revision of the decision or appeal against it and the manner and time in which to do so if they disagree with the decision made by the Council
- 1.3 At 1 April 2019 there were 14,603 recipients of Housing Benefit in Tameside. A total of around £73 million was paid to claimants in 2018/2019, with payments audited by the DWP. In addition to this a total of 43,570 determinations (decisions) were made in 2018/19 in respect of new and existing claims where there had been a change in circumstances that would affect entitlement.
- 1.4 A total of 245 appeals were made in 2018/19 or 0.5% of all determinations. It is important to note that none of the appeals made in Tameside during 2018/19 resulted in a complaint made to the Ombudsman. The Council has not been found at fault with any Housing Benefit complaints. At a national level the Ombudsman received a total of 74 complaints regarding Housing Benefit for the same period.

### **2. INTRODUCTION**

- 2.1 The role of the Ombudsman is to regulate on a range of local authority service matters which include Exchequer functions, such as assessment of Housing Benefit, collection of Council Tax, Business Rates and Adult Social Care assessments. In January 2020 a Focus Report was published that detailed findings with regards to Housing Benefit and the administration of appeals titled Focus on Housing Benefit.
- 2.2 The report highlights common issues the Ombudsman have found whilst investigating complaints made by Housing Benefit recipients. The purpose of the report is to share learning with Councils to ensure all residents are treated fairly and in accordance with Housing Benefit Regulations. The report also encourages local accountability and assists Councillors to scrutinise how Housing Benefit Services carry out their duties.

### **3. KEY FINDINGS**

#### **Issues identified**

- 3.1 The Ombudsman identified a number of key issues with regard to the processing of Housing Benefit claims. The key areas are detailed below on how Tameside addresses each matter.

### **Failing to identify appeals**

- 3.2 The Ombudsman has found that some Councils have failed to recognise appeals submitted as the claimant has not used the words 'review' or 'appeal' in their correspondence.
- 3.3 Staff members working in Tameside's Housing Benefit Service are fully trained in all Housing Benefit assessment and appeals matters and a specific module focusses on identifying reviews and appeals and acting on them appropriately.
- 3.4 Decisions on appeals are communicated to claimants in writing and are advised if appeals are successful in full, or in part, or are unsuccessful. Decision notices are issued and claimants in Tameside are advised of their right to appeal and how this can be done. Notices also include information of their right to contact the Ombudsman should they remain dissatisfied with the outcome of an appeal.

### **Failing to process appeals**

- 3.5 The Ombudsman has found that some Councils have failed to pass on appeals to the Tribunal. It is for the Tribunal to decide if an appeal is valid and not a decision to be made by the Council.
- 3.6 The Housing Benefit Regulations are clear and state that a recoverable overpayment can be recovered from:
- The claimant
  - A person acting on behalf of the claimant
  - The person to whom it was paid
- 3.7 The Housing Benefit Service has a team which is dedicated solely to the processing of overpayments and the recovery of overpayments. This specialist team is fully trained on the regulations and makes every effort to reinstate benefit at the correct rate where an overpayment has occurred and a claimant remains entitled to help with their rental payments. It is important to process any revised entitlement in a timely manner to avoid hardship and the possibility of eviction.
- 3.8 Appeals against overpayments are considered from any person affected. The team are aware that not all appeals are made using the terms 'review' and 'appeal', nor are they always made by the person to whom benefit is paid. All appeals identified are passed to the Housing Benefit Compliance team for consideration.
- 3.9 Where there is any doubt that an appeal is not valid in accordance with Housing Benefit regulations, i.e. out of time, such cases are to be referred to The Appeal Tribunal to make that determination. The Appeal Tribunal Service is independent of the Council and DWP.

### **Delays in processing appeals**

- 3.10 The Ombudsman has found that in some instances they were asked to investigate Housing Benefit appeals that were not dealt with in a timely manner.
- 3.11 Within the Housing Benefit Service there is a compliance team. The team works independently from the assessment team where determinations are made. The workload for all sections within Exchequer Services is monitored on a daily basis and reported to managers, this ensures that all appeals are dealt with in the appropriate time limits.

### **Failure to act on new evidence**

- 3.12 The Ombudsman's findings are that delays in processing changes in circumstances has resulted in incorrect benefit being paid and in some instances this has attributed to overpayments occurring.

3.13 Tameside's Housing Benefit workload is prioritised on a daily basis to ensure that all changes are processed in a timely manner, and any overpayments which occur due to changes in circumstances are kept to a minimum. This is monitored on a daily basis to ensure that timescales and targets are met and to ensure resources are available should there be any increases in the workload at any time.

**Recovery of overpayment whilst an appeal is outstanding**

3.14 The Ombudsman suggests that Councils do not recover any monies until the appeal period has elapsed or any appeal submitted is considered. Exchequer Services has a team dedicated who deal with the calculation, classification and recovery of overpayments.

3.15 Where an overpayment has occurred the Council has a duty to notify the claimant and any person to whom benefit occurred about the overpayment. The decision notice issued gives the right to appeal the decision within 28 days. Housing Benefit regulations allows for the recovery of overpayment to commence from a person's ongoing benefit on a weekly basis or directly from the landlord in full following the calculation of any overpayment. Tameside currently administer recovery of overpayments in this way.

3.16 In view of the Ombudsman's recommendations to delay recovery until any time limit for appeal has elapsed or any appeal has been determined, the team will consider the current process on a case by case basis as the decision could result in some claimants having to repay significant arrears.

**4. OVERVIEW**

4.1 The Ombudsman report has detailed several areas to assist Councillors to scrutinise the way a Council carries out its Housing Benefit function. Whilst the detail in section 3 of this report provides assurance that the service provided should not be subject to any Ombudsman findings against the Council, the table below provides a response to the suggested scrutiny questions to reaffirm this.

<b>Ombudsman questions for Councillors</b>	<b>Response of Tameside Housing Benefit Service</b>
How many appeals does the Council receive on a quarterly basis?	The Council receives approximately 65 Housing Benefit appeals each quarter.
How long does the Council take to process these?	The target in Tameside is to process appeals within 20 days of receipt.
Does the Council have enough suitably trained and skilled officers to deal with the volume of appeals that it receives? If not, what is it doing to address this?	The Council has a dedicated team which deal with appeals. The officers on the team are all suitably skilled and knowledgeable in Housing Benefit administration and are trained on any new legislation as it is introduced. Staffing levels are appropriate to meet the demands of the appeals received.
How is the Council planning for the rollout of Universal Credit in its area? Is it keeping under review its assumptions about the implications this has for housing benefit case numbers and appeals given any delay in rollout?	The Council has multi trained its Housing Benefit staff so they are now skilled in the processing of Council Tax Support and Council Tax registration. This means as the demand for Housing Benefit processing reduces the staff resource can be redistributed. As Universal Credit cases will increase, it is likely that appeals will reduce, however, the roll out of Universal Credit is expected over a prolonged/phased period..
How is the Council monitoring whether appeals are being dealt with properly? Is there any evidence claimants are being refused appeals but their cases are not being passed to the tribunal, as the law requires?	The Housing Benefit Service has worked closely with the Welfare Rights Service to ensure that a robust appeal process is in place. All staff members are fully trained in the process and understand claimant appeal rights. Appropriate cases are referred directly to the Appeals Tribunal Service.
How does the Council monitor whether it is waiting at least one month before beginning overpayment recovery, to allow opportunity for an appeal?	This practice will be considered on a case by case basis to avoid a claimant potentially having to repay a large sum over a short period.
How does the Council ensure it is putting a hold on recovery action when it receives an appeal against a housing benefit overpayment?	This is undertaken on a case by case basis and will continue to do so.

## **5. CONCLUSIONS**

- 5.1 The Housing Benefit Service has welcomed this report from the Ombudsman as it assists in considering complaints which the Ombudsman has upheld and outlines their reasons for doing so.
- 5.2 The findings and advice from the Ombudsman to all Councils is a useful tool to compare the way in which appeals and overpayments are dealt with in other Councils and how they are administered in Tameside.
- 5.3 This report confirms that the good practices within the Ombudsman's report are being undertaken in Tameside and this is confirmed by the fact that Tameside have had no recent cases found against them by the Ombudsman.

## **6 RECOMMENDATIONS**

- 6.1 Elected Members are asked to note the Ombudsman's report and response of the Housing Benefit Service.
- 6.2 Consideration will be given to extending existing good practice to all cases where:
  - Delaying overpayment recovery until the appeal timeframe has elapsed
  - Placing a hold on recovery until the outcome of any appeal is decided