

# Housing Benefit and Council Tax Benefit

## General Information Bulletin

Department for Work and Pensions, 1<sup>st</sup> Floor, Caxton House, Tothill Street, London, SW1H 9NA

<http://www.dwp.gov.uk/housingbenefit/>

**HB/CTB G12/2010**

**9 August 2010**

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<b>Who should read</b>	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
<b>Action</b>	<b>Important updated information on Debt Relief Orders and Overpayments recovery</b>

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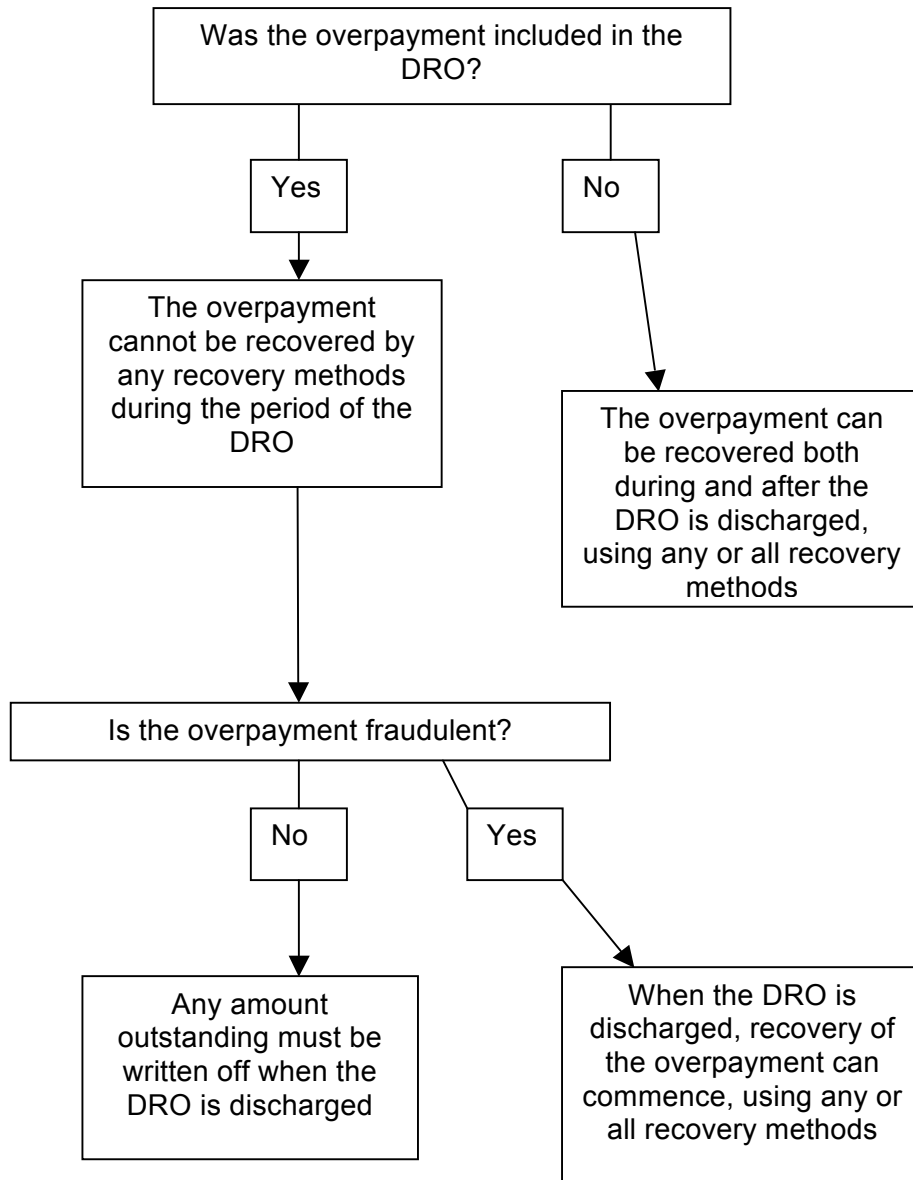
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## Debt Relief Orders and Overpayment recovery

- 1 This guidance follows on from Urgent Bulletin U4/2010 that was issued on 28 July 2010. On Monday 26 July 2010, a Judge ruled on two applications for Judicial Review, brought by Gail Cooper and Eunice Payne against The Secretary of State for Work and Pensions. In both cases it was ordered that deductions should cease from ongoing benefit entitlement and refunds should be made of deductions taken since the Debt Relief Orders (DROs) were made. One case, CO/4048/2010, involved an overpayment of Incapacity Benefit and the other, CO/3793/2010 involved a Social Fund loan. The transcript has not yet been published.
- 2 The Department for Work and Pensions (DWP) are, in light of this judgment, of the view that it is also unlawful for overpayments of Housing Benefit (HB) and Council Tax Benefit (CTB) to be recovered by making deductions from ongoing HB, CTB or any DWP prescribed benefits. Both the DWP and local authorities (LAs) must cease making deductions on cases where the overpayment was included in the DRO, and they must not commence any deductions on any further overpayments that are included in a DRO.
- 3 The prohibition on deductions from benefits during the period of the DRO (moratorium period) includes deductions in relation to Fraud overpayments. Recovery of Fraud overpayments can however commence or recommence once the DRO is discharged. Any or all recovery methods can then be utilised. Please see the process map on page 3 of this bulletin.
- 4 DWP has filed an application to the Court of Appeal for a stay of the judgment, but that application has not yet been determined. Therefore refunds should not be made at this time, but a list of affected cases should be kept, so that LAs can either resume making deductions or make a refund, depending on the decision on the stay application. Further guidance will be issued once we become aware of what the Court of Appeal has decided. DWP is also considering whether to appeal against the judgment itself.
- 5 DROs are only available to customers who live in England and Wales or who have lived in England and Wales in the last three years. The decision in this case only applies where a debtor is subject to a DRO. It does not, for example, change the position in relation to deductions from benefit made during a period of bankruptcy or sequestration.



**Queries**

6 Please direct any enquiries relating to this item to Jane Autherson  
 Email: [Jane.Autherson@dwp.gsi.gov.uk](mailto:Jane.Autherson@dwp.gsi.gov.uk)

## Data sharing: new guidance on the use of social security data

- 7 The social security data that local authorities (LAs) obtain for the purpose of administering Housing Benefit and Council Tax Benefit (HB/CTB) can be a useful resource for delivering other locally managed services and benefits. However, the special importance that Parliament has attached to the confidentiality of this customer information means that LAs cannot consider sharing or reusing it in the same way that you would share or reuse other data that you hold.
- 8 To help LAs to better understand some of the key considerations and constraints that frame how social security data can be used, we have added a new guide *Guidance for local authorities on the use of social security data* to the 'Performance and good practice' guidance for LA staff available at <http://www.dwp.gov.uk/local-authority-staff/housing-benefit/performance-and-good-practice/data-sharing-guidance-for-local/>
- 9 This guide has been prepared with the help of a number of LAs, who contributed to a review of data sharing policy and submitted case studies. It is primarily aimed at HB/CTB benefit teams, but other LA teams may also find it useful. It accompanies a separate DWP guide on '*Data sharing to tackle worklessness*' (<http://www.dwp.gov.uk/docs/datasharingguide.pdf>), and a sector-led guide 'Good practice in data sharing' that is now available from the IDeA website (<http://www.idea.gov.uk>).

### Queries

- 10 Any questions relating to this guide should be addressed to Carol Foster Middleton at [carol.foster-middleton@dwp.gsi.gov.uk](mailto:carol.foster-middleton@dwp.gsi.gov.uk).

## Reassessment of Incapacity Benefit claims to Employment and Support Allowance (Circular A14/2010)

- 11 Due to a problem with a couple of the powers cited in the original regulations (The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit)(Existing Award) Regulations 2010 (SI 2010/875)), Ministers have decided to revoke and remake the Regulations.

- 12 The Department's view is that the original Regulations were validly made under other powers cited but to put the issue beyond any doubt, we have decided to revoke and remake them. The remade Regulations make the same provisions for HB and CTB as the Regulations which have already been made. They do not affect the content of Circular A14/2010.
- 13 The replacement instrument is
- The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (SI 2010/1907)

### Queries

- 14 Please direct any enquiries relating to this item to [christine.watkins@dwp.gsi.gov.uk](mailto:christine.watkins@dwp.gsi.gov.uk)

### Treatment of foster children in the HB assessment

- 15 In HB/CTB General Bulletin 11/2010 we advised you of an Upper Tier decision relating to foster children where the Judge ruled that a foster child should be treated as an occupier for the purposes of the application of the size criteria in Local Housing Allowance (LHA) cases.
- 16 We would like to amend that advice to say that Regulation 8(8) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 would apply to those affected and a superseding decision will be effective from the date of the ruling. The decision was made on 24 June 2010. You are reminded that we are planning to amend legislation to ensure that foster children are not treated as occupiers as has always been the policy intention.
- 17 I am sorry for any inconvenience this may have caused.

### Queries

- 18 Any enquiries relating to this item should be directed to [Lynne.Isaacson@dwp.gsi.gov.uk](mailto:Lynne.Isaacson@dwp.gsi.gov.uk)

### Local authority contact lists – your help needed

- 19 This item featured in HB Direct Issue 104 August 2010 but is being repeated in this bulletin as a reminder.

- 20 We are currently updating our contact lists for your authorities to improve communications in general, and to ensure that information reaches the correct recipient each time.
- 21 We aim to produce three definitive contact lists that include details of specific personnel in your authorities. It has been some time since we had a refresh of this information and we are keen to ensure that details are up to date.
- 22 Please supply a contact name, address, telephone number and email address for your Chief Executive, Finance Director and Benefit managers for your authorities.
- 23 Details should be sent to  
[CaxtonHouse.Central-Services-Team@dwp.gsi.gov.uk](mailto:CaxtonHouse.Central-Services-Team@dwp.gsi.gov.uk)