

Report

Report to:	Risk and Audit Scrutiny Committee
Date of Meeting:	3 March 2021
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Audit Scotland Report: Housing Benefit Overpayments in Scotland – A Thematic Study
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ♦ provide the Committee with a summary of the Audit Scotland Report 'Housing Benefit Overpayments in Scotland – A Thematic Study' released in December 2020

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation:-

- (1) that the key messages and recommendations are noted

3. Background

- 3.1. The Housing Benefit (HB) scheme is administered by councils on behalf of the Department for Work and Pensions (DWP) and helps low-income households pay their rent.
- 3.2. In Scotland, external scrutiny of councils' HB performance is performed by Audit Scotland on behalf of the Accounts Commission, and their approach to delivering this function is through a combination of HB performance audits of individual councils and thematic reviews across all Scottish councils.
- 3.3. South Lanarkshire Council (SLC) was not subject to a performance audit in 2019/2020 but was one of 28 councils who participated in a thematic review of councils' performance in managing overpayments, the subject of this report. For completeness, Audit Scotland sourced HB overpayment data, for the 4 councils that did not participate, from the DWP.
- 3.4. Audit Scotland's report was originally intended for publication in March 2020, however, as a result of the pressures on council services due to the COVID-19 pandemic, all HB performance audit activity was suspended. Due to the time that has elapsed since the study was concluded, this report has not been published and is instead provided to councils as an improvement tool.
- 3.5. To give some context to the significance of HB and overpayments, between 2015/2016 and 2018/2019 councils in Scotland paid out more than £6.7bn in HB and identified over £220m (3.3%) in HB overpayments.

4. Report Content and Key Messages

4.1. The report acknowledges that the recovery of HB overpayments can be difficult for councils as many customers are on a limited income and, therefore, it could take some time for a debt to be fully repaid. However, it emphasises that an effective and robust approach to HB overpayment recovery can help councils generate additional revenue through the subsidy scheme, where 40% subsidy is received on top of any amounts collected from the customer. This is designed to compensate councils for lost subsidy income through incentivising overpayment collection.

4.2. It is also acknowledged that the roll out of Universal Credit (UC) negatively affects the overpayment recovery options available to councils. When a customer's HB claim is migrated to UC, any recovery through making deductions directly from their HB award ceases. Councils must then apply to the DWP for deductions to be made from the customer's DWP benefits where an order of debt applies. Overpayments are ranked 19th out of 23 possible debts, therefore, this substantially reduces the likelihood of receiving payment.

4.3. The report is divided into 3 main sections:-

- ◆ Housing Benefit recovery performance
- ◆ Housing Benefit recovery options
- ◆ Housing Benefit Debt Service

4.4. Housing Benefit recovery performance

This section looks at outstanding debt levels and recovery performance and highlighted that across Scotland:-

- ◆ The value of outstanding debt for the period 2015/2016 to 2018/2019 rose by 20% from £127m to £152m although there was a slight reduction in 2018/2019. Over the period, SLC debt rose from £5.115m to £5.580m, an increase of 9.1%, with a slight reduction in 2018/2019.
- ◆ Although outstanding housing benefit debt increased overall, the value of new overpayments identified in-year over the period reduced by 35% from £66m in 2015/2016 to £43m in 2018/2019. In SLC new overpayments created reduced from £2.849m to £1.716m, a reduction of 39.8%. This is due to the reduction in new claims for HB as a result of UC.
- ◆ The Scottish average for recovery of HB overpayments in 2018/2019 was 19%. SLC collected £1.518m (20.3%) and was 1 of 17 councils whose recovery rates were above the Scottish average.
- ◆ There is significant variation in the amounts written off by councils. It is considered good practice in managing HB overpayments to regularly review the outstanding debt and write off such debt as appropriate.
- ◆ The effectiveness of sundry HB debt recovery performance is insufficiently measured. This relates to cases where a council is unable to recover an overpayment from ongoing benefits, whether HB or DWP Welfare Benefits, and instead invoices the customer for payment. SLC was one of 15 councils who provided data on sundry HB debt recovery performance and one of the third of these councils who had improved their recovery performance in 2018/2019 compared to 2017/2018. In 2018/2019, SLC recovered 17.5% of sundry HB debt compared with the Scottish average of 14% as highlighted in the report. SLC performance also improved by 3.2% on the previous year.

4.5. Housing Benefit recovery options

This section highlights the different recovery options available and their utilisation by Scottish councils. Audit Scotland has provided high level figures of the significantly

varied usage of the 8 different recovery options identified expressing concern that councils are not:-

- ◆ Using all available recovery options.
- ◆ Following good practice specifically in relation to the use of all available recovery methods.
- ◆ Applying relevant legislation consistently. This was particularly applicable to the assessment of a claimant's underlying entitlement to HB during the period of the overpayment.

Issue/risk:-

- ◆ Councils are not using all available options when recovering HB debt.
- ◆ When considering the recovery of HB debt, councils are not consistently applying DWP regulations.

4.6. Housing Benefit Debt Service (HBDS)

This section looks at councils' use of the DWP's HBDS, an overpayment recovery initiative launched in April 2018. The HBDS provides councils with an electronic facility to upload dormant overpayments to DWP systems for data matching against Her Majesty's Revenue and Customs (HMRC) IT systems. When a match is identified, the DWP provides councils with up-to-date employment, pension, and address information to enable recovery action to recommence. Audit Scotland highlighted that:-

- ◆ Scottish councils have not fully engaged with HBDS despite a reported 95% return rate for matched data during the pilot phase between April 2018 and August 2018. Based on the number of uploads to HBDS between April 2018 and November 2019, usage in Scotland equates to 47% compared to 79% each in England and Wales.
- ◆ Of the 28 councils who responded to the survey, although 23 had used HBDS, only 8 had recorded their involvement and were able to provide information on their outcomes. Outcomes had been positive with £541k recovered between April 2018 and September 2019 and as 1 of the 8 councils, SLC had recovered the 3rd highest amount at £122k.
- ◆ Councils advised that the main reason for not utilising HBDS was insufficient resources to deal with the outcomes from the matches. Given the recovery highlighted above, SLC believes this is a worthwhile initiative.

Issue/risk:-

- ◆ Not all councils have utilised the DWP's HBDS service to match dormant HB debt with HMRC IT systems.
- ◆ There is insufficient recording of outcomes from HBDS matches.
- ◆ HB debt is written off without being sent to HBDS for possible matching.

4.7. The Audit Scotland report contains several recommendations which are listed below, together with an assessment of the position in SLC:

Audit Scotland: - Recommendations	SLC position
◆ Councils should consider recording the value of sundry debts raised, recovered, and written off to provide a better	◆ SLC records and monitors HB recovery through the sundry debt route. Section 4.4 highlights SLC recovery performance for this debt type.

<p>understanding of sundry HB debt recovery performance.</p> <p>◆ Councils should utilise all available options when recovering HB overpayments.</p>	<p>There are 8 options available to help councils recover HB debt. These are:-</p> <ul style="list-style-type: none"> ◆ Offsetting underlying entitlement ◆ DWP Payment Deduction Programme ◆ Rent Account Credit ◆ External Debt Recovery Agent ◆ Using arrears of HB ◆ Direct Earnings Attachment ◆ Blameless Tenant ◆ From a Council in another area <p>SLC actively uses the first 6 of these options although their effectiveness can be dependent on many factors. As an example, the DWP Payment Deduction programme is an important recovery tool which allows councils to apply to the DWP for deductions from a customer's DWP benefits. However, the DWP do not rank overpaid HB as a priority debt, therefore, if the customer has multiple debts our application is unlikely to be successful. In 2019/2020 SLC recovered £175,000 using this method.</p> <p>The 2 options SLC are not actively using are:-</p> <ul style="list-style-type: none"> ◆ Blameless Tenant (where a landlord fails to repay an overpayment, and has other tenants in receipt of HB, the Council can seek to recover the debt from payments made in respect of the other tenants) – Work is ongoing with our software supplier to enable this recovery option to be used when required. ◆ From a Council in another area – This relates to HB paid by another council This is not deemed to be an effective use of resources and of limited use particularly as the move of a working age benefit claimant to another Council would prompt a transition from HB to UC. This reduces the likelihood of another Council paying HB and, therefore, the effectiveness of this method. Only 5 councils are noted in the report as using this option. This option will be kept under review.
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<ul style="list-style-type: none"> ◆ Underlying entitlement should be considered in all cases where an overpayment has been created, and councils should adhere to regulations to ensure that it is being applied consistently. 	<p>Underlying entitlement is always considered where an overpayment has been created and all the information is held to assess this. Where income details for the period of an overpayment are not held, all attempts are made to establish these either by request directly from the customer or through utilising data sharing facilities.</p>
<ul style="list-style-type: none"> ◆ Councils should consider regular use of HBDS as part of their strategic approach to the recovery of dormant HB debt. 	<p>SLC actively uses this service to recover HB debt as highlighted in the report with 10 out of a maximum 18 monthly uploads completed during the period covered by the report (April 2018 to September 2019). At the start of 2020/2021, the DWP suspended HBDS activity due to the Coronavirus pandemic. Since recommencement, the council has submitted files to DWP in September, November, and January.</p>
<ul style="list-style-type: none"> ◆ The outcomes from HBDS matches should be recorded to enable councils to determine the effectiveness of their participation in the service. 	<p>Improvements are planned for improving the recording of outcomes from HBDS matches. Currently only outcomes which result in a Direct Earnings Attachment are recorded and not the overall effectiveness of the initiative.</p>
<ul style="list-style-type: none"> ◆ Subject to local criteria, HB debt should not be considered for write off before it is sent to HBDS for matching. 	<p>SLC exhausts all recovery options available prior to writing off an HB debt. This includes the regular submission of HB debt to HBDS for matching against HMRC records.</p>

5. Employee Implications

5.1. There are no direct employee implications.

6. Financial Implications

6.1. There are no direct financial implications.

7. Climate Change, Sustainability and Environmental Implications

7.1. There are no implications for climate change, sustainability or the environment in terms of the information contained in this report.

8. Other Implications

8.1. There are no other implications.

9. Equality Impact Assessment and Consultation Arrangements

- 9.1. This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.
- 9.2. There is no requirement for consultation on the content of the report.

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15 February 2021

Link(s) to Council Values/Objectives/Ambitions

- ◆ Promote Performance Management and Improvement

Previous References

- ◆ None

List of Background Papers

- ◆ Audit Scotland Report (December 2020) – Housing Benefit Overpayments in Scotland – A Thematic Study

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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