

Housing Benefit and Council Tax Benefit

General Information Bulletin

Department for Work and Pensions, 1st Floor, Caxton House, Tothill Street, London, SW1H 9NA
<http://www.dwp.gov.uk/housingbenefit/>

HB/CTB G5/2009

23 March 2009

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| Contact | Queries about the <ul style="list-style-type: none">• technical content of this bulletin, contact details are given at the end of each article• distribution of this bulletin, contact Corporate Document Services Ltd Orderline<ul style="list-style-type: none">- Email: orderline@cds.co.uk• bulletin in general, contact Kath Murphy<ul style="list-style-type: none">- Email: Kath.Murphy@dwp.gsi.gov.uk |
| Who should read | All Housing Benefit (HB) and Council Tax Benefit (CTB) staff |
| Action | For information |

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As separate attachment

Right benefit and right time indicators – Questions and answersAppendix A

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Definition of a Fraud overpayment

- 1 We issued guidance in *HB/CTB Circular A24/2008 (paras 42 to 47)*, regarding the definition of a Fraud overpayment, which will be amended in the Subsidy Order from the 1 April 2009. Since issuing the guidance we have had a number of queries regarding the new definition. We therefore want to clarify the matters that have been raised.
- 2 The new definition contains three circumstances when an overpayment can be recorded as Fraud for subsidy purposes. These circumstances are
 - a the customer has been found guilty of an offence whether under statute or otherwise
 - b the customer has made an admission after caution of deception or fraud for the purpose of obtaining relevant benefit, or
 - c the customer has agreed to pay a penalty under section 115A of the Administration Act (penalty as an alternative to prosecution) and the agreement has not been withdrawn
- 3 (b) has caused the majority of the queries, because people have been unsure about what is meant by ‘an **admission after caution** of deception or **fraud**’.
- 4 The word ‘fraud’ is an ‘umbrella phrase’ used to cover all the offences the Department for Work and Pensions and local authorities (LAs) can prosecute against. Whilst the word ‘fraud’ has recently received a more comprehensive definition under the Fraud Act 2006, that definition applies to that Act only. The word ‘fraud’ is not defined in the Social Security legislation.
- 5 Offences committed under sections 111A and 112 of the Social Security Administration Act 1992, would, if the customer is found guilty of them, admitted to either of them after caution, or agreed to pay a penalty as an alternative to prosecution, be classified as Fraud for subsidy and recovery rate purposes.
- 6 There are two possible interpretations of what the words ‘admission after caution’ could mean. The first is when a customer admits to an offence in an Interview Under Caution (IUC). The second is when a customer admits to an offence on acceptance of a simple caution.
- 7 An overpayment can only be classified as Fraud for both subsidy and recovery rate purposes if the customer admits to an offence in an IUC. This is actually covered in Housing Benefit (HB) Regulation 102, which the new definition of Fraud in the Subsidy Order, will mirror.

- 8 HB Regulation 102(6) states
“admission after caution” means-
- (i) in England and Wales, an admission after caution has been administered in accordance with a Code issued under the Police and Criminal Evidence Act 1984;
 - (ii) in Scotland, admission after caution has been administered, such admission being duly witnessed by two persons;”
- 9 If the customer has made an admission in an IUC, but then for some reason the LA decides not to take the matter further, for example because of the customer’s ill health, the overpayment can still be classified as Fraud for recovery rate and subsidy purposes.

Queries

- 10 If anyone has any queries, please contact Jane Autherson at Jane.Autherson@dwp.gsi.gov.uk

HB/CTB Bulletin G22/2008- Clarification to the alignment of capital verification for HB/CTB claims at £6,000

- 11 It has been raised by members of the Practitioners Operation Group (POG) that information given in *HB/CTB Bulletin G22/2008, para 6* about the alignment of capital verification for HB/CTB claims at £6,000 needs clarifying. There is confusion as to whether this guidance applies to new claims or interventions.
- 12 The paragraph states
*‘On receipt of this bulletin, LAs can choose **not to verify declared capital of £6k or under for all standard claims including capital declared during the intervention process** with immediate effect or as soon as practicable to suit their individual circumstances’*
- 13 To clarify, guidance in this paragraph applies to new claims, changes to claims and interventions for standard claims only.
- 14 Please annotate the bulletin, both hard and electronic file copies.

Queries

- 15 Please direct any enquiries to Adelphi.Fraud-Error-Policy@dwp.gsi.gov.uk

Feedback from the CIPFA PDT Roadshows

- 16 In November 2008, the Performance Development Team (PDT) attended a series of CIPFA road shows where it facilitated work shops on the new right benefit and right time indicators. During the course of these events several questions were raised which the PDT agreed to take away and provide answers to at a later date. The promised DWP responses are in *Appendix A*, sent as a separate attachment to this bulletin.
- 17 Given the number of subject areas covered we are not able to provide one named contact for this item. If you do require further advice or information please refer to the contacts list which is available on the HB area of the DWP website
<http://www.dwp.gov.uk/housingbenefit/contacts/index.asp>

Statutory Instruments

- 18 The following Statutory Instruments (SIs) have now been laid
- 2009 No. 451, The Pension Protection Fund (Miscellaneous Amendments) Regulations 2009, coming into force 1 April 2009
 - 2009 No. 471, The Social Security (National Insurance Number Information: Exemption) Regulations 2009, coming into force 6 April 2009
 - 2009 No. 480, The Social Security (Flexible New Deal) Regulations 2009, coming into force from 6 April 2009
 - 2009 No 497, The Social Security Benefits Up-rating Order 2009, coming into force from 1 April 2009
- 19 Copies of SIs can now be downloaded from DWP's own website <http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/> and the website of the Office of Publication Information <http://www.opsi.gov.uk/stat.htm>.

What's new on the web

20 The following items can be found on the website link shown

| Document Type | Subject | Link |
|-------------------------|--|---|
| HB/CTB Bulletin G3/2009 | <p>Contacting the Child Benefit Office</p> <p>Employment and Support Allowance: guidance on 'better buy'</p> <p>Delay in the start of the Electronic Transfer of HB/CTB data to LAs Project (e-Transfer Project)</p> <p>Security reminder – disclosure of customer information to the police and other law enforcement agencies</p> <p>Extension to the DWP – LA MoU</p> | http://www.dwp.gov.uk/housingbenefit/user-communications/bulletins/2009/g3-2009.pdf |
| HB/CTB Bulletin G4/2009 | <p>Spotlight on Customer Error</p> <p>Reviewing the changes to the HB/CTB backdating rules</p> <p>Pension Credit Reviews</p> <p>Treatment of Employment and Support Allowance and HB/CTB – transition from the assessment phase to the main phase</p> <p>Statutory Instruments</p> | http://www.dwp.gov.uk/housingbenefit/user-communications/bulletins/2009/g4-2009.pdf |
| HB/CTB Circular A3/2009 | <p>2008/09 HB/CTB Right Time Performance Indicator : Update for LAs</p> | http://www.dwp.gov.uk/housingbenefit/user-communications/circulars/2009/a3-2009.pdf |

| Document Type | Subject | Link |
|-------------------------------|--|---|
| HB/CTB Circular A4/2009 | Change to the requirement for National Insurance numbers (NINOs) to be allocated to partners in claims for HB/CTB if they have no right to be in the UK | http://www.dwp.gov.uk/housingbenefit/user-communications/circulars/2009/a4-2009.pdf |
| HB/CTB Circular A5/2009 | Sale and rent back arrangements | http://www.dwp.gov.uk/housingbenefit/user-communications/circulars/2009/a5-2009.pdf |
| HB/CTB Circular A6/2009 | Supersession | http://www.dwp.gov.uk/housingbenefit/user-communications/circulars/2009/a6-2009.pdf |
| HB/CTB Circular A7/2009 | Data Take On and Processing Schedule (DTOPS) for the extraction and transfer of Housing Benefit Matching Service (HBMS) and Single Housing Benefit Extract (SHBE) data for 2009/10 | http://www.dwp.gov.uk/housingbenefit/user-communications/circulars/2009/a7-2009.pdf |
| HB Direct Issue 87 March 2009 | Newsletter | http://www.dwp.gov.uk/housingbenefit/user-communications/hb-direct-newsletter/2009/issue-87-march-2009.pdf |

HB/CTB Circulars issued this month

29 The following HB/CTB Circulars have been issued this month

HB/CTB Circular A3/2009

HB/CTB Circular A4/2009

HB/CTB Circular A5/2009

HB/CTB Circular A6/2009

HB/CTB Circular A7/2009

Other publications issued this month

30 The following publications have been issued this month

HB Direct Issue 87 March 2009