



## **Update Housing and Council Tax Benefit Subsidy Pressure**

### **SUMMARY**

- 1.1 This report provides an update of the Council's Housing and Council Tax Benefit Subsidy Audits for 2008/9 and 2009/10 and the consequential budget implications relating to the potential claw back of Government subsidy.
- 1.2 The Council's audited subsidy claims are subject to review and consideration by the Department of Work and Pensions - DWP - and ultimately a decision by the Secretary of State with regard to the level of any claw back to be made. This can result in some considerable elapsed time from the end of the relevant year, completion of audit and for any subsequent recovery decision by the Secretary of State.

### **RECOMMENDATION**

- 2.1 To note the Secretary of States decision regarding 2008/9 claim, acceptance for repayment and the resultant budget position.
- 2.2 To note the continuing work in relation to 2009/10 subsidy claim and efforts to minimise the level of claw back against a budget provision of £1.793m.

### **REASONS FOR RECOMMENDATION**

#### **2008/09 Housing and Council Tax Benefit Claim**

- 3.1 The Secretary of State has concluded considerations in relation to both over and under payments for Benefit Subsidy relating to 2008/09. The Council anticipated and made provision for a claw-back of £686k.
- 3.2 The Council, through its own quality assurance checks, established that an error in the treatment of some claims had occurred. Once identified the Council took corrective action, alerted the DWP and quantified that the cost to the public purse, due to the error, was negligible. A case for mitigation was then presented to the DWP.
- 3.3 Having considered and accepted Council's mitigation, the Secretary of State has now confirmed that the Council was overpaid £429,019 but has proposed to allow an offset of an underpayment of £145,373. The Council would have been entitled to this amount had allocation of payments within the grant formula been correctly stated. Consequently the Secretary of State proposes to recoup the net amount of £283,646 from December's interim subsidy instalment. The Council had made a prudent provision of £686k pending the outcome of the Secretary of State's decision so the settlement provides a beneficial variance of £402K.

## **2009/10 Housing and Council Tax Benefit Claim**

- 3.4 The 2009/10 claim remains subject to ongoing audit review and discussion with the DWP. Extrapolation values can be subject to significant change through this elongated process making anticipated outcomes with the Secretary of State and consequently budget provisions difficult to predict.
- 3.5 The Auditors report for the 2009/10 claim was submitted to the DWP on 28 February 2011. This set out the auditor's findings and gave an undertaking that further work would be undertaken by the Council in three key areas of the claim. Notwithstanding the need for this additional work the extrapolations (i.e. the values to be moved between different formulas that apply within the subsidy claim) suggest a potential reduction, or claw-back, in anticipated subsidy of £1.79m for which a budget provision has set aside.
- 3.6 The original sampling carried out as part of the 2009/10 audit led to the sample containing a particularly high number of complex cases. This was due to the agreement to check cases falling across more than one cell. This reduced number of cases to be checked but increased their complexity and therefore also increased risk of error. Consequently the claims selected for testing were unrepresentative of our caseload – tested 70% standard cases (higher risk) and 30% passported cases (lower risk). Our caseload comprises of 30% standard cases and 70% passported cases.
- 3.7 Given the impact of such high level extrapolations, the Council undertook to perform additional testing. This testing demonstrated a significant reduction in error rate in rent allowances. Principally this left the Council challenging the basis of extrapolations and potential qualifications in relation to rent allowances.
- 3.8 Agreement on a more appropriate basis of sampling and extrapolation has yet to be reached between the Council and our Auditor and since June both parties have been working to achieve that agreement. The Council's Auditor has agreed to take into account of the Council's additional testing and now needs sufficient opportunity to review the test on all additional cases checked, to re-work extrapolations where appropriate to do so and to prepare a revised the Qualification Letter for the Council's consideration and sign off, prior to re-submission to the DWP.
- 3.9 The DWP have requested that further work be completed in relation to some relatively small value extrapolations circa £40k and has requested the Auditor make some amendments to its stated findings. The testing approach for all these matters have been agreed with our Auditor's and is pending their review for inclusion in the revised Qualification letter detailed above.
- 3.10 The DWP continues to support the need for the conclusion of all further work and is expecting agreement to be reached between the Council and our Auditors with regard to the level of extrapolation that is to be detailed in the revised Qualification Letter. Notwithstanding this the DWP has provided a provisional assessment of the impact of all current extrapolations that would normally progress for consideration and decision by the Secretary of State, currently this indicates loss of £1.79m in relation to Benefit payments subsidy for 2009/10. Clearly until all additional work is concluded and agreement reached by the Council and our Auditors values are open to significant change, particularly in relation to the extrapolations for rent allowances.

- 3.11 Prudently the Council set aside a provision of £1.79m pending the outcome. If there is still a case for the Council to argue against any recovery we shall do so. That said, the final value of claw-back for 2009/10 will depend on considerations and decisions by the Secretary of State and it is too soon to anticipate or predict any potential beneficial or detrimental variance at this stage.
- 3.12 The DWP has agreed an interim deadline of 31 December 2011 for an updated Qualification Letter to be submitted by the Council's Auditors.

## **SUPPORTING INFORMATION**

- 4.1 The Council pays Housing and Council Tax Benefit on behalf of the DWP and receives reimbursement for this through a complex subsidy scheme. Each year the Council submits two estimates of the amount of subsidy it requires from the DWP; one before the financial year begins and one mid-year. The DWP then pays the Council interim subsidy instalments each month based on those estimates.
- 4.2 Each year, the final year end claim is audited by the Council's external auditors. Any errors found are examined to determine if they affect the level of subsidy claimed and already paid. Individual errors are extrapolated to arrive at a figure which the auditor determines as over-claimed subsidy in any one particular area of the claim.
- 4.4 The methodology for audit and calculation of extrapolations is governed by the Audit Commission (AC) and prescribed via "HB Count Methodology". Further guidance is provided by AC to the Council's Auditor's on the level and detail of the tests to be performed, known as Attribute Tests. The Council has little influence on the approach but has to agree the sampling methodology which can either be across the whole claim population i.e. random selection of cases within say Council Tax Benefit or that testing be restricted to a sub-population. Decisions here inform the basis of the extrapolation. This is central to the unresolved areas of the 2009/10 claim detailed in this report.
- 4.5 The Auditors findings are detailed in a report to the DWP. If an authority opts not to adjust the claim based on the audit findings, as was the case for Derby's 2009/10 claim, a "Qualification Letter" is prepared to indicate areas requiring further work. All information is provided to the DWP who calculate the subsidy over and under payments and notify this to the Council, alerting it to the recommendation as to the amount of subsidy the Secretary of State must decide on recovery. The notification also provides the Council with an indication of any underpayments the Secretary of State may consider. At this stage the Council may be invited to submit any mitigation against recovery if it hasn't done so already. To determine the level of subsidy overpaid the whole claim then has to be re-worked as errors in one part of the claim may be either beneficial or detrimental when applied to other areas of the claim and relevant formulas.

- 4.6 The Council has successfully presented mitigation to the DWP when agreement on the sampling and associated adjustments or extrapolated errors has been achieved with its auditor for previous year's claims. It is anticipated that approach will also be followed for 2009/10 subsidy claim. However, should resolution not be possible, on the sampling and/or level of adjustment or extrapolation, the Council will submit formal challenge to the audit findings/recommendation. It is important to note that an open and constructive dialogue continues between both parties to achieve a just and appropriate level of adjustment/or extrapolation on the 2009/10 for the Council.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Mark Nash, Group Accountant  Kath Gruber Gaynor Valente – Subsidy and Financial Control Manager
---	--

<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Name 01332 634 3753 e-mail Gaynor.Valente@derby.gcsx.gov.uk None None
---	---

<b>IMPLICATIONS</b>
---------------------

**Financial**

- 1.1 Details are contained within the body of the report.

**Legal**

- 2.1 Housing and Council Benefit is a statutory service.

**Personnel**

- 3.1 None.

**Equalities Impact**

- 4.1 None.

**Health and Safety**

- 5.1 None.

**Carbon commitment**

- 6.1 None.

**Value for money**

- 7.1 None.

**Corporate objectives and priorities for change**

- 8.1 Corporate Plan - promoting city growth.