

- ✱ Seek advice but make sure that the advice is confidential. There has been a recent change in the law. This means that some places (although we don't know of any) may inform the authorities if they have evidence that you are making a fraudulent claim.
- ✱ If you are interviewed by fraud staff have someone with you for support and to act as a witness.
- ✱ Don't sign anything you don't agree with.
- ✱ You have a right to remain silent - use it if they start pressurising you.
- ✱ Make notes of what they say and what you say.
- ✱ Get the names of the people who are interviewing you.

In many cases they are relying on malicious tip-offs and have their facts wrong. If you stay calm, find out what evidence they have you may be able to sort it out quickly.

If they want to get evidence to use in a court case against you they will caution you like the cops - "you have the right to remain silent...". Remember that they are interviewing you to get you to incriminate yourself.

If they feel they have enough evidence to prosecute you they will either:

- ✱ Tell you to pay back the amount of overpayment plus 30%. For example for an overpayment of £100 you would have to pay back £130 (100 + 100x30/100), or
- ✱ Take you to court - possible £2000 fine or up to 3 months in prison - IF they can prove it.

Get advice from an advice/law centre or solicitor. It may be better to go to court than pay back money you don't owe.

While you are under investigation the Council will probably withhold your Housing Benefit. If this is causing undue hardship or if you face eviction then tell the council. They should only withhold benefit if they believe that you are still claiming fraudulently

Once it is cleared up you are still able to get Housing Benefit under the normal rules if you are still entitled - DO SO.

## I WISH TO REGISTER A COMPLAINT

There are several reasons why you may wish to complain. It may be useful in speeding up or sorting out your claim. It is also useful in getting the Council to sort out their act and give claimants the treatment they deserve.

Councils have complaints' procedures - find out what yours is. They should write back to you within a reasonable time - a week. If you don't get a satisfactory reply then write to the senior officer - their name will be at the top of the headed paper. You may wish to contact your local councillor (the Council will tell you who they are) at the same time. If you are going to make a complaint it helps your case if you have kept copies of all the forms, letters you sent to the council and everything they send to you.

Always complain in writing and keep a copy of the letter. They can always deny that phone calls took place. Keep it as brief as possible. Tell them what has lead up to your present situation. Give them dates and names of the people who dealt with you where possible.

Tell them what you want them to do about it - e.g. sort out the claim in 7 days, compensate you for any loss they have caused you etc.

### *The Local Government Ombudsman*

If you don't get anywhere with the above (highly likely) you can write to the Ombudsman. They act as a watchdog on Local Authorities and are able to thoroughly investigate the council. This can take a long time - three months for a simple case, but they do get results for people quite often. **The Ombudsman's address is "The Commission for Local Administration in England, 21 Queen Anne's Gate, London, SW1H 9BU. Or call 0171-915-3210.**

### **MORE INFORMATION**

For more information about housing benefit or any other welfare benefit either: write to us: **HARINGEY SOLIDARITY GROUP, P.O. BOX 2474, LONDON, N8, or call/fax: 0181-374-5027.**

# HOUSING BENEFIT

## A Claimants Guide

### INTRODUCTION

This leaflet has been put together to let you know what you are entitled to, and to make the process of claiming it less intimidating. Those of us who have put this leaflet together, are either on housing benefit, or give HB advice. It's not easy getting everything you are entitled to. People often give up because they can't take the hassle or don't know what else to do. Sometimes housing benefit workers don't know their own rules, and at other times it can seem like they are actually lying to us.

The rules can at times be complicated, and at other times fairly vague. Where we feel the rules are complicated, we suggest you should consult an advice bureau or solicitor. Where the rules vary we have put in details relating to Haringey. If you don't live in Haringey find out details for your own area. For further information see the back page of this leaflet.

We have used the letters "HB" to mean "housing benefit payments", the letters "JSA" to mean "Jobseeker's Allowance". Where we have used the word "Council" we mean your Council's housing benefit department.

### WHO CAN CLAIM

HB is paid to people who have low income (either workers or claimants) and who pay rent. It is paid whether or not you, as a claimant, are available for work.

The general rules say you can claim HB if:

- ✱ You, or your partner, pay rent for the accommodation (house, flat, bedsit), and
- ✱ You normally occupy the accommodation, or are only temporarily away from it, and
- ✱ Your income is low enough. This is quite detailed (see later). Seek further advice if needed, and
- ✱ You have savings (which will include things like shares, etc) less than £16,000.

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### WHO CAN'T CLAIM

Generally you won't get HB if you tell them:

- ✱ You are a full time student (minor exception to this - see later &/or seek advice)
- ✱ You are a "person from abroad". These rules are complicated (contact somebody with knowledge of HB and Immigration rules). Some Asylum Seekers can get HB. Some British Nationals who fail something called the "habitual residence test" won't. If you have just entered the country, or returned after 6 months - contact a good advice worker/solicitor before you fill in ANY forms. Councils may contact the Benefits Agency or Immigration & Nationality Department about your immigration status.
- ✱ You pay rent to somebody you live with and they are a close relative.
- ✱ You own your own accommodation or have a lease of more than 21 years.
- ✱ Other circumstances, too complicated to go into here. If your circumstances differ from the general details here - seek advice.

## WHAT YOU CAN CLAIM FOR

You can claim for your rent and *most* of your service charges. If service charges are "optional" HB won't pay them.

You **can't** claim for water rates; heating; food; any part of your accommodation used for business purposes; arrears paid as part of your rent; TV rental & licence; laundry services, or medical expenses; or a garage unless you are unable to rent your home without it. **Warning** - If you say any of these are in your rent, they will reduce the amount of money they give you, as they expect you to pay these out of your wages, Income Support, or other income.

## HOW TO CLAIM

### If you claim Income Support or Jobseekers Allowance (JSA)

You will get a form for claiming housing benefit and council tax benefit when you first visit the job centre. However, they normally only give you claim form "NHB1 (HB)". You return this to the job centre who send it to the Council.

Eventually, you will get the "real" housing benefit form from the Council which is (in Haringey anyway) 16 pages. You have to fill this out and return it, along with certain documents - see later. We suggest you go straight to the Council's housing benefit department and get the longer form as the delay could be a number of weeks. Further, the forms can get lost between the Job Centre and the Council.

### If you are working, or move home while you are claiming Income Support or JSA

You will have to contact the Council yourself for a form. Go to the office and pick the form up personally - it takes ages to get through on the phone, they may forget to send it, or it could get lost in the post.

Likewise take the form back to them. You **will** have to wait to be seen, but you know they have got it, you get a receipt to say you handed it in, they will look through it to see if you have forgotten anything, and you get everything back.

## Make sure you take;

- ★ Details of your wages - you will need pay slips or a letter from your boss
- ★ Details of your Income Support or JSA. If you are on Income based JSA make sure the details you take say this, otherwise you will get a letter in a few weeks time saying they need proof your JSA is "income based".
- ★ The original of your tenancy agreement - they may not accept copies.
- ★ Details about any other income you have told them about.
- ★ If you have told them about any savings take (up to date) bank statements, building society or post office books etc. If you haven't told them about savings, taking your details could be a bit embarrassing! It has been done.

In the case of Haringey Council's form they tell you where they want proof. Try and take all they ask for, and make sure you get all your documents back. Otherwise there will be even more delays in getting your money.

## Most importantly;

If you can't get copies of your wage slips, proof of rent, or any other details needed straight away, **DON'T DELAY** getting your forms to the Housing Benefit office. You should take what you have got as soon as possible, as your claim for Housing Benefit will not *normally* start until they have your forms - even incomplete ones.

## FILLING IN THE FORM

Most of the question are fairly straight forward. However there are a few that you need to be careful of.

- ★ They will want to try and find out your relationship with other people in your home. People they are keen to know about are:

### Lodgers or boarders.

They will want to know if they pay you rent as the Council may then be able to reduce the amount they pay you. If you are also claiming Income Support or JSA, the HB department may inform the Benefits Agency or the Employment Service.

### Co-tenants

It is perfectly OK for you to live with whoever you wish. However, if they can

show you are cohabiting (living as a couple) they may reduce your HB payments. Also your Income Support, JSA and other benefits may also be affected. They will pay particular attention to different sex people living in the same accommodation especially if there are two of you and/or you seem to have different bedrooms but no living room. If they are suspicious they can visit your home and they will look for things which prove you are a couple such as; pictures of you together; whether you go out regularly in each other's company; do you have the same food cupboards and cook together; only one tube of toothpaste; anything else which looks like you live as a couple. Even if they are suspicious, they can't claim you are living as a couple unless they can prove it!

- ★ They *may* compare your form to those of others in your home who have claimed HB to check you each give the same information. So check what each other put before you complete your forms.

## Home Visits

### RENT OFFICERS

Normally the Council gets somebody called a "rent officer" to visit your home to check how much housing benefit they think you should get (see later). The rent officer should give you 7 days written notice that they are coming. If you do not let them in your housing benefit payments may be suspended until they can see the inside of the accommodation you live in.

### VISITING OFFICERS

Don't get these people confused with "rent officers". Visiting Officers visit your home to check you actually live there.

You **DO NOT HAVE TO LET THEM IN**. You will have to show them proof you live there but you can do this outside your home if you wish. In Haringey they will ask to see four bits of proof to show you are you and you live where you do. Proof can be: driving licence; dole card or income Support book; tenancy agreement; passport; bills; etc.

These snoopers normally visit every 6 or 12 months depending on your Council. One "visiting officers" in Haringey claimed he had a right

to come into homes and could stop HB if he was not let in - **THEY DON'T & THEY CAN'T**. The only way these snoopers can suspend your HB is if you don't show them adequate proof.

## THINGS THAT MAY REDUCE YOUR HOUSING BENEFIT

### PEOPLE WHO LIVE WITH YOU

The amount of benefit you receive will depend on who you live with.

- ★ If you are a married or unmarried heterosexual couple then only one of you can claim. On the form you have to put in the relevant details for both yourself and your partner, and both of your incomes and savings will be taken into account
- ★ You should not be treated as a couple if you have separate living arrangements and separate financial arrangements. However they will look at your case in more details.
- ★ If you are living with other people (who you are not "cohabiting" with) then housing benefit will pay you your share of the joint rent.
- ★ If you have anybody living with you (lodgers, tenants, friends, family, etc) who you tell the Council are paying you rent, your HB will be reduced by a similar amount.

### NON DEPENDANTS

If you are claiming rent for the whole property and there are people living with you who are not paying rent to either the landlord or you, your housing benefit may be reduced by the Council. The Council will reduce your housing benefit by what they think that person (which they call a "non-dependant") should pay. Obviously if you tell them the person IS paying you rent your housing benefit **WILL** be reduced. They won't reduce your housing benefit for certain "non-dependants" who are not paying you rent. These are::

- ★ Your son or daughter if they are under 18
- ★ Any other person under 18
- ★ A full time student. If the student works in their holidays, and HB find out, your HB will be reduced during their holidays.
- ★ A person who normally lives elsewhere.
- ★ Somebody under 25 and getting income based JSA or Income Support.
- ★ A person getting a youth training allowance.

The Council WILL reduce (not stop) your housing benefit if they find out about a "non-dependant" who is living with you. Your benefit will be reduced by between £7 and £39 (in 1997/98) depending on how much the person earns. Seek advice before filling the form in.

They cannot reduce your benefit for "non-dependants" if you or your partner are registered blind, or you get the following benefits: attendance allowance; constant attendance allowance; or the care bit of the disability living allowance.

#### **YOUR INCOME**

If you are on Income Support or "income-based" JSA you do not have to tell the Council any other information about your income or savings and you will get "maximum" housing benefit. "Maximum" housing benefit MAY NOT be the same as getting all your rent paid - see later.

If you, or your partner, are doing some paid work, you may only get a part of your "maximum" housing benefit. VERY BASICALLY what the Council will do is look at your net income (after tax & NI) and take off what you would have got on Income Support or JSA. They will then take off 65p for every £1. Example: your wages are £120 a week (before tax & NI). You would have got £50 on the dole. The difference is £70. Your "maximum" housing benefit is then reduced by £45.50, or 65% of £70.

They would also include any premiums & allowances you would get on IS or JSA. Lone Parents can earn £25 a week before HB is affected.

Also you may be able to have childcare costs taken into account if

- ★ you are a lone parent working more than 16 hours a week
- ★ a couple with both working more than 16 hours a week or only one if the other is incapacitated (been claiming Incapacity Benefit for more than 6 months, claiming severe disability premium etc).
- ★ The childcare must be with a recognised childcare provider - registered childminder, nursery etc.

You may also be able to deduct any expenditure that you have to make in order to carry out your job. This includes special clothing, tools, car expenses etc.

#### **RENT REDUCTIONS**

Councils may decide that the accommodation you are living in is too big for your needs, or is too expensive. Although they can't tell you to move, they may decide to only pay a part of your rent. Even if you think you may not get all your rent paid by housing benefit - **always claim**. You can appeal any decision. If your rent is reduced **SEEK ADVICE** and fight their decision - don't just accept it. People do get more rent if they appeal.

When Councils work out the amount of housing benefit they will pay you they have three different schemes. These depend on your age and how long you have lived in your present home. Decide which one relates to you then read the details further below:

#### **PEOPLE UNDER 25**

These rules are stricter than the next 2.

These rules do not apply to you if:

- ★ You're under 25 & have a child living with you
- ★ You are under 25 & are a housing association tenant
- ★ You are under 22 and have just left care.

From October 1996, under 25s (apart from the exception mentioned above) have had the amount of housing benefit they can receive strictly limited. The maximum Councils will pay you is the "average" rent for living in a shared house or a bedsit in your area. So, even if you live in a bedsit and the Council think it's more expensive than the "average" bedsit they can reduce the amount they give you. If your Council does not pay all your rent seek advice, appeal and fight the bastards - don't just accept their decision.

#### **PEOPLE OVER 25 (OR UNDER 25s WHO THE UNDER 25 RULES DO NOT APPLY TO) WHO HAVE CONTINUED TO CLAIM HOUSING BENEFIT AT THEIR PRESENT HOME SINCE BEFORE 1ST JANUARY 1996**

If you have been claiming HB since before 1st January 1996 you have more chance of getting your full rent paid than if you started claiming after 1st January 1996. These rules are not as strict as the new rules and are easier to appeal

against.

You are counted as claiming HB at your same address if:

- ★ You have claimed HB on your present address since BEFORE 1st January 1996. Breaks in claiming HB for up to 4 weeks are ignored.
- ★ Your partner claimed HB on your home since before 1st January 1996, but is now in jail and you are now taking over the claim.
- ★ A family member claimed HB on your home since before 1st January 1996, but has now died and you are now taking over the claim.
- ★ Your partner claimed HB on your home since before 1st January 1996, but has left you and you are now taking over getting the housing benefit.

If you live in shared accommodation, even moving room WILL count as moving, and these rules will therefore NOT apply to you.

#### **Is the rent too high**

The Council may say that your rent is unreasonably high compared to other properties in your area. To do this they MUST be able to prove that there are similar tenancies available for a lower rent. Check they have compared like with like. Have they compared a private tenancy with that of Housing Association property? The rent must be 'unreasonably high' - that is they should not just compare it with the lowest rent. Have a look around in your area and make notes of rents to support your case.

#### **Is the accommodation too big**

The suitable size of accommodation is not as rigidly defined under the new rules and the council should use discretion.

Do you need extra room because someone in the house has a disability?

If you have lived there for a long time you can argue that it is unreasonable for you to leave.

Perhaps one of the rooms is used exclusively by someone else who shares, and is not claiming benefit?

#### **Extra Protection**

If you or anyone who lives with you:

- ★ is aged 60 or over or
- ★ is incapable of work or
- ★ has responsibility for a child under 16 (or under 19 and in full time education)

then you are given extra protection.

This means that they have to prove to you that there is accommodation, available to you locally, that you could move in to.

They must also show that it is reasonable for you to move. You could argue that it is not because:

- ★ it will affect the education of your child, or
- ★ it will affect your job, or
- ★ it will effect your ability to get to other resources you may need - day centre, out-patient facilities, etc.



**Buckingham Palace. Is this the biggest housing benefit rip-off of our time?**

**PEOPLE OVER 25 (OR UNDER 25s WHO THE UNDER 25 RULES DON'T APPLY TO) WHO MOVED INTO THEIR PRESENT HOME AFTER 1st JAN 96.**

Basically this is everybody not included in the first two categories. The rules have been called complex and difficult to understand. In fact they are just bloody stupid. The rules are similar to the pre-January 1996 rules apart from they are more rigid and rents are compared to what is called the *Local Reference Rent*.

**Is The Rent Too High**

As with Pre-January 1996. This is called the '*Significantly High Rent Determination*'.

**Is Your Accommodation Too Big**

This is now worked out by a rigid formula. This called the '*Size Related Rent Determination*'. One bedroom is allowed per person who would not be expected to share a bedroom. The following are expected to share -

- ☛ a couple - married or unmarried
- ☛ two children under 16 of the same sex
- ☛ two children under 10 of either sex

In addition to this they will allow you to have the following number of extra rooms:

Number of occupiers	Number of Rooms
1 to 3	1
4 to 6	2
7 or more	3

You could argue the following:

- ☛ One or more of the rooms are not suitable for occupation - too small, too small to share, lacks ventilation.
- ☛ That someone, eg. a child, visits you regularly and should be counted as an occupier.

**Is the Rent Still Too High**

If they think that the lowest of the *Size Related Rent Determination* and the *Significantly High Rent Determination* is still too high they may still reduce the amount to what they think is reasonable. This is called the '*Exceptionally High Rent Determination*'

**Local Reference Rent**

The local reference rent is the midpoint of 'reasonable market rents' for similar properties in your area. The rent will be for a property they think is an appropriate size for you/your family as under the *Size Related Rent Determination*.

**Working Out Your Rent**

Before October 6th 1997 they would have worked out your rent as follows.

- 1 Take the lowest of the *Size Related Rent Determination*, *Significantly High Rent Determination*, *Exceptionally High Rent Determination* and the rent you actually pay. This they call the *appropriate rent*.
- 2 If the *appropriate rent* is below the Local Reference Rent then that will be the maximum amount of Housing Benefit they will pay.
- 3 If not they would have been paying you (before October 1997) halfway between the *local reference rent* and the *appropriate rent*. Since October 1997 they will now only pay you the *local reference rent*.

**Working Out What Is Wrong**

If you think that their assessment is unreasonable then ask the council for more information. When they send you this work out what is limiting your Housing Benefit - is it because they think your home is too big, it is too expensive or it is above the Local Reference Rent. It may be that it is a combination - for example your home is too big and even if you prove it isn't they still think it is too expensive. Use this information to decide how to get their decision REVIEWED.

**The rules are difficult to follow so if you have any problems seek advice.**



One way of trying to get the landlord to reduce the rent.

**PRE-TENANCY DETERMINATION**

If you are thinking of moving into privately rented accommodation then you can find out how much HB the Council will pay.

Get a Pre-Tenancy Determination form from your Council. Fill it in and then get your future landlord to sign it. Send it back to the Council and they should write back saying how much benefit they will pay. Note that this amount will be the maximum they will pay for that property - it does not take into account your INCOME or NON DEPENDANT deductions.

**PROBLEM LANDLORDS**

Landlords can be a problem in several ways

**If you are thinking of moving in.**

More landlords are saying No DSS or No Under 25s. This is because they may have had a bad experience waiting for Housing Benefit to be paid. Try to explain to them that you have all the correct information and that you will get an INTERIM PAYMENT after 2 weeks. They may also worry that you will not get full Housing Benefit. You can get a PRE-TENANCY DETERMINATION to try to persuade them.

The other thing you could do is not to tell them. You will be able to prove the amount you pay by either showing the council a tenancy agreement or by showing them a rent book or receipts. BEWARE - if you give your landlord's correct address HB may contact them. Also, if you live with your landlord remember HB letters and visiting officers will turn up at your home.

**If they try to kick you out.**

If the landlord lives in the same house then you have very few rights.

If they don't then they can't kick you out just because you are claiming or if you are in rent arrears awaiting Housing Benefit. Explain you are waiting for Housing Benefit - demand an INTERIM PAYMENT from the housing benefit department. If you are in arrears your landlord has to go to Court to try and evict you. DON'T LEAVE YOUR HOME JUST BECAUSE YOU ARE IN ARREARS. They are not allowed to harass you out of the property. Seek advice and fight back anyway you can.

**STUDENTS**

Most students cannot claim housing benefit either during term time or during the holidays. However as soon as your course officially finishes you can claim for housing benefit.

Only students who are in the following groups can get HB. These are:

- ☛ If you are getting Income Support, or "income based" JSA
- ☛ You are a single parent who is getting (or could get) the single parents premium
- ☛ You and your partner are both students and have a dependant child
- ☛ You receive a disability benefit, although we suggest you seek advice first as just getting Incapacity Benefit may not be enough
- ☛ You are a pensioner who gets (or could get) one of the pensioners premiums.

If you qualify for HB you will get it both during term time and holidays.

Housing Benefit departments will probably speak to the dole. So, if you haven't told the dole you are a student, be careful what you tell the housing benefit department as it could lead to your Income Support/JSA being suspended.

Some students have been known to leave their course at the end of year one, claim HB in the summer vacation then sign up for the course again in year two. Whoever pays your HB may be on the lookout for this. It is VERY likely that housing benefit offices WILL swap information with Council education authorities. In fact, in London it's certain they will.

**GETTING PAID**

**Getting your cash**

You can be paid by a giro, by cheque, get it paid directly into your bank account, or directly to your landlord/lady. If you haven't got a bank account the Council cannot insist on giving you a cheque (although they might try). If they do - appeal.

Getting your HB paid directly to your landlord can cause problems. Remember:

- ☛ If HB does not cover all your rent you will still have to pay the landlord the difference
- ☛ If the Council stop your HB you may not find out until your landlord threatens to evict

you for non-payment

- ⊛ If you stop claiming HB and the Council carry on paying your landlord, it may be you who the Council harass to pay back the over payment (see later).

However, if you tell your landlord/lady you are claiming HB they may want the money paid directly to them.

### **Weekly payments**

You normally receive HB payments in two weekly amounts, and it's paid in arrears, if you signed on since 1997, so your cheque/giro will be for the last two weeks. If you signed on before this, and are still signing on, your cheques will be paid for two weeks in advance, so your cheque will be for the next two weeks. Housing benefit is normally paid from the first Monday after you claim. So, if you first claim for rent from, say, the Tuesday you may not receive HB for the first 6 days (ie from the Tuesday you first claimed from until the next Monday).

If you can it's therefore best to start your claim from the Monday before. If you're just moving into a new place get the tenancy agreement from the Sunday or Monday.

When you stop claiming HB the Council pay HB until the Sunday after you finish claiming. So, if you stop claiming on the Tuesday you get an extra few days HB (ie Tuesday to Sunday).

### **Interim Payments**

The Council are *meant* to sort out your claim in 14 days. This 14 days won't start until your form is complete and the Council have ALL the proof they require.

Most Councils take *much* longer than 14 days to sort out your HB. If you are a private tenant then they have to make "interim payments". They will estimate what they think your HB should be and pay you this until they have calculated your correct HB. This estimated amount will almost certainly be less than your actual rent.

Councils often claim they don't have to pay "interim payments". As long as you are (1) likely to be entitled to HB, and (2) have given them all the information they have asked for, they **MUST** make an interim payment every two weeks. If they refuse - appeal or seek advice.

### **Lost or missing cheques**

The following applies to Haringey although it's likely the same applies in other areas - but check first. If you don't receive your money contact your HB department immediately. They will replace your first lost cheque. If you don't get it after a few days contact them again as they often forget or are slow dealing with it.

If you lose a second cheque the Council's fraud department will investigate. You won't get a replacement for this until the end of their investigation which could take months. You can take the Council to court to get this cheque replaced.

This may be costly, and could take longer than the fraud investigation. If you want to do this seek legal advice.

If you are worried that future cheques may also go missing you can ask for them to be sent to a friend's address or you can arrange to pick them up or have them paid directly into a bank account.

### **OVERPAYMENTS BY THE COUNCIL**

To be able to get the money back from you in cases of overpayments all the Council have to show is that you "caused or contributed to the overpayment". So, if you never told them of changes in your circumstances (eg you started work etc) they could try and get the money back from you.

You won't have to pay back the overpayment if:

- ⊛ The overpayment was due to the Council's error, and
- ⊛ The overpayment, was for some time in the past, and
- ⊛ You could not have reasonably been expected to know you were overpaid.

Even when they know they should not recover the money from you Councils may still try. They do this to save themselves money and because they think you don't know your rights. So always check.

The last point above is the tricky one. If you tell them you have started work and then keep cashing any HB money that arrives, they may argue you should have realised you were being overpaid. What you need to do is think of good

excuses why you didn't realise you were not allowed this money.

Councils do get things wrong. So, if they write to you saying you have been overpaid you should:

- ⊛ Check you have been overpaid,
- ⊛ Work out if they are asking for the right amount - get help if you need it
- ⊛ Check out if they are allowed to recover it.

The Council must tell you in writing why and how much you have been overpaid by. Apart from overpayments of a "payment on account" the Council **DOES NOT** have to recover all overpayments. If they tell you they **MUST** recover they are lying. Argue to be let off: eg. it will cause you severe hardship to pay it back etc. If the Council still demand the money ask for a **REVIEW** of their decision. Or ask that less is taken from you each week. At best you might get a result.

At worst you put off repaying the money for a while.

### **MOVING HOUSE**

Normally you will only get HB on one home at a time. If you have two homes you only get HB on your main home.

However, if you move and have to pay rent on both your old and new home you can get rent paid on **BOTH** for up to 4 weeks.

The rules are that you must:

- ⊛ Be "unavoidably liable" to pay rent on both homes. If your new landlord wants you to move in now and your old landlord wants a months notice this counts as "unavoidable liability", and
- ⊛ You must have moved into your new home (or said you have) on day one your rent on this new place starts.

There are no forms to claim this double benefit. Most Councils won't tell you you are entitled to this - surprise surprise.

In Haringey's case we know of at least two people who applied for this double benefit payment only to be told by staff this benefit does not exist. It **DOES** - and as long as you meet the above two rules they **MUST** give you the money. As soon as you move write (keep a copy) asking

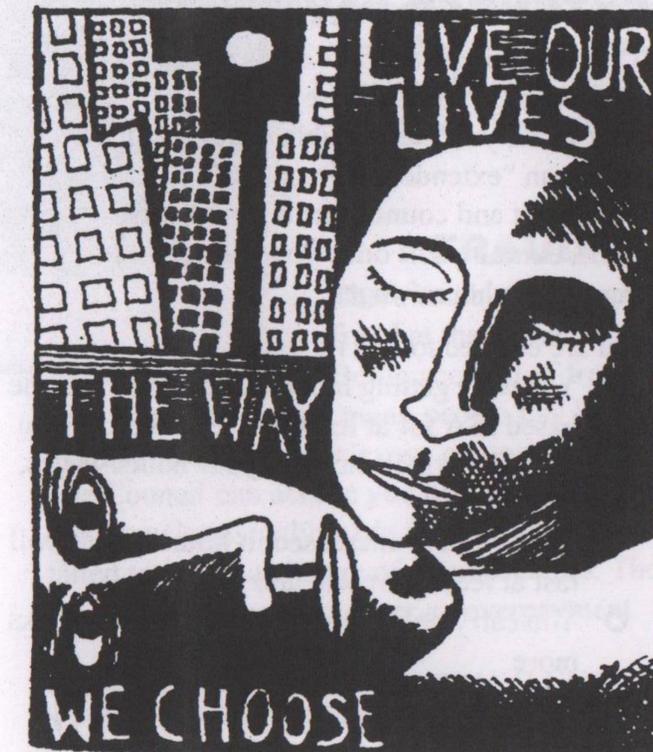
for payment on both places. If (or more likely when) they say no - appeal immediately. If they still say no - complain. Don't give up - you will get the money.

### **BEING AWAY FROM HOME**

You can be absent from home for up to 13 weeks and still get HB for this period, even if you are not in this country. If you tell them you are renting it out while you are away, or you are not coming back after 13 weeks, you won't get HB.

Further, you can be absent from your home for up to 52 weeks and still get HB for the whole time, if:

- ⊛ You are a remand prisoner held in custody waiting for your trial or sentence - see later
- ⊛ You are in hospital
- ⊛ You are receiving medical treatment abroad
- ⊛ You are away looking after a child whose parent is in hospital
- ⊛ You have left home "temporarily" because of fear of violence.
- ⊛ You are in residential accommodation, eg undergoing a rehab.



### **PRISONERS**

Sentenced prisoners can claim Housing Benefit if they are likely to serve 13 weeks or less in custody (based on their earliest release date). If you are sentenced to more than 13 weeks you are not meant to claim for **ANY** of your period of imprisonment.

The following categories of prisoners are entitled to claim Housing Benefit for up to 52 weeks: Remand prisoners; unconvicted prisoners awaiting trial; and convicted prisoners awaiting sentencing. If you are on remand or awaiting sentencing and then get a prison sentence your circumstances immediately change and you need to let Housing Benefit know.

If you were not receiving HB before being sent down, you need to claim as soon as possible. If you were claiming HB before imprisonment you need to make a "fresh claim" immediately, otherwise your HB will be stopped.

When claiming you MUST say you intend to return to the property when released AND the accommodation is not being let, or sub-let, while you are inside, otherwise HB will be stopped.

If you were living with your partner or family, and claiming HB, before going to jail, they should be able to take over your claim. They need to fill in a new form to transfer the claim to themselves.

## EXTENDED PAYMENTS

If you are on HB and this stops because you start work, or you increase your hours or wages from work, you may be able to get (what's called) an "extended payment" of BOTH housing benefit and council tax benefit. This is 4 weeks extra benefit once you start work or increase your hours/wages.

You are entitled to this if:

- ✪ You were getting Income Support or income based JSA for at least 26 weeks before you started work or increase your hours/wages, and
- ✪ Your work or increased in hours/wages will last at least 5 weeks, and
- ✪ You carry on paying rent for at least 4 weeks more.

Your Council's housing benefit department, the Benefits Agency and the Employment Service all have the form you will need to claim these extra 4 weeks benefits. **YOU MUST APPLY WITHIN 8 DAYS OF STARTING WORK OR INCREASING YOUR HOURS/WAGES, AND GET THE FORM TO THEM.** Ideally take the form in and get a receipt saying you delivered it.

## CLAIMING EVERY YEAR

HB rules say you are paid housing benefit for up to 60 weeks after which you must reapply. Councils normally make you re-apply for housing benefit every 26 or 52 weeks. Your Council MUST send you a form telling you your housing benefit is about to run out and how to reapply. This is a check that you are still living there and are still entitled to HB. Fill in the form and return it to them and your benefits shouldn't be affected.

However, if you put different things to those in your original form they may suspend your housing benefit to look into your claim. The reason for this is you are meant to inform them of any changes immediately. Photocopy the form before sending it back so you can make sure you put the same information in next year, therefore avoiding any silly errors.

## CHANGES IN YOUR CIRCUMSTANCES

You are meant to inform your housing benefit department of the following changes as they may effect the amount of HB you get:

- ✪ Any change in the amount of rent you pay
- ✪ If you stop getting JSA or Income Support
- ✪ Any change in the number of, or details about, any "non-dependants".
- ✪ Any change in family income or capital/savings
- ✪ If any other tenants, or boarders, change
- ✪ If you get married, start or stop living with somebody etc
- ✪ Changes in the age of any kids (ie 16 or 18).

Some Councils ask for other information. Check on their forms for what they hope you will let them know about.

Some people carry on getting benefit when they are not officially entitled to it - Not that we suggest this of course.

When people are careful what they say it can be hard for the housing benefit department to find out about these changes. Remember, they have access to information from other Council departments, the Benefits Agency and Employment Services.

## REVIEWS

Either you or the Council can have your claim reviewed. If you get a decision that you don't agree with write to the Council for an explanation. This should give you further evidence to support your case. If the Council clearly made a mistake and the case is urgent, then write and ask for a review straight away. State clearly what parts of the decision you disagree with and support your argument with any evidence you have. The Council should review your case within about 14 day. They will write back to you telling you of their decision. If it takes a lot longer than 14 days, make a COMPLAINT.

The tranquility of the past, no hassle, no worries.



### Taking It Further

If you think their decision is still wrong then you can take your case to the Housing Benefit Review Board. Write asking for a further review within 28 days of getting your first review decision. There is no need to go into detail about your case at this point. Just state what part of their decision you disagree with.

The Council will write back with a date for the review hearing. This should be within 6 weeks. If it is much longer than this - complain. They must give you at least 10 days notice of the time and place of the review. The Council will pay for your (and any of your witnesses') travel expenses to the hearing. If you are not confident

enough to present your case, or if you are not clear about the law, then seek advice.

The review board consists of two or three councillors who will hear your case. They are therefore not independent but they are meant to pretend to be. You will need to present evidence to support your case. You ARE also allowed to call witnesses.

### Going to Court - Judicial Reviews

Review boards are often crap - what do you expect from a bunch of councillors. It is possible to get your case reviewed in court. You may want independent advice before doing this.

### Suing the Bastards

If the Local Authority has failed in its duty to pay the correct Housing Benefit, and you suffer because of it (eg evicted), you can sue them. You can only sue if you are the claimant and the failure affected you personally. If your case is weak the court may make you pay the legal costs of the council. Seek advice first.

## FRAUD

There is a big push against fraud at the moment.

Being accused of fraud is

very intimidating, and many people pay back overpayments they don't owe or stop claiming. The Council can accuse you of fraud if they think you knowingly made false statements or failed to report a change of circumstances. They are usually trying to recover an overpayment.

### DON'T PANIC & SAY NOTHING UNTIL YOU GET INDEPENDENT ADVICE !!

- ✪ Listen to the accusations against you and ask questions. If they are relying on anonymous tip-offs insist on knowing what was said about you and who said it. Is their information correct? Is it reliable?.