

How HMRC handle tax credits overpayments

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How HMRC handle tax credits overpayments

Introduction

This is a guide aimed at advisers and intermediaries who provide support and guidance to our tax credits customers.

We will ask customers who have been paid too much tax credits to pay back the extra money.

We can recover an overpayment from our customers in two ways.

1. If the customer is still getting tax credits under their original claim

If the customer's original claim is continuing, we will take 25% from their four weekly or weekly payments of tax credits until the overpayment is recovered.

If the customer's original claim is continuing and the customer is getting maximum tax credits we will take only 10%.

If the customer's original claim is continuing and the customer is getting only the family element of Child Tax Credit we will take 100%, so the customer will receive nothing until the overpayment is repaid.

We call this 'recovery from an ongoing award' and the process is managed by Benefits & Credits Operations. However, if customers cannot afford the reduction in the payments they receive, they should contact the Tax Credits Helpline on 0845 300 3900. The Helpline will arrange for B&C Operations to check if the rate of recovery can be adjusted and contact the customer to explain the decision. However, adjustments will not normally be made if the customer's award is made up only of the Family or Baby elements of Child Tax Credit or if the customer's payments have reduced following an investigation that established deliberate error or fraud. B&C may have to pass the case to Debt Management and Banking (DMB) who will arrange to contact the claimant to check what is affordable through cross year recovery.

2. If the customer is no longer entitled to tax credits or has made a new claim

If a customer is no longer entitled to tax credits or gets tax credits because they have made a new claim, we ask them to repay the overpayment to us direct.

We will write to the customer and ask them to repay the overpayment. The letter will advise the customer how they can pay the money and also advises them to contact the Payment Helpline on 0845 302 1429 if they wish to spread the repayment over 12 months. We can consider a longer period than 12 months where this is not affordable - see page 6 for further details. An example of the letter (notice to pay TC610) can be found on page 11`.

The earlier a customer contacts us, the easier it is to resolve any issues the customer has with the repayment. If the customer doesn't make a payment and doesn't contact us we will seek to recover the debt.

How to challenge recovery of a tax credits overpayment

Appeal

Customers may appeal if they think that the decision we made, which created the overpayment, was incorrect. More detail about how to do this can be found in our leaflet *WTC/AP - Child Tax Credit and Working Tax Credit: how to appeal against a tax credit decision or award*. You can get a copy of this leaflet:

- By phoning the Tax Credits Helpline on 0845 300 3900
- By downloading a copy from our website at http://www.hmrc.gov.uk/leaflets/wtc_ap.pdf

Example: Daisha claims tax credits for her 3 children. Her eldest child finished her GCSEs but decided to stay on at school to do her A levels. Daisha told HMRC and continued to receive tax credits for 3 children. When HMRC work out Daisha's final tax credits for the year, they included only 2 children. Because Daisha received money for 3 children, HMRC thought that they have overpaid her. Daisha appealed the decision and asked HMRC to change her award as she should have received tax credits for 3 children. If she is successful, the overpayment will disappear.

If a customer appeals a decision, which created the overpayment, then any recovery action will be suspended until the outcome of the appeal is known.

Dispute

Customers who accept that they have received more than they were due may still dispute recovery of the overpayment if they believe the overpayment was caused by us failing to meet our responsibilities. Customers should contact the Helpline (0845 300 3900) as soon as possible. More detailed advice can be found in our leaflet COP26 – *What happens if we've paid you too much tax credit?* You can get a copy of this leaflet:

- By phoning the Tax Credits Helpline on 0845 300 3900
- By downloading a copy from our website at http://www.hmrc.gov.uk/leaflets/wtc_ap.pdf

Example: Eric and his wife were paid tax credits for 3 children when they only have two. When Eric received his award notice, he phoned HMRC to tell them they had the number of children wrong. HMRC did not correct the mistake and kept on paying Eric too much tax credit. After the end of the year, Eric had received more tax credits than he should have and so has an overpayment. Eric used the dispute process because he doesn't think he should have to pay it back because he told HMRC of the mistake as soon as he saw his award notice.

If a customer disputes recovery of an overpayment, then Benefits & Credits Operations will arrange for suspension of any recovery action while we reconsider. If we decide that the customer should repay the overpayment then action to recover it will continue.

Code of Practice 26 (COP26)

Customers who contact us because they do not understand why they have an overpayment or to dispute the overpayment, will get a written explanation from B&C Operations and advised to go to our website or contact the Helpline to get a copy of our Code of Practice COP26 which explains the principles behind our approach.

Direct recovery of overpayments

Step 1 – notice to pay

We issue a notice to pay to the customer (TC610). This sets out the amount of the overpayment and provides the Payment Helpline phone number (0845 302 1429). An example of the letter can be found on page 11.

- If the customer pays in full we take no further action.
- If the customer disputes recovery of the overpayment we will suspend action to recover the overpayment while we reconsider.
- If the customer contacts us for help, we can agree a payment arrangement (see Time to Pay page 7). Payment options include:
 - repayment by instalments in a period up to 3 years. When this is agreed there is no need to obtain income and expenditure details. For example, if a claimant has an overpayment of £360.00 and cannot afford to pay immediately, or within 12 months, then HMRC may accept £10 per month over a 3 year period.
 - repayment over a longer period, depending on the customer's financial circumstances

Step 2 – written reminder

If an overpayment has not been fully repaid 42 days after we sent the notice to pay and the customer has **not** contacted us, we will send a further letter to the customer asking for payment (e.g. IDMS15). An example of the letter can be found on page 12.

- If the customer pays in full following this letter, we will take no further action.
- If the customer disputes the recovery of the overpayment, we will suspend action to recover the overpayment while we reconsider.
- If the customer contacts us for help, we can agree a payment arrangement (see Time to Pay page 7).

Step 3 - telephone contact

If an overpayment has still not been fully repaid 21 days after we sent the written reminder (e.g. IDMS 15) and the customer has still not contacted us our Debt Management Telephone Centre (DMTC) will call them. The DMTC will discuss payment options including an instalment arrangement (see Time to Pay page 7).

- If the customer pays in full we will take no further action.
- If the customer disputes the recovery of the overpayment, we will suspend action to recover the overpayment while we reconsider

- If the customer sets up a time to pay arrangement then recovery action will stop providing payments are kept up to date.

If a customer asks for a longer repayment period than 3 years then DMTC will consider the request. They will ask for details of income and expenditure and try to agree a payment plan based on the customer's ability to pay.

If DMTC establish that the customer cannot currently make an arrangement to repay the overpayment and meet their living expenses at the same time they will:

- explain to the customer that they will refer details of the case to a DMB technical office for review

The DMB technical office will review the case and decide on the most appropriate action which may be:

- recovery of the overpayment is put on hold until the claimant is in a better position to agree a time to pay arrangement. For example the case is revisited when a car loan or catalogue repayment is fully repaid.
- remitting the overpayment if it is established that the claimant is out of work and has no assets or savings and there is little prospect of the circumstances improving .

We may have to contact the claimant to obtain supporting evidence of income and expenditure details,

The technical office will advise the claimant of the outcome of their review.

Step 4 – warning letter

We will issue a letter (e.g. IDMS 10) warning of legal proceedings if after Step 3 a customer who can pay does not do so or if we have been unable to contact the customer by phone. The letter provides the customer with a telephone number to contact. An example of the letter can be found at page 12.

- If the customer pays in full following this letter, we will take no further action.
- If the customer disputes the recovery of the overpayment, we will suspend action to recover the overpayment while we reconsider.
- If the customer contacts us for help, we can agree a payment arrangement (see Time to Pay page 6).

Step 5 – personal contact

If the customer still fails to pay in full or agree an arrangement for payment or has still not been in contact, the overpayment will be transferred to one of our Debt Management technical offices to follow up.

The technical office will check that the debt is properly collectible before trying to contact the customer by phone or letter to set up an arrangement to pay wherever possible. Any letter sent by the technical office will provide the customer with a telephone number to contact them on.

If the technical office cannot make contact with the customer they may refer the case to our Field Force staff for a visit. This is normally at the customer's home but it can be arranged elsewhere if it is more convenient for the customer. At this stage we may still agree a payment arrangement.

Every effort is made to contact the customer before we start enforcement action.

Step 6 – legal proceedings

If the customer still does not pay or we have, despite all efforts, been unable to establish any contact with them, we will usually go to court to obtain judgment to enable us to enforce payment of the outstanding debt.

We use

- summary proceedings in England, Wales, Scotland and Northern Ireland
- county court proceedings in England and Wales
- ordinary cause in Scotland.

We also have the power to use distraint but do not generally apply it to tax credit customers.

Time to pay – up to three years

If the customer does not wish to repay the overpayment immediately then 12 months time to pay is offered as standard. We make this clear on the letter we send to our customers (notice to pay TC 610; see page 11). The letter also has our Payment Helpline number (0845 302 1429) for customers who feel they will find it difficult to repay the overpayment. The Payment Helpline will agree a time to pay arrangement up to 3 years for customers who can afford to repay within this period. Income and expenditure details will not be required if an agreement to repay within 3 years can be reached.

Time to pay – more than three years

If a customer tells us they need longer than three years they will have to give us details of their income and outgoings to help us see what is affordable and sustainable for the customer.

We do not wish to enter into agreements with an unrealistic repayment plan as this will cause stress for the customer and be less effective in recovering the overpayment.

When we consider these cases we will take into account any exceptional circumstances we are told about that may lead to extra living costs, for example, if the customer is looking after someone who is chronically ill or disabled.

We will also take into account how the customer's circumstances might change over time. For example, if a person is receiving Jobseeker's Allowance we would want to review the case once they were back in employment, whereas sickness or incapacity benefits might indicate that a person is unlikely ever to be able to repay an overpayment. Each case is treated on its merits and in some circumstances, we may remit an overpayment altogether.

Joint claims – who has to repay the overpayment?

When a couple claim tax credits and an overpayment arises from this joint claim, they are each liable to repay the whole amount. However, we will only ask each person to pay a maximum of 50% of the overpayment. They may wish to split the debt in a different way, for example, 70% and 30%, but that is something they must resolve between themselves. If customers fail to stick to any arrangement made between them we will seek 50% from each.

Paying off more than one tax credit overpayment at the same time

If a customer is currently paying back one tax credits overpayment by direct payment and paying back another from an on-going award at either 10% or 25% they can contact our Payment Helpline (0845 302 1429) and ask for the overpayment being recovered by direct payment to be suspended until the overpayment being recovered from the ongoing award is completed.

How we decide what's affordable

In assessing a customer's ability to repay an overpayment, we compare their actual expenditure with figures provided by research carried out by the Office for National Statistics. We will ask customers for an explanation if they say they have to spend more.

We understand that customers have less discretion or control over existing commitments and fixed costs as listed in the following chart, and we will take these fully into account unless they appear excessive.

Rent	Pension payments
Mortgage	Life assurance
Secured loans	HP or conditional sale
Council Tax	TV licence
Court fines	Maintenance or child support

The Income and Expenditure form on pages 14 and 15 shows the information we ask customers to provide and we use this to assess their ability to pay. We prefer this form but we will accept others giving the same information.

If the customer owns property and has no other means to pay we may consider attaching a charging order that would allow us to recover the money owed on the sale of the property.

If it becomes clear that a customer is unlikely ever to be able to repay the debt, it **may** be remitted. But there is no legal requirement for us to do so.

Mental Health

We will need a letter from a health care professional or mental health social worker explaining the mental health problem to enable us to deal with these cases. In most cases the evidence provided will be sufficient to relieve the customer from responsibility for payment.

- For sole debts we will write to the third party and the customer to let them know that we will not continue with recovery of the overpayment.
- For joint debts we will continue with recovery from the other partner in line with the section above.

Hardship

As explained in the introduction, we can recover overpayments from our customers in two ways:

- recovery from an ongoing tax credits award or
- direct recovery

Benefits & Credits Operations manage the process for recovery from an ongoing award. The customer should call the tax credits helpline (0845 300 3900) for any queries about recovery from an ongoing award.

Debt Management and Banking (DMB) manage the direct recovery process including cases where a customer cannot afford to repay an overpayment.

If the Debt Management Telephone Centre establish that a customer cannot currently make an arrangement to repay an overpayment and meet their living expenses at the same time they will refer the case to a DMB technical office.

The technical office will look at each case on its own merits and at the ability of the customer to make repayments. COP 26 underpins their activity.

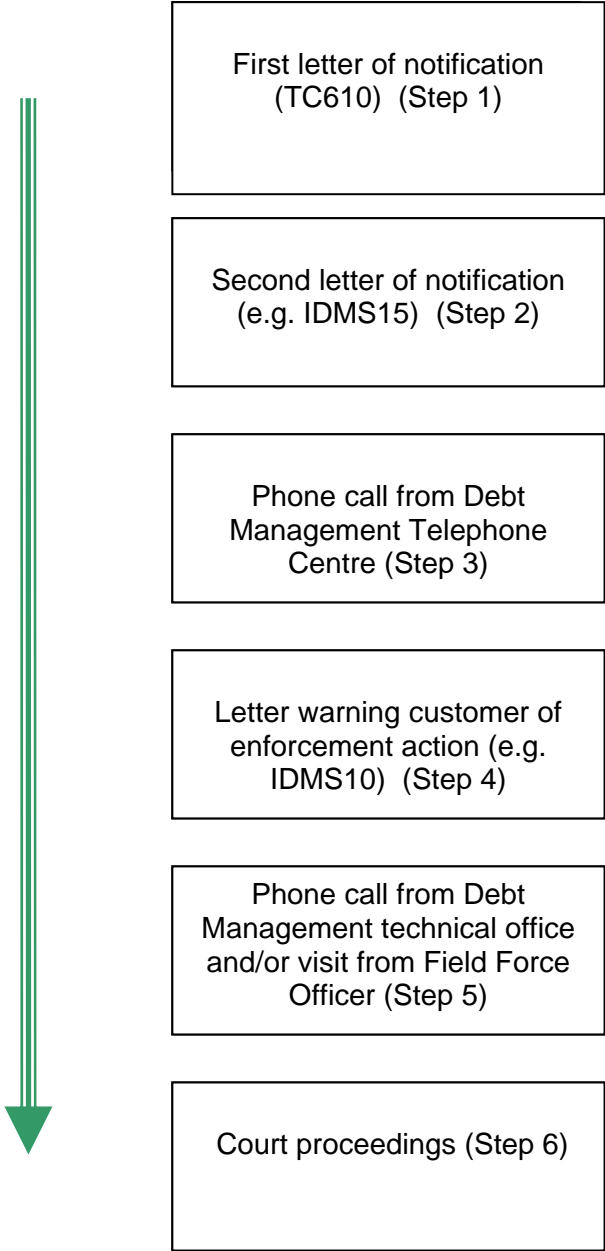
The technical office may need to phone the customer to obtain documentary evidence of income and expenditure details. If they cannot contact the customer by phone they will write and ask the customer to get in touch.

The letter will have the phone number of the technical office. If the customer gets in touch, the technical office will discuss the current income and expenditure to establish whether anything has changed since initial contact with the customer.

In some cases the technical office will set a date for a further review if the customer's circumstances are expected to change, for example, by returning to employment or self-employment.

If the customer still does not have the means to clear the overpayment, and there is little prospect of the position changing then the technical office will consider remitting the overpayment. The customer will be informed of the outcome.

Business process flowchart



An example of the initial letter TC610 asking for repayment



Helpline 08:00 to 20:00 0845 300 3900
 Minicom/Textphone 0845 300 3909

Reprint ref 999999999

Date 99 X<----- 9999

RECEIPTS/FORMS/35CHARACTERS
 RECEIPTS/FORMS/35CHARACTERS
 ADDRESS LINE 1 MAX 35 CHARACTERSXX
 ADDRESS LINE 2 MAX 35 CHARACTERSXX
 ADDRESS LINE 3 MAX 35 CHARACTERSXX
 ADDRESS LINE 4 MAX 35 CHARACTERSXX
 ADDRESS LINE 5 MAX 35 CHARACTERSXX
 P08Y0000

HM Revenue & Customs
 Accounts Office Cumbernauld
 Glasgow
 G67 1YZ

[As Appointee for:]

[Claimant 1 Name xxxxxxxxxxxx]
 [Claimant 2 Name xxxxxxxxxxxx]

National Insurance Number AAMNNNNNA
 National Insurance Number AAMNNNNNA

NOTICE TO PAY Section 29 (3) of Tax Credits Act 2002

We have sent you a notice showing an overpayment of tax credits for the period ending [DD/MM/CCYY].

The total amount you have to pay back is shown below and is due by [DD/MM/CCYY].

The total amount of Working Tax Credit overpaid to you is	£[9999999.99]
The total amount of Child Tax Credit overpaid to you is	£[9999999.99]
The total amount of tax credits overpaid is	£[9999999.99]

[The total in Euros is €[9999999.99]

This conversion has been made under European Commission rules using a rate of @ x 0.000000 = £1]

Information on how to pay is shown on the back of this form.

You may spread your repayment over the next 12 months if you wish. To arrange this, or discuss other payment options please phone the Payment Helpline on 0845 302 1429.

Please have your bank details, sort code and account number ready when you phone us.

TC610

▼ If you need to use the payslip, please detach here ▼

HMRC 09/08

An example of the follow-up letter IDMS15 sent if no response to TC610



ISSUINGOFFICENAME(28CHARS)
ADDRESSLINE(1)(28CHARS)
ADDRESSLINE(2)(28CHARS)
ADDRESSLINE(3)(28CHARS)
ADDRESSLINE(4)(18CHARS)
POSTCODE(8CHARS)

Reprint ref + OU number
TPNAME1MAX28CHARS
TPNAME2MAX28CHARS
ADDRESSLINE1MAX28CHARS
ADDRESSLINE2MAX28CHARS
ADDRESSLINE3MAX28CHARS
ADDRESSLINE4MAX28CHARS
POSTCODE

Tel MAX20CHARS

Fax MAX20CHARS

www.hmrc.gov.uk

Date DD MONTH YYYY
Our ref MAX18CHARS
Your ref MAX18CHARS

Dear Sir or Madam

Claimant 1 Name MAX28CHARS
Claimant 2 Name MAX28CHARS

Overpaid tax credits

Amount outstanding £ 0000000000.00

We wrote to you requesting payment of the amount shown above but it remains unpaid.

You should send full payment immediately unless you have done so within the last few days.

You can also find information about how to pay on the payslips already sent to you with previous requests for payment.

If you dispute the overpayment you should call MAX20CHARS

If you do not contact us immediately, we may have to refer the overpaid tax credits for consideration of legal proceedings.

Yours faithfully

Collector of Taxes

Information is available in large print audio tape and braille formats.
Type talk service prefix number – 18001 (International +44 151 494 1260)

Officer in Charge: OICNAME MAX28CHARS

IDMS15

HMRC 09/06



An example of letter IDMS10 – sent if no response to phone call or letter IDMS15



(Name and Address of claimant(s))

Notice Warning of Legal Proceedings

Debt Management
Tax Credit Overpayment Unit
Accounts Office
St Mungo's Road
Cumbernauld
Glasgow
G67 1YZ

Tel 0845 366 1203
Monday - Friday 08.00 to 20.00

Fax 01236 783174

www.hmrc.gov.uk

Date
Our ref (NI No)
Your ref

(Name and NI No of clmt 1)
(Name and NI No of clmt 2)

Tax Credit Overpayment (Amount)

We have already told you about the overpayment of tax credits detailed above.

Section 29(3) of the Tax Credits Act 2002 applies to the overpayment which means you must pay back £xxxx without delay.

If payment in full is not made I shall commence enforcement proceedings. You may have to pay our legal costs.

Details of how to pay can be found with demands for payment sent to you previously. Further payment information is also available at www.hmrc.gov.uk/howtopay.

If you need help or advice please telephone the above number quoting the reference shown.

Yours sincerely

Tax Credit Overpayment Unit

Information is available in large print, audio tape and Braille formats.
Type Talk service prefix number – 18001

Assistant Head: Catriona Brennan



An example of the income and expenditure form used by HMRC

	Reference: _____		Nino: _____
1 Personal Details		4 Bank and Savings account	
If Other Please state _____ _____ Full Name: _____ Single <input checked="" type="checkbox"/> Married <input type="checkbox"/> Partner <input type="checkbox"/> Date of Birth: _____ >> Address _____ _____ Postcode _____ Contact phone number(s) _____ _____ _____		Current account details Account number _____ Sort Code _____ Current balance _____ Overdraft Limit _____ Savings or Building Society Accounts details (branch(es) and address(es)) Account Number(s) 1 _____ 2 _____ 3 _____ Amount in the accounts 1 _____ 2 _____ 3 _____	
2 Dependants (people you look after financially)		5 Property and Assets	
Number of Children in each age group Age 0-15 _____ Age 16-18 _____ Other dependants (give details) _____ _____		<input type="checkbox"/> Own property <input type="checkbox"/> Rented property <input type="checkbox"/> Jointly owned property <input type="checkbox"/> Other (i.e. B & B) Please tick one box only Value of property if owned £ _____ - Mortgage balance outstanding £ _____ - Endowment Policies £ _____ - Name of Company _____ Maturity Date _____ Surrender Value £ _____ - Stocks and Shares (value) £ _____ - Details _____ Premium Bonds £ _____ - National Savings Certificates £ _____ -	
3a Employment		3b Self Employment	
Works Number (if appropriate) _____ _____ Employer _____ Other paid employment _____ _____		Self employed as: _____ Give details of contracts and other work in hand: _____ _____ Periods of Unemployment _____ _____	
3c Current unemployment		Motor Vehicle(s) make and registration (give details)	
Unemployed for (say how long): _____ Address of office where registered as unemployed _____		<input type="checkbox"/> owned <input type="checkbox"/> lease <input type="checkbox"/> hire purchase <input type="checkbox"/> Company Car Please tick one box only If on HP give date of final payment _____ Any sums due for work done _____	

An example of the income and expenditure form - continued

6 Income (either per week (w), month (m) or year (y))		
	amount	per
Net take home pay		
Including reg overtime, commission, bonuses etc)		
Self Employed Income/drawings		
Tax Credits		
Child benefit		
Income Support/Job Seekers Allowance		
Other social security benefits		
Spouse/ Partners/others contribution		
Pension income		
Other income		
Total Income weekly	£	-
Monthly	£	-
Yearly	£	-
7 Expenses (state whether per week, month or year)		
Expenses. Do NOT include any payment made by other members of your household out of any income not included in Income section		
	amount	per
Mortgage(s)/Rent		
Council Tax/Rates		
Utilities (water/electric/gas etc)		
HP payments		
Mail order payments		
Maintenance Payments		
Court Order payments		
Credit/store card minimum repayments		
Loan repayments payments		
Pension Contributions		
Media (internet/SKY/cable etc)		
Household expenses (food etc)		
Health (prescriptions etc)		
Child related costs (clothing/child care etc)		
Insurance payments (life/buildings/contents etc)		
Telephone (including mobile) (fuel/insurance/road tax etc)		
Other (including pets, repairs etc)		
Totals		
Weekly	Monthly	Yearly
0.00	0.00	0.00

8 Liabilities (amount owed)	
	Amounts owed Last payment due
Loans	
Repayments of Social fund payment HP	
Court Orders	
Credit/store Cards	
Mortgage/rent arrears	
Council Tax arrears	
Utilities arrears	
Maintenance arrears	
Mail Orders	
Other Debts	

9			
	Weekly	Monthly	Yearly
Total Income	0.00	0.00	0.00
Less			
Total Expenses	0.00	0.00	0.00
Disposable	0.00	0.00	0.00

These notes are for guidance only and only reflect the position at the time of writing. They don't affect any right of appeal

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