

# How HMRC handle tax credit 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 credit 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 credit 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 the Tax Credit Office (TCO). However, if customers cannot afford the reduction in the payments they receive, they should contact the Tax Credits Helpline, who will arrange for the customer to be contacted to work out what is a reasonable sum to reduce payments by and for what period.

### 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 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 10.

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 collect the debt.

## How to challenge recovery of a tax credit 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
- By downloading a copy from our website at [http://www.hmrc.gov.uk/leaflets/wtc\\_ap.pdf](http://www.hmrc.gov.uk/leaflets/wtc_ap.pdf)

**Example:** Daisha claims tax credits for her 3 children. Her eldest child finished her GCSE's 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 only included 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 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
- By downloading a copy from our website at [http://www.hmrc.gov.uk/leaflets/wtc\\_ap.pdf](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 credit 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 the Tax Credit Office (TCO) 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 TCO and a copy of our Code of Practice COP26 which explains the principles behind our approach.

# How we recover tax credit 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. An example of the letter can be found on page 10.

- If the customer pays in full we take no further action.
- If the customer contacts us for help, we can agree a payment arrangement. Payment options including an instalment arrangement for up to 3 years if necessary. A longer period can be considered for repayment depending on a customer's financial circumstances (see Time to Pay page 6).
- If the customer disputes the recovery of the overpayment, we will suspend action to recover the overpayment while we reconsider.

## Step 2 – written reminder

If an overpayment has not been fully repaid 30 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 (IDMS15). An example of the letter can be found on page 11.

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

## Step 3 - telephone contact

If an overpayment has still not been fully repaid 21 days after we sent the written reminder (IDMS 15) and the customer has still not contacted us we ask our Debt Management Telephone Centre (DMTC) to call them. The DMTC will discuss payment options including an instalment arrangement for up to 3 years if necessary.

If a customer asks for a longer repayment period, or it is clear that they cannot pay the debt and meet their living expenses at the same time, we pass the case to our Hardship Team. The hardship team will contact the customer and ask for details of income and expenditure and try to agree payment options based on the customer's ability to pay. They also take into account family circumstances as explained in COP26. The Hardship Team look at each case on its own merits and at the ability of the customer to make repayments. If the customer cannot afford repayment the Hardship team will keep in touch with the customer to see whether their circumstances improve and will carry out regular reviews at 3 to 6 months intervals until arrangements for the repayment can be agreed – for example, if a person seeking work gets a job

- If the customer pays in full we will take no further action.
- If the customer sets up an agreed payment arrangement then collection action will stop providing payments are kept up to date.
- If the customer disputes recovery of the overpayment, we will suspend action to recover the overpayment while we reconsider.

## **Step 4 – warning letter**

We will issue a letter (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 contacts us for help, we can agree a payment arrangement.
- If the customer disputes the recovery of the overpayment, we will suspend action to recover the overpayment while we reconsider.

## **Step 5 – personal contact**

If the customer still fails to pay in full or agree arrangements for payment or has still not been in contact, the overpayment will be transferred to one of our Debt Pursuit Offices (DPOs) to follow up.

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

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

Every effort is made to contact the customer before we consider 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 judgement 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 have the power to use distraint but do not generally apply it to tax credit customers.

## **Time to pay – up to three years**

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). The letter also has our Payment Helpline number for customers who feel they will find it difficult to repay the overpayment.

If a customer does not think they can pay within 12 months, we can negotiate a longer repayment period of up to three years.

## **Time to pay – more than three years**

If a customer tells us they need longer than three years they will have to complete a form with 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 disability benefits might indicate that a person is unlikely ever to be able to repay an overpayment. Each case is treated on its merit and in some exceptional circumstances, we may write off 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 credit overpayment by direct payment and paying back another from an on-going award at either 10% or 25% they can contact our Payment Helpline 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. The figures shown in the table below represent what research shows to be average monthly spending in each category and are the figures used throughout the banking and credit industry

Expenditure category	First Adult	Additional Adults Per Head	Children Under 14 Per Head	Children 14-18 Per Head	Own Vehicle Per Vehicle
Phone	£40.00	£15.00	£7.00	£11.00	
Travel	£49.00	£40.00	£18.00	£31.00	£88.00
Housekeeping	£242.00	£141.00	£63.00	£107.00	
Other expenditure	£100.00	£82.00	£36.00	£62.00	

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 13 and 14 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 written off. 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

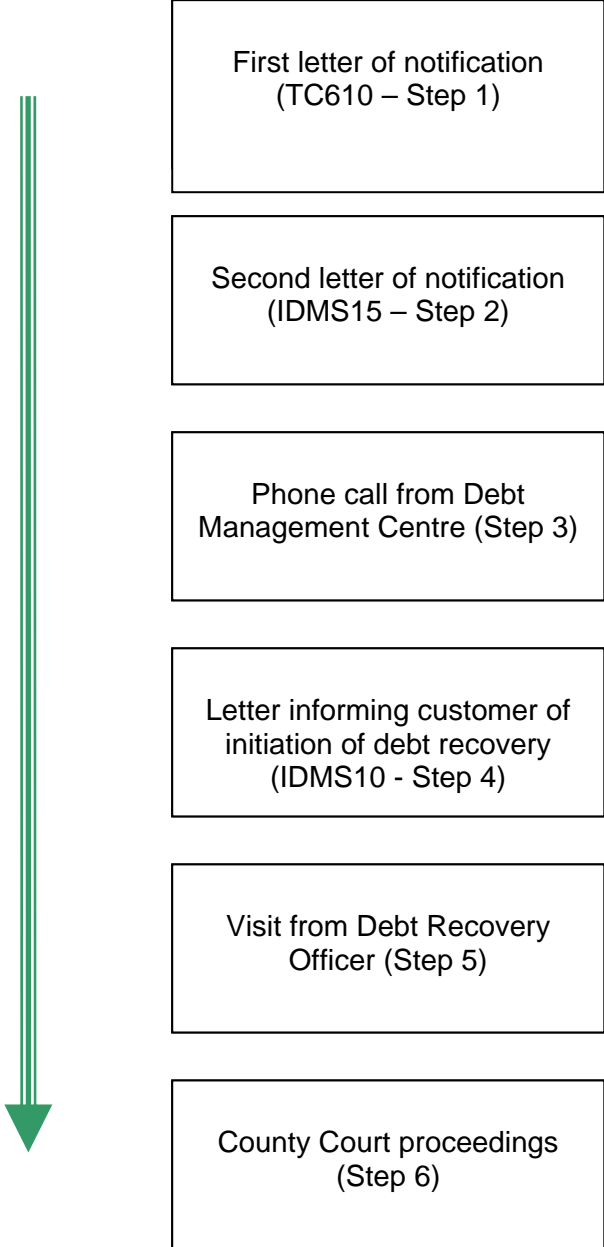
When we establish that a customer:

- has no means to repay an overpayment ;
- has no current or future assets, does not own any property; and
- recovery of the overpayment would cause financial hardship,

providing contact with the customer is made before the case is referred to one of our debt pursuit offices (DPOs), our specialist Hardship Team (part of the DMCO) will deal with it. If the case has already transferred to a DPO, they will carry out the same role as the Hardship Team.

The Hardship Team specialises in dealing with cases where the customer tells us that they cannot afford to repay a debt. They look at each case on its own merit and at the ability of the customer to make repayments. COP 26 underpins their activity. They will write to the customer after 8 weeks asking them to contact us. If the customer gets in touch, we will discuss their current income and expenditure to establish whether anything has changed. If the customer still does not have the means to repay the overpayment, we allow a further period depending on how their circumstances are expected to change. For example, if a person is seeking work they may get a job and a review would be carried out at that point. Otherwise a further review is carried out in 3 to 6 months. The review period can be longer if necessary. If it becomes clear the household is unlikely ever to be able to repay the debt, it **may** be written off. But there is no legal requirement for us to do so

**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 XXXXXXXXXXXXX]  
 [Claimant 2 Name XXXXXXXXXXXXX]

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



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

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

Tel MAX20CHARS

Fax MAX20CHARS

[www.hmrc.gov.uk](http://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 £ 000000000.00

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: OICNAMEMAX28CHARS

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

## An example of the income and expenditure form - continued

<b>6 Income (either per week (w), month (m) or year (y))</b>		
	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		
<b>Total Income weekly</b>	£	-
<b>Monthly</b>	£	-
<b>Yearly</b>	£	-
<b>7 Expenses (state whether per week, month or year)</b>		
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)		
<b>Totals</b>		
<b>Weekly</b>	<b>Monthly</b>	<b>Yearly</b>
0.00	0.00	0.00

<b>8 Liabilities (amount owed)</b>		
	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		

<b>9</b>			
	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**

**Issued by HM Revenue & Customs – Benefits & Credits - September 2009**