**BT18: Review request to recover DHP**

Landlord’s name

Landlord’s address

Housing Benefit Office

Dear Sir / Madam,

**Re: Request for a review of your decision to recover a Discretionary Housing Payment**

Name of claimant:

Address of claimant:

I understand that a decision has been made that the above claimant has been overpaid a Discretionary Housing Payment.

Paragraph 8(2) of the Discretionary Financial Assistance Regulations 2001 states that a Discretionary Housing Payment can only be recovered where:

1. *whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, a material fact and, as a consequence of that misrepresentation or failure to disclose, a payment has been made; or*
2. *an error has been made when determining the application for a payment, and as a consequence of that error, a payment has been made which would not have been made but for that error.*

No misrepresentation or failure to disclose a material fact has been made, and neither has there been an error ‘when determining the (DHP) application’. The decision to award a DHP was made on the basis of the circumstances of the claimant at the time of their application ie there was a shortfall between their eligible rent and their Housing Benefit award, the payment of which was causing them financial hardship and putting their tenancy at risk.

As there was no error when this claimant’s application for a DHP was determined, the payments of DHP were correctly made and there cannot therefore have been an overpayment.

The fact that the claimant is now receiving a back payment of Housing Benefit to correct an official error on their Housing Benefit award is irrelevant – this does not change the fact that when their application for a DHP was decided, no error was made ie the error has been made on their HB award and not their DHP application.

In addition, the way in which you have recovered this suggested overpayment is unlawful. There is nothing within the Housing Benefit Regulations or Discretionary Financial Assistance Regulations that allows an overpayment of DHP to be recovered from a payment of Housing Benefit – whether on-going or not. I would therefore be grateful if you could ensure that this claimant’s award of HB from 1st April 2013 has been properly paid by ensuring that the ‘offset’ amount is paid to us on the next schedule.

Yours faithfully