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| Shared ServicesDebt Management/ Procedures and Process | 22/10/2008 |  |
| 32/08 | **Issued by Information Management** |
| **Subject:** | Waiver requests – referral process |
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| **Who should read this and why?** | All Debt Management staff involved in referring requests for waiver |
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| **Action:** | Implement following October 2008 Debt Manager release |
|  |
| **Contact:** | Expert Domain | **Destroy Date** |
| Until Further Notice |

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| Waiver requests – referral to Operational Policy, Advice and Correspondence (OPAC) |

### Introduction

1. In October 2008 the latest Debt Manager release establishes a new Waiver Router. As a result the waiver referral process has been amended.

1. The main changes are:
2. all referrals will be made electronically via a nominated local officer into a Shared Folder [\\dfz70680\Folders\Waivers](%5C%5C%5C%5Cdfz70680%5C%5CFolders%5C%5CWaivers)
3. completed forms will be quality checked by Team Leaders locally before referral to OPAC
4. Waiver choice will only be available in the VRA

1. This circular replaces all previous guidance on referring requests for waiver to OPAC and explains:
* The revised referral process
* What evidence is required by OPAC; and
* OPAC and Referrer responsibilities in waiver cases.

### Background

1. Social Security legislation gives the Secretary of State the discretion not to recover a recoverable overpayment. Departmental Policy has established, in line with Appendix 4.11 of Managing Public Money, the circumstances in which discretion can be applied. The decision taken will normally apply to all outstanding debts, but not loans. [Section 12 of the Overpayment Recovery Guide](http://intralink/1/corp/sites/sharedservices/debtmanagement/guidanceandforms/Overpayment%20Recovery%20Guide%20%28ORG%29/DWP_D070016-11.asp%22%20%5Cl%20%22P2456_127293) (ORG) contains further information about this.
2. Authority for deciding whether the recovery of an overpayment can be waived is delegated to Debt Management - Operational Policy, Advice and Correspondence Unit (OPAC).

### Important information

1. The letter/telephone call requesting waiver does not have to specifically refer to the word ’waiver’ in order for this action to be considered, only that recovery should not be pursued for some reason.
2. These reasons could include any of the following (this list is not exhaustive):
3. The customer cannot afford to repay the overpayment, regardless of the rate of recovery.
4. Recovery would cause excessive hardship to the customer, their partner or a dependant because of health issues.
5. It is unfair to expect them to repay because of the circumstances in which the overpayment arose.
6. They were told they were entitled to the sum overpaid and have spent it.
7. They claimed the wrong benefit and the overpayment should be reduced by the amount of unclaimed benefit.
8. We must balance the requirement to explain overpayment recoverability and dealing with hardship requests with the need to properly identify waiver requests.
9. Waiver requests should not be confused with:
* hardship applications;
* requests for written explanations; or
* requests for appeal / reconsideration.
1. If the customer or their representative specifically requests waiver then the case must always be referred to OPAC. However, where the word “waiver” is not used it can be difficult to distinguish between normal hardship applications and cases where it might be appropriate to consider waiver. If in doubt, discuss with your Team Leader or local Expert Domain officer.
2. Unless waiver is specifically requested you should first try and address any concerns the customer has regarding hardship and their ability to repay the overpayment. Clearly, just because a customer might say they cannot afford to repay the overpayment does not mean that waiver necessarily needs to be considered, and the normal hardship process should be followed first.
3. If the customer is still insistent they cannot repay then the Waiver Referral Process must be followed. However, consideration of waiver on financial grounds only often results in recovery at a lower rate.
4. Where a customer or their representative has written to the Department requesting waiver, but the letter also deals with other issues (e.g. complaint about customer service) the Contact Centre (CC) should respond to these other issues as normal. The reply should also advise that the request for waiver will be/has been referred to the team responsible for this.

1. The case must then be dealt with as any other waiver request – but the Referrer must include a copy of the letter issued, or advise OPAC that a response to all of the other issues has been made. The Additional Information section on the Waiver Referral Form (WRF) should be used for this.

### Action

### When a request for Waiver is received

1. **Important: Do not move the case into the Waiver Router as soon as a request is identified The waiver choice must only be taken once all evidence is gathered and ready to pass to your Team Leader.**
2. All waiver requests should be dealt with urgently.
3. If a request is made where the case is subject to an appeal, the waiver request must not be held back pending the outcome of the appeal, it must be dealt with immediately.

1. If recovery/deductions have not yet commenced, you must take no action to start it or re-instate any suspended recovery.
2. Before submitting any referral you must check that the appropriate evidence has been provided by the customer or their representative in support of the request. (See paragraph 21 onwards)
3. The [Waiver Referral Form](#four) can be found at Annex 4. This must be completed electronically. The form is also available to download from the Expert Domain site.

#### Waiver requested on Health Grounds

1. When a waiver is requested on health grounds it is not sufficient to provide the details of the medical condition(s) the customer suffers from. Ideally, supporting evidence from a relevant professional will be provided to explain how or why the recovery of the overpayment would be detrimental to the health or welfare of the customer or their family/household.
2. If there is no evidence of how recovery would cause hardship supplied with the waiver request you must contact the customer or their representative to request it (a suggested draft letter is attached at [Annex 1](#one)).

1. You should take care not to give the customer/representative the idea that simply providing a doctor’s letter will automatically mean the recovery will be waived.
2. If no reply is received after 30 days the request must be forwarded to your line manager for checking before it is referred to OPAC with a note that additional evidence has been requested but not supplied by the customer/representative. Use the Additional Information section on the WRF.
3. Some examples are included below:

##### Example A:

1. A letter is received from a customer requesting waiver on health grounds;
2. There is no supporting evidence supplied.

Issue letter at [Annex 1.](#one)

##### Example B:

1. A letter is received from a medical professional in support of a waiver request;
2. The letter asks that waiver is agreed because the person suffers from a specified condition; but
3. It does not set out how recovery would cause excessive hardship.

Issue letter at [Annex 1](#one).

##### Example C:

1. A letter is received from a medical professional or other individual in support of a waiver request; **and**
2. The letter asks that waiver is agreed because the person suffers from a specified condition; **and**
3. The letter explains that the person has been advised to follow a special (and more expensive) diet which they could not do if required to pay back the overpayment; **or**
4. The letter explains that stress / anxiety will severely aggravate the person’s condition and that repaying the overpayment will cause this.

Complete the WRF and submit to your Team Leader for checking.

#### Waiver requested on Financial Grounds

1. Where the waiver is requested on financial grounds we would expect full details of the income and expenditure of the customer, partner and any dependants to be provided.
2. If there is no evidence supplied contact the customer or their representative to ask them to complete an Income and Expenditure (I&E) Form (a suggested draft letter is attached at [Annex 2](#two)).
3. If no reply is received after 30 days the request must be forwarded to your Team Leader for checking before it is referred to OPAC with a note that Income and Expenditure details have been requested but not supplied by the customer/representative. Use the Additional Information section on the referral form.

### Waiver request is made in MP’s Correspondence

1. Where the waiver request has been submitted via the customer’s MP a holding reply must be issued advising the MP that the case will be referred for consideration of waiver.
2. The Referral Form must be completed and sent via your Team Leader as usual (with the MP’s letter). You do not need to request further supporting evidence from the customer or representative.

1. The case should then be referred urgently to OPAC via the Shared Folder
2. OPAC will advise you of the waiver decision so that you can notify it to the MP.

### Before submitting any waiver referral to OPAC

1. You must take the following action:
* **Do not move the case into the Waiver Router at this stage**
* Note Debt Manager – Waiver request received from customer/representative/MP
* Obtain any relevant documents in support of the request; e.g. letters, I&E Form.
* Complete the [Waiver Referral Form](#four).
* Forward the completed referral to your Team Leader for checking
* Where there has been an undue delay in referring the waiver request to OPAC, or the request also deals with other issues, the referring office must contact the customer/representative, answer any other queries and inform them that the request has been sent to OPAC for consideration. Include details in the Additional Information section on the WRF.

### Documents to refer with the Request

1. You will normally need to refer some or all of the following documents:
* a full explanation of how the overpayment arose;
* any correspondence regarding repayment of the overpayment from the customer or their representative;
* any recently completed Income and Expenditure forms;
* any details held relating to the customer/their family’s health,
* copies of any appeal / reconsideration decisions.
1. Once the waiver referral has been checked by your Team Leader, it must be forwarded to your local contact for transfer with all supporting documents to the Waiver Shared Folder.[\\dfz70680\Folders\Waivers](%5C%5C%5C%5Cdfz70680%5C%5CFolders%5C%5CWaivers)

1. All individual cases transferred must be in a separate folder and include the referral form and any other supporting documents. Each folder must be identified with the customer’s surname.
2. OPAC will retrieve the referrals from the shared folder daily.

### Action to take on Debt Manager

1. If recovery has not yet commenced any further action must be suspended pending the outcome of the waiver request. Where recovery of the overpayment is already in place it should **not normally** be suspended solely on the basis of the waiver request. If the circumstances are such that we would normally suspend recovery on a temporary basis (e.g. due to financial hardship / commitments), then normal suspension action should be taken pending the outcome of the waiver referral.
2. If, in exceptional circumstances, you think that recovery should be suspended and the case does not satisfy local criteria for suspension of recovery, then please contact for advice:

DWP QH Debt Management Expert Domain

1. Once all the relevant evidence is obtained you must go into Debt Manager and:
2. Note the VRA diary with a brief reason for the referral, eg Health, Financial grounds. You may also note the IND if you feel this will be useful. To ensure uniformity it is suggested that the following process is used:
* Select the VRA diary.
* Select the ‘\*\*\*’ category.
* In the ‘Diary description’ enter “Waiver Request to OPAC”
* In ‘Comments’ enter “Waiver request referred to OPAC. Med Evid/I&E provided/not provided (include as appropriate).

1. Move the VRA account to the Waiver Queue (WQ) the IND(s) will automatically move as well, unless they are Social Fund or other loans.

### Waiver request received by OPAC

1. When OPAC receive the request, the evidence will be considered and a decision will be made whether or not it is appropriate to waive recovery of all or part of the outstanding debt(s).
2. Only quality referrals can normally be accepted, as a decision may not be possible if all of the necessary information is not provided (or waiver may be declined if there is insufficient evidence to support the request). If no Waiver Referral Form (WRF) and/or supporting documents are received, the referral may be returned to the Referrer requesting remedial action.
3. OPAC will also check that the account is on the WQ. If it has not been moved the referring officer or local LAT will be contacted and asked to take this action, as OPAC are unable to do this. Further waiver action cannot be taken until this has been completed.

### Waiver Decision

1. The waiver decision will be notified to the customer or representative by letter. OPAC will either;
2. issue a system notification; or if this is not possible
3. will notify by letter directly to the customer or their representative
4. OPAC will include the relevant CC (or CRC) contact details, rather than their own. Customers may contact the CC with any further queries.
5. Anticipated questions and their suggested answers are attached at [Annex 3](#three).

### OPAC Action when a full waiver is granted

1. OPAC will;
2. make an entry in the VRA/IND account diaries on DM to record the decision;
3. contact the Referring Officer to ask for any deductions in place to be stopped immediately (where necessary)
4. Take the appropriate Choice and the case will move out of the Waiver Router and automatically adjust the balance owed.
5. The WRF will be returned by e-mail to the referrer and will note the outcome of the waiver request and detail any further action required. This should be retained for 13 weeks in case of further enquiries from the customer or representative.

An electronic copy of the waiver decision and supporting documents will be retained by OPAC in line with Departmental document retention policy for audit purposes

### OPAC Action when a partial waiver is granted

1. OPAC will:
2. make an entry in the VRA/IND account diaries on DM to record the decision;
3. Go into Panel XX to make the correct balance adjustment
4. Take the appropriate Choice to remove the case from the Waiver Router
5. Notify the customer or representative by letter
6. The form will be returned by e-mail to the referrer and will note the outcome of the waiver request and any further action required. This should be retained for 13 weeks in case of further enquiries from the customer or representative.
7. An electronic copy of the waiver decision and supporting documents will be retained by OPAC in line with Departmental document retention policy for audit purposes.

 OPAC Action when waiver is refused

1. OPAC will:
2. make an entry in the VRA/IND account diaries on DM to record the decision;
3. Take the appropriate Choice to remove the case from the Waiver Router
4. Notify the customer or representative by letter
5. The WRF will be returned by e-mail to the referrer and will note the outcome of the waiver request and any further action required. This should be retained for 13 weeks in case of further enquiries from the customer or representative.
6. An electronic copy of the waiver decision and supporting documents will be retained by OPAC in line with Departmental document retention policy for audit purposes.

**Timescales**

1. Waiver requests will normally be dealt with within 4 weeks from the date of receipt by OPAC. Requests that are considered as **urgent** should be noted with the reason why and will be considered for action as soon as possible.

**Additional guidance**

1. If you need help or guidance in completing the referral or want advice for a specific case, you can contact Expert Domain. Please mark your query as urgent.

### Annex 1

**Waiver Requested on Health Grounds**

Dear

You have asked us to look at this case and decide whether the money should be paid back.

Each case is considered individually, but where a waiver is requested on health grounds, it is helpful if supporting evidence is provided to explain how or why recovery of the overpayment is detrimental to the health or welfare of you or your family.

Therefore, I am writing to you to give you the opportunity to submit additional evidence before we consider your case. If I do not hear from you within the next 30 days, then we will consider your request on the information you have already provided. If you want to obtain additional evidence, but need more time to get it, then please let me know. Our address and telephone number are given above.

Additional evidence could be a letter from another person, a doctor, specialist, or support worker. Please be aware some professionals may charge you for this. Unfortunately, we cannot help with payment. If you already have a letter confirming your medical condition you can send that to us instead, but please also tell us how paying back the overpayment would affect your health.

Supplying additional evidence does not mean that you will not have to pay this money back.

Yours

### Annex 2

**Waiver Requested on Financial Grounds**

Dear

You have asked us to look at your case and decide whether the money should be paid back.

Each case is considered individually, but where a waiver is requested on financial grounds, it is helpful if full details of your household’s income and expenditure are provided. Therefore, we are sending you an Income and Expenditure form to complete to provide this information, together with any other information you think might support your request.

Please complete and return this to us as soon as possible. If we do not hear from you within the next 30 days, then we will consider your request on the information you have already provided.

Supplying additional information does not mean that you will not have to pay this money back.

Yours

### Annex 3

**Questions and Answers**

**Q I do not agree with this decision, can I appeal or can I ask someone to look at it again?**

A There is no right of appeal against a waiver decision. However, a fuller explanation can be provided.

You can ask us to look at your case again at any time, if further information becomes available or if there has been a change in your circumstances.

**Q How can someone turn my waiver request down when my doctor/ health advisor/ etc has said I’m ill?**

The existence of a particular medical condition does not provide enough detail in itself to support waiver.

A request for waiver needs to be supported by reasonable evidence that the recovery of the (overpayment/sanction) would be detrimental to your welfare or the welfare of your family. It is not just a question of hardship being caused, it is the level of hardship continued recovery may cause.

**Q I simply cannot afford to pay this money back. How will I manage?**

A It is not intended that recovery of an overpayment should cause undue hardship. We will take into account your financial circumstances before the rate of repayment is decided.

**Q As you have waived recovery of this overpayment / taken so long to deal with my request** **will you refund the money you have recovered?**

A We are only able to waive recovery of the balance outstanding on your (overpayment/sanction) at the time the decision is made. We are unable to refund any money already correctly recovered.

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| Waiver Request Form | Annex 4 |
| Please send applications to: OPAC, via Shared folder – \\dfz70680\Folders\Waivers  | Checked by Team Leader  Please insert initials and date |
|  |  |  |  |  |  |
| **Referring Office Details** |
| CRC/CC:  |
| Name of Referrer:  |
| Direct Tel. No:  |
| Date of referral: Date account moved to Waiver Queue: ………………………………Debt Acc Ref No (VRA):  |
|  |  |  |  |  |  |
| **Customer’s Details** |
| Full Name: | NINO: |
| Appointee/Representative Name: (if appropriate) | Contact Details: |
|  |  |  |  |  |  |
| **Details of Overpayment / Debt (state benefit or type of debt e.g. IS; Ad-Pen)** |
| 1: ………………………………2: ………………………………3: ……………………………… | Amount £: …………………Amount £: …………………Amount £: ………………… | Balance £: ……………….Balance £: ……………….Balance £: ……………….. |
| **More than 3 overpayments - enter details in Notes box on next page** |
| Details of the cause of the overpayment(s): |
|  |  |  |  |  |
| Is a copy of the overpayment decision(s) attached (please mark box)? | **Yes** |  | **No** |  |  |
|  |  |  |  |  |
| Has the decision(s) been subject of reconsideration (please mark box)? | **Yes** |  | **No** |  |  |
|  |  |  |  |  |
| Has the decision(s) been subject of appeal (please mark box)? | **Yes** |  | **No** |  |  |
| If yes, please give details of outcome and include copy of Tribunal decision: |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **1. Health Grounds** | **Yes** |  |  | **No** |  |
|  |  |  |  |
| Is Medical evidence supplied? - **If no, please obtain medical evidence before referring** | **Yes** |  |  | **No** |  |
|  |  |  |  |
| **2. Financial Circumstances** | **Yes** |  |  | **No** |  |
|  |  |  |  |
|  Is Supporting evidence e.g. I&E Form supplied? - **If no, please obtain I&E information before referring** | **Yes** |  |  | **No** |  |
|  |  |  |  |
| **3. Other Reasons – give details below**  | **Yes** |  |  | **No** |  |
| Is there supporting evidence? (If yes, please include copy) | **Yes** |  |  | **No** |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |
| Additional Information (If yes, enter details below): | **Yes** |  |  | **No** |  |
|  |  |  |  |

|  |
| --- |
| **Note any other Additional Information (e.g. additional request details, reason for any undue delay, etc):** |

|  |
| --- |
| **Waiver Decision** (**to be completed by OPAC**) **Date of Decision**: |
|  |
| **Referral rejected**  |
| No supporting evidence attached  |  | Evidence indicates reconsideration needed |  | Debt is not recoverable  |  |  |
|  |  |  |  | Other reason (See additional Information section below) |  |  |
|  |
| **Waiver Decision** |
| Full Waiver |  | Part Waiver |  | Waiver refused |  |  |
|  |
| System Notification |  | Manual Notification (OPAC) |  | Debt Manager Actioned |  |  |
|  |
| Medical Evidence did not support hardship |  |  |
|  |  |  |
| Financial Evidence did not support hardship |  |  |
|  |  |  |
| No other grounds |  |  |
|  |
| **Additional Information** **:** |

|  |
| --- |
| **Contact Centre Action** |
|  |
|  |  | Case not appropriate for waiver. Reconsideration of decision required. **Forward to appropriate office urgently**. |
|  |
|  |  | Continue with normal recovery action. |
|  |
|  |  | Please suspend recovery to help alleviate financial problems. Review date: |
|  |
|  |  | Please review rate of repayment. I&E form should be issued. |
|  |
|  |  | Reduce Rate of Recovery to £…………….. Review (date) ……………. |
| **Additional information:** |

|  |  |
| --- | --- |
| For OPAC: | Date: |