



DEBT MANAGEMENT AND GRIEVING FAMILIES

A BRIEFING FROM CPAG'S EARLY WARNING SYSTEM

July 2022

Our Early Warning System, which picks up systemic issues in the benefits system, has identified a simple way that the DWP could improve its bereavement service: by changing its debt management practices.

Ian, who is retired, lost his 60-year old wife to cancer. She had been getting a disability benefit under the special rules for terminally ill people. When she died, Ian told the DWP straight away. Nonetheless, and without Ian realising, the DWP made an extra benefit payment for a period after her death.

Ian got a letter six weeks later asking him to pay the DWP £130.

Ian's adviser told us: "He was distraught at the receipt of the letter. There were quite a lot of tears in our office."

"When I told him that he didn't have to pay it, the look of relief on his face was palpable. It was one less thing he had to worry about during a time that was intensely stressful anyway."

The law, compared with DWP practice

When the DWP is told promptly that somebody has died, but still pays some benefit for a period after they passed away, partners and family members aren't liable to pay anything back.¹

Despite this, the DWP's [Benefit Overpayment Recovery Guide](#)² instructs officials to recover amounts as low as £25 from grieving family members.

In Ian's case, he received a letter that follows a standard DWP template called DM15. The letter states 'we [the DWP] fully accept that such payments are not the result of anyone's fault' but goes on to say that 'we are obliged to ask for them to be refunded'.

¹ This is the case where, as for Ian, the benefit award isn't a joint one, there is no appointee, and the benefit is paid into the deceased claimant's account. [Sections 71-71ZB of the Social Security Administration Act 1992](#); R(IS) 9/06; [regulation 4 of the Social Security \(Overpayments and Recovery\) Regulations 2013](#).

² At 1.33-1.37 and 2.17

Although these letters do not threaten legal action, they do not explain that the recipient is not legally liable to pay anything. Given the letter’s official branding and language, and the absence of any clear explanation, recipients might reasonably think that ‘obliged’ means ‘legally required’ and ‘ask’ means ‘demand’.

Consequences

These letters are upsetting for grieving families and have a harmful effect on public perception of the DWP.

In writing to non-liable third parties, and failing to spell out its own legal position, DWP Debt Management is arguably not meeting the same transparency standards expected of other creditors.³

The small sums of money eventually recovered must account for a tiny fraction of DWP’s current debt figures⁴ and it is doubtful that the financial benefit of recovery outweighs the social (let alone the administrative) costs.

Recommendations

- End the practice of sending DM15 letters to next-of-kin
- Failing this,
 - Re-write the letters to make the legal position clear. As a minimum, add a line to the first page and a more detailed paragraph to the ‘FAQ’ page explaining that any repayments by next-of-kin in a personal capacity are voluntary. If the addressee is being contacted as administrator of an estate, explain this in the letter, along with any legal basis for recovery from the estate.
 - Add the same clarifications about recovery from next-of-kin to the [Benefit Overpayment Recovery Guide](#), in particular at paragraph 1.34. This paragraph gives the clear impression that recovery can be sought from next-of-kin whatever the circumstances, which is legally incorrect.
 - Raise the small overpayment (SMOP) limit⁵ for direct payments after death so families are not pursued for as little as £25. (This lower limit could be retained for bank refund requests.)

About CPAG

Child Poverty Action Group works on behalf of the more than one in four children in the UK growing up in poverty. It doesn’t have to be like this. We use our understanding of what causes poverty and the impact it has on children’s lives to campaign for policies that will prevent and solve poverty – for good. We provide training, advice and information to make sure hard-up families get the financial support they need. We also carry out high profile legal work to establish and protect families’ rights.

About the Early Warning System

Our Early Warning System gathers information about how changes to the social security system are affecting the lives of children and families. This intelligence informs much of our policy, research and campaigning work, and feeds into the advice we give frontline advisers. We are grateful to every adviser who contributes.

³ Financial Conduct Authority’s Consumer Credit Sourcebook at [7.5.2](#), [7.9.10](#), [7.11.1](#), and more generally [7.3](#)

⁴ The DWP states that it had £3.6 billion of overpayment debt in 2021/22.

⁵ DWP’s [Benefit Overpayment Recovery Guide](#) at 2.17