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17<sup>th</sup> July 2023

Sent by e-mail

Dear Deputy Ward

**Re: Health and Social Security Panel – Review of Income Support Overpayments**

Thank you for your letter dated 11<sup>th</sup> July 2023. Please find below responses to each question in turn.

**1. Does Social Security have an Income Support overpayment policy in place that is publicly available?**

Yes. Please see the **Income Support Policy Guidelines** which are located on the Gov.je website:

[ID Income Support Policy Guidelines.pdf \(gov.je\)](#)

Chapter 10 of the document makes clear the requirement for people to notify the Department of any changes in the household circumstances which may affect the level of Income Support entitlement.

Income Support Policy Guidelines

In order to provide a transparent information mechanism for the public to access rules & guidelines around Income Support, a comprehensive document is available on the Gov.je website - see [Income Support policy guidelines](#).

Chapter 10 at page 90 confirms that under Income Support legislation, claimants are required to notify the department of any changes to the household circumstances which may affect the level of benefits payable.

10.3 gives a non-exhaustive list of possible changes which must be notified:

- 1. A change in the income of anyone in the Income Support Household*
- 2. Anyone in the Income Support Household starting or finishing work, including starting a new business. If any working adult is considering giving up their job, they should contact the Department before any commitment is made*
- 3. The Income Support Household moving to new accommodation*
- 4. The rent paid by the Income Support Household changing*
- 5. Anyone moving into or out of the home, including lodgers and subtenants*
- 6. The death of anyone in the Income Support Household*

7. *Any of the children leaving school, leaving home or going into care*
8. *The child care provider changing*
9. *Anyone in the Income Support Household becoming a student, becoming a jobseeker, going on a training scheme, going into hospital, nursing home, prison or youth custody. If either the claimant or their partner is considering returning to full-time education, they must contact the Department before any commitment is made*
10. *The Income Support Household becoming a host family for language students or having students staying with it*
11. *Anyone in the Income Support Household going to be away from home for more than 4 weeks (including time spent in hospital)*
12. *A change in the health/medical condition and/or need for care of anyone in the Income Support Household*
13. *Any changes to benefits & pensions received (excluding those paid by the Jersey Social Security Department)*
14. *Any changes to trust or maintenance payments received, maintenance payments paid out, trust income or charitable income*
15. *Anyone in the Income Support Household receiving an inheritance*
16. *Anyone in the Income Support Household selling, purchasing or inheriting property in Jersey or worldwide.*

**It is important to note that it is an offence to withhold information that would lead to a change in the amount of Income Support payable.**

The Law which is referred to in the document is the Income Support (Jersey) Law 2007. It is useful to set out in further detail the legislative requirements:

Article 13 of the [Income Support \(Jersey\) Law 2007](#) (ISJL) gives the Minister for Social Security the powers to recover amounts of Income Support benefit which were not properly payable:

### **13 Recovery of awards wrongly made**

- (1) *If it is found at any time that any award has been paid that was not properly payable, the Minister may require it to be repaid –*
  - (a) *if it was paid to a person in his or her own right or on behalf of an eligible household, by that person; or*
  - (b) *if it was paid to a person on behalf of another person or an eligible household, by that person, by that other person or by a member of that household.*
- (2) *If it is found at any time that any award properly payable has been paid to a person not being a person by whom it was properly receivable, the Minister may require it to be repaid by the person to whom it was paid.*

- (3) *In case of the death of a person who could be required to repay a sum under this Article, the Minister may require it to be repaid by the person charged with the administration of the deceased person's personal estate.*
- (4) *Proceedings for the recovery of any sum which a person is required under this Article to repay to the Minister may be instituted by the Treasurer of the States, either in term or in vacation, and notwithstanding any enactment or rule of law to the contrary, any such proceedings may be brought at any time within 10 years from the time when that sum was paid, or, where the proceedings are for the recovery of a consecutive series of sums, within 10 years from the date on which the last sum of the series was paid.*
- (5) *Any sum which a person is required under this Article to repay to the Minister may, without prejudice to any other remedy, be recovered by means of deduction from any other payment due under this Law to the person to whom the sum was paid, unless it was paid to that person on behalf of another, in which case it may, without prejudice to any other remedy, be recovered by means of deduction from any payment due under this Law to that other person*

These powers are delegated to Determining Officers (DOs) of the Department, confirmed by [R20/2021](#) at page 13.

It is important to note that there is no right of redetermination or appeal against a decision made under Article 13 of the Law to recover an overpayment. The right of redetermination and appeal is against the decision that created the overpayment.

Provisions for the determination of claims is provided through [Article 9\(1\) of the ISJL](#). Under Article 9, the right of redetermination and appeal is restricted to only those decisions made by DOs under Part 2 of the ISJL (which covers Articles 2 to 7) and Articles 8(1), 11 and 12 of the Law.

Once an Income Support claim is open, the responsibility to notify the department of any changes which may affect the rate of payment of Income Support rests with the adult members of that Income Support household. This is set out in Articles 8 and 13(c) of the [Income Support \(General Provisions\) \(Jersey\) Order 2008](#)

## **8 Notification of change of circumstances and furnishing of information**

- (1) *Where a household is in receipt of income support and an adult member of that household knows or suspects that there has been a change of circumstances that might affect entitlement to, or the level of payments of, income support, he or she must, within 14 days of the change occurring, notify the Minister in writing of the change of circumstances.<sup>[22]</sup>*
- (2) *The person mentioned in paragraph (1) must furnish to the Minister, in such manner and within such time as the Minister may specify, such information as the Minister may require as a consequence of the change of circumstances.*

## **13C Changes in circumstances affecting payments of income support**

- (1) *Where, by virtue of a change in circumstances, a household's entitlement to income support ceases, or the level of payments to which the household is entitled decreases, the cessation of, or decrease in, payments has effect from the date of the change in circumstances.*

- (2) *Where, by virtue of a change in circumstances, a household is entitled to an increase in the level of payments of income support to which it is entitled, the increase has effect in accordance with paragraph (3) or (4).*
- (3) *Where notice of the change in circumstances is given to the Minister within the time required by Article 8(1) –*
- (a) *if the Minister does not require any further information under Article 8(2) as a consequence of the change – the increase has effect from the date of the change in circumstances;*
- (b) *if further information required under Article 8(2) as a consequence of the change is furnished to the Minister within the time specified by the Minister under Article 8(2) – the increase has effect from the date of the change in circumstances;*
- (c) *if further information required under Article 8(2) as a consequence of the change is not furnished to the Minister within the time specified by the Minister under Article 8(2) – the increase has effect from the date the further information is furnished to the Minister.*
- (4) *Where notice of the change in circumstances is not given to the Minister within the time required by Article 8(1) –*
- (a) *if the Minister does not require any further information under Article 8(2) as a consequence of the change – the increase has effect from the date the notice of the change in circumstances is given to the Minister;*
- (b) *if further information required under Article 8(2) as a consequence of the change is furnished to the Minister within the time specified by the Minister under Article 8(2) – the increase has effect from the date the notice of the change in circumstances is given to the Minister;*
- (c) *if further information required under Article 8(2) as a consequence of the change is not furnished to the Minister within the time specified by the Minister under Article 8(2) – the increase has effect from the date the further information is furnished to the Minister.*

## **2. How do you calculate repayment of overpayment of Income Support benefits (length of time)?**

### **Overpayment guidance**

When an overpayment occurs, an advisor will initially establish if the individual is able to pay back the overpayment immediately. If the household is unable to do so, the advisor will use the below guidance in conjunction with consideration of the household's current financial circumstances.

When possible, an advisor will ensure that the household has at least the personal component for each household member to live on. For example, a single individual will have at least the adult component (£111.30 a week) to live on once their rent has been paid in full, a couple with one child would have two adult components (2x £111.30 a week) and one child component (£91.70 week) to live on.

The below table is guidance only; advisors will look at every debt and its recovery on a case-by-case basis taking the circumstances of the individual and their household into account.

<b>Debt Amount</b>	<b>Recovery guidance</b>
£0 - £999	£3 per day
£1000 - £1999	£4 per day

£2000 - £4999	£5 per day
£5000 - <	Max – half the adult component (currently £7.95)

### 3. On average, how long does it take Social Security to process a change in circumstances and for this to be reflected in the amount paid to recipients/third party?

We aim to implement changes within 5 days of receiving all the information. However currently it takes on average 9 days to process a change in circumstances to an Income Support claim; this is due to the time it takes to obtain all the necessary information from households.

The change in rate is implemented at the same time the claim is assessed and is backdated to the date of change.

### 4. When an individual first applies for Income Support, how are the processes/rules relating to the benefits communicated to individuals?

Below is a copy of the declaration signed when applying for Income Support:

#### **Declaration**

*This is my claim for Income Support and I understand that;*

- *the Income Support team may need further information from other areas of the Government of Jersey (GoJ) or relevant agencies and third parties. The Income Support team will only request relevant information for the purposes of assessing my claim.*
- *the Income Support team may share relevant information I have provided on this form and any supporting evidence I have submitted with other areas of the Government of Jersey, Highlands College, my employer/s, child care provider/s, GP, healthcare provider and landlord where there is a need to check the accuracy of information I have provided, and for any information which is needed to deal with:*
  - o *this claim for benefit,*
  - o *any request for this claim to be looked at again,*
  - o *any redetermination or appeal against this claim.*
- *Customer and Local Services may use the information which it has now or may get in the future to decide whether I am entitled to:*
  - o *the benefit I am claiming,*
  - o *any other benefit I have claimed,*
  - o *any other benefit I may claim in the future.*
- *I must tell the Income Support team of any changes of circumstances that may affect this claim, and this must be done within 14 days of the change. I understand that if I do not do this I may get more or less benefit than I am entitled to. If I am overpaid, I will have to pay the money back and may have to go to court. If I am underpaid, any underpaid benefit may not be paid back to me if I informed the Income Support team of my changes after the 14 days deadline.*
- *If I supply information that I know to be false or withhold information for the purpose of obtaining benefit for myself or anyone else (for example, I do not declare property or land I own in Jersey or anywhere else in the world), I am committing a criminal offence for which I could be prosecuted, and which may result in a fine and/ or imprisonment.*
- *I may have to repay any amount that I have fraudulently obtained.*

- Information about this claim may be shared with any adult member of my household.
- It is my responsibility to have this form explained to me if I do not understand it.
- Proofs may be requested at a later date to verify my claim.

*I understand how the information I supply will be used by the Income Support team at Customer and Local Services.*

*I also confirm that to the best of my knowledge and belief, the information given on this form on behalf of myself and all members of my Income Support household (if applicable), is true and complete and that any other adults included have read and understand this declaration regarding information about them that is included on the form.*

*I confirm that I have read and understood the above declaration.*

**The award letter contains the following:**

**It is the responsibility of every adult member of the household to tell Income Support about any changes which may affect your benefit.** A list of common changes is enclosed.

**All award and change of circumstances letters enclose a “Tell us if” statement, which concludes with the following guidance:**

- *If you don't tell us of any changes to your Income Support household within 14 days, you are committing an offence.*
- *Don't rely on someone else to tell us!*
- *You may need to go to court and you could lose benefits that you are entitled to.*
- *You could also be overpaid resulting in a debt which you will have to repay.*
- *You will need to provide official documents to support any changes.*

**5. How often do you communicate (via letters, emails etc) to recipients of income support benefits reminding them to advise the department of any change in circumstances?**

Every change of circumstance requires communication via a letter which includes the “Tell us if” statement. The amount of communication for each individual claim will depend on the amount of changes that we are notified of, so some claims will be informed many times throughout the year due to changes, but every claim is informed via annual uprate which is done every year. The same message “Tell us if” is communicated within the uprate letters sent to all claimants.

An example of the communications used on all letters and uprate is shown as an appendix to this letter – Appendix 1(a) and (b).

Yours sincerely



**Deputy Elaine Millar**  
Minister for Social Security

## Appendix 1(a) Uprate letter example:



# Tell us if:





- you start or end a job.
- you start a new business.
- you or your partner are considering returning to full time education - you must contact Income Support before any commitment is made.



- there is a change in wage or income.
- your rent changes.
- there is a change to maintenance paid out, maintenance received, trust income or charitable income.
- there is any change to the value of benefits or pension received (excluding those paid by Social Security)
- a member of your Income Support household sells, buys or inherits property or land in Jersey or anywhere else in the world.
- a member of your Income Support household receives an inheritance or other lump sum amount.



- you become a host family for language students or have students stay with you.
- you move / change address.
- anyone moves in or out of your home.
- there is a death of any member of your Income Support household.
- a member of your household becomes a student, goes on a training scheme, goes into hospital, nursing home, prison, or youth custody.
- a member of your Income Support household is going to be away from home for any period of time.
- there is a change in medical condition or need for care.



- a child starts school, leaves school, becomes a jobseeker, leaves home, or goes into care.
- your family childcare arrangements change.

**This is not a complete list, if you are not sure ask us for advice.**



**Tell us online: [www.gov.je/IncomeSupport](http://www.gov.je/IncomeSupport)**  
**Email us at [income.support@gov.je](mailto:income.support@gov.je)**  
**Call us on +44 (0) 1534 444444**

**Come in and see us at Customer and Local Services**

  
  


If you don't tell us of any changes to your Income Support household within 14 days, you are committing an offense.

Don't rely on someone else to tell us!

You may need to go to court, and you could lose benefits that you are entitled to.

You could also be overpaid resulting in a debt which you will have to repay.

You will need to provide official documents to support any changes.

## Appendix 1(b) Change of Circumstances letter example:

**To ensure you receive the correct payments tell us if there has been a change.**

### Common changes we need to be advised of include...

- retiring and starting to receive a pension and/or a lump sum payment.
- having a change in pension income, including annual increases
- inheriting property or a lump sum
- a significant increase in capital
- payments from insurance policies
- a member of your household having increased care needs
- an adult child living with you and turning 25.

**You must advise us of any change within 14 days.**

#### If you...

- move address.
- have a change in rent.
- enter or leave an interdependent relationship.
- take in a lodger or start sharing rented accommodation.
- or a member of your Income Support household sells, buys or inherits property or land in Jersey or anywhere else in the world.

#### If any member of your Income Support household...

- becomes a student or goes on a training scheme.
- is leaving the island for a holiday or is going to be away from the island for any period.
- goes into hospital, a nursing home, prison, or youth custody.
- has a change to maintenance paid out or maintenance received.

#### Should anyone...

- start, finish work, or have a change in working hours.
- have a change to do with self-employment.
- move in or moving out, including children.
- start university or receive a student grant.
- have a medical condition we are unaware of
- receiving an impairment award have a change in their medical condition.

#### If there is...

- a member of your Income Support household who opens or closes a bank account.
- a member of your Income Support household who receives an inheritance or other lump sum amount.
- a change to trust income or charitable income
- a change in childcare arrangements

... visit [www.gov.je/ChangeInCircumstance](http://www.gov.je/ChangeInCircumstance) to find out what information you need to provide.

This is not a complete list, if you are not sure ask us for advice.

Email [PensionsIncomeSupport@gov.je](mailto:PensionsIncomeSupport@gov.je)

Call us on +44 (0) 1534 444444

Tell us online: [www.gov.je/IncomeSupport](http://www.gov.je/IncomeSupport)

Book an appointment to come and see us at Customer & Local Services



If you don't tell us of any changes to your Income Support household **within 14 days**, you are committing an offence.



You will need to provide official documents to support any changes.



If you don't tell us, you could be overpaid, resulting in a debt which you must repay.

If you don't tell us, you may be taken to court, or you could lose benefits that you are entitled to.