



## The Social Security (Miscellaneous Amendments) (No...) Regulations 2008

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**Submission by the Child Poverty Action Group to the Social Security  
Advisory Committee**

May 2008

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## **Proposed changes**

**1.1** The Secretary of State for Work and Pensions proposes to amend the following regulations with effect from 6<sup>th</sup> October 2008:

**1.2 Regulation 19 Social Security (Claims and Payments) Regulations 1987** so as to reduce the time for making a claim for pension credit from 12 to 3 months

**1.3 Regulation 3 of the State Pension Credit Regulations 2002** so as to allow for payment of pension credit for temporary absences abroad of up to 13 weeks

**1.4 Regulation 83 of the Housing Benefit Regulations** so as to reduce the period of backdating for housing benefit from 52 weeks to 3 months for working age claimants

**1.5 Regulation 64 of the Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006** so as to reduce the period of backdating for housing benefit from 52 weeks to 3 months for claimants aged 60 or over

**1.6 Regulation 69 of the Council Tax Benefit Regulations 2006** so as to reduce the period of backdating for council tax benefit from 52 weeks to 3 months for working age claimants

**1.7 Regulations 53 and 56 of the Council Tax Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006** so as to reduce the period of backdating for council tax benefit from 52 weeks to 3 months for claimants aged 60 or over

## **Introduction**

**2.1** CPAG has no submissions to make on the proposed amendment to regulation 3 of the State Pension Credit Regulations 2002. Our submissions focus on the proposals to restrict the time for claiming Pension Credit and the period of backdating allowed for Housing Benefit. **We strongly oppose these proposals.**

**2.2** The Committee will be aware that proposals to restrict backdating for housing benefit to three months, and to align the test for backdating to that for income support and jobseekers' allowance were put forward in 2000. Following a strongly unfavourable report from the Committee, the proposals were dropped.

**2.3** These proposals differ from their predecessors in that it is only the time period that the Secretary of State proposes to restrict; the "good cause" test for backdating would remain.

**2.4** Nevertheless the current proposals have caused widespread consternation amongst those working in the advice sector. CPAG has already written to the minister expressing its concern (see **Annex 1** below pp 22-23). We requested case studies from members of the Tax Credits Monitoring Network, and the response was overwhelming. We received 46 case studies for working age claimants, and 14 for claimants aged 60 or over from a total of 28 organisations. We also received comments and concerns from advisers about the effects these proposals would have if enacted.

**2.5** We attach the following documents:

**Annex 1**

1. CPAG's submission to the SSAC on the 2000 proposals pp 15-21
2. Letter from CPAG to James Plaskitt MP dated 6/2/08 pp 22-23

**Annex 2**

List of organisations which sent comments and case studies to CPAG  
p24

Part 1. Case studies on working age claimants pp 25-36

Part 2. Case studies on claimants aged 60 or over pp 36-40

**Annex 3**

Chart showing housing association backdating figures (see paragraph 10.2) p 141

**2.6** We will discuss the proposals in respect of housing benefit and council tax benefit for working age claimants first and then go on to consider the proposals in respect of pension credit and housing benefit for claimants aged 60 and over.

**Part 1**

**Housing benefit and council tax benefit backdating for working age claimants**

*Who will be affected?*

**3.1** It is clear from the case examples attached at **Annex 2** that the vast majority if not all, of claimants affected by these changes will be vulnerable, often with mental health problems, physical disabilities, drug and alcohol addictions, or those affected by family breakdown, illness and job losses.

### *Inadequacy of three months' backdating*

**4.1.** More than 3 months' arrears are in issue in all the cases involving housing benefit (HB) backdating attached at **Annex 2**. To take two specific examples;

**Case 1** The claimant had alcohol and mental health problems which prevented her taking action about her HB when her mother died. This situation went on for 9 months and resulted in bailiff action for eviction before it was resolved. If this claimant's housing benefit had only been backdated for 3 months she would have lost her home.

**Case 11** The claimant had a breakdown following the death of her infant son so she did not claim HB promptly; in her case 8 months' backdating was needed. Again, this case had reached the stage of possession proceedings; if this claimant had received only 3 months' backdated HB, she would have lost her accommodation.

**4.3** Three months' backdating is therefore not adequate to deal with the circumstances that arose in these cases or the length of time they took to resolve. An adviser commented:

We see clients frequently who need a backdate for longer than this period. Three months is not much time at all for someone to sort out their affairs if they or the family have a crisis, several crises occurring, sudden illness, missing post, post going astray after change of address etc.

### *What effects will these proposals have?*

**5.1** It is clear from the examples in **Annex 2 Part 1** that the proposed restrictions on backdating will result in homelessness. In the majority of these cases, court proceedings for eviction had already started, or in some cases were at an advanced stage, before the HB problem was identified; indeed it was often the court proceedings which acted as a trigger to either persuade claimants to engage with advisers, or to bring them to the attention of advisers and local authorities who could help them to resolve their benefit problems.

**5.2** "The Use of Possession Actions by Social Landlords"<sup>1</sup> reports that there are 26,000 evictions by Housing Associations and local authorities each year in the UK, 93% of which are for rent arrears. 64% of council tenants and 60% of housing association tenants were claiming HB in 2002/3. The same report says that; "Problems with Housing Benefit have been a persistent theme in the previous studies of rent arrears since the early 1990s."

**5.3** The Citizens' Advice report "Possession Action – the last resort?" gives "unclaimed benefits" as a reason for arrears in 18% of cases.

**5.4** Virtually all of the claimants in the cases in **Annex 2 Part 1** are vulnerable or have community care needs which would mean that if they lost their homes, they would become the responsibility of the local authority. One adviser comments:

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<sup>1</sup> June 2005 Office of the Deputy Prime Minister [www.communities.gov.uk/publications/housing/2003568](http://www.communities.gov.uk/publications/housing/2003568)

I work as a Mental Health Welfare Benefit Adviser and the decision to put backdating to 3 months instead of 12 months would have a devastating effect on my client group

For example:

**Case 5** The claimant has learning difficulties and was unable to stay in any accommodation following his mother's death because he never claimed HB. It took advice from an adviser to enable him to apply for HB and remain in his supported accommodation.

**Case 43** The claimant in this case developed problems with alcohol and depression following a double bereavement at the age of 51, having worked all his life. He was in danger of being evicted from his home of 30 years. Social Services was involved in providing counselling for his alcohol addiction.

It is clear from these examples that HB has an important part to play in supporting claimants receiving help with community care needs.

**5.5** We submit that any increase in homelessness is likely to result in increased offending behaviour; one adviser commented:

Many HB claims fail because offenders cannot deal with the paperwork or respond to correspondence and do not understand the benefit system. If the HB backdate period is reduced from 12 months to 3 months, my experience is that many offenders will lose their home through rent arrears and will therefore be more likely to re-offend.

**5.6** We submit that any proper consideration of these proposals must assess and take account of the additional financial costs to local authorities in community care, housing and crime prevention associated with the increased homelessness they are likely to cause.

*The effects of these proposals on child poverty*

**5.7** HB is an essential part of supporting families with children in accommodation.

**Case 7** The claimant was a widow in her early fifties with literacy problems who had three school aged children. She had difficulty coping with the paperwork in respect of her HB claim and was threatened with eviction.

**Case 16** The claimants were a young couple with a baby. One partner suffered from dyslexia and depression, and the other was aged 19. Their only income was Statutory Maternity Pay and Child Benefit. Eviction and council tax enforcement were prevented by HB backdating.

**5.8** When we wrote to the minister (Letter attached at **Annex 1** p 22-23) we questioned what research the DWP had done into the impact of these proposals on its wider plans for combating child poverty - we now have the answer at para 64 of its memorandum to SSAC; none.

**5.9** We submit that these proposals will have a detrimental effect on plans to combat child poverty. The children in the families in these examples would be

at risk of homelessness. Housing need including homelessness is a high risk factor for child poverty, because of the detrimental effects of temporary accommodation on children's health and education as well as the exclusion of their parents from work. A Shelter survey found that 71% of households in temporary accommodation had no parent in work.<sup>2</sup>

**5.10** There is also a risk to children in the reduction in backdating of council tax benefit, since if their parents are unable to pay their council tax they may ultimately face imprisonment. Having a parent in prison is another high risk factor for child poverty.<sup>3</sup>

## **SSAC explanatory memorandum**

**6.1** The DWP's arguments in support of these proposals are in summary:

- The current provisions cause confusion for claimants and staff. These proposals will simplify the system and reduce the need for intrusive enquiries about the claimant's circumstances.
- The proposed changes may adversely affect new claimants but are justified because of the benefits they will bring.
- The proposed changes should encourage claimants to take responsibility for housing costs at an earlier stage and encourage landlords to take prompt action on rent arrears.
- Taken together the package will be an improvement. The proposals "strike the right balance between changes which generate some savings and those which attract a cost."
- Since the previous proposals in 2001 there have been beneficial changes; HB administration has improved, there have been helpful changes in the rules and better claiming processes have been introduced. Part of the assessment process for the new ESA will involve a claim for HB taken over the telephone by Jobcentre Plus and passed to the local authority for assessment.
- Possession proceedings are triggered by 8 weeks' rent arrears so three months' backdating should be enough. There are provisions allowing for a payment on account of HB where there is a delay in deciding a claim.
- The DWP plans publicity on the issue to landlords to encourage them to deal with arrears quickly and encourage tenants to make claims promptly. Local Partnership agreements are in place with all primary tier LAs and surrounding voluntary sector organisations to provide a single point of access to social care and benefit entitlement. Alternative Offices have been set up to accept claims and there are community based Information Points claimants can access.

We will address these points in turn below.

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<sup>2</sup> Figures and information from Chapter 4 "At Greatest Risk" edited by Gabrielle Preston, CPAG 2005

<sup>3</sup> Ibid Chapter 9

### **The system will be simplified, less confusion and intrusion**

**7.1** Ironically the backdating provisions in HB are one of the simpler features of the scheme; they are much simpler than the equivalent rules for income support and jobseekers' allowance. Substituting a 3 month time period for a 12 month time period cannot fairly be described as a simplification measure.

**7.2** We are not aware that the current backdating rules are a source of confusion. They could be further simplified by allowing 12 months' automatic backdating for underlying entitlement.

**7.3** If the DWP wants to align and simplify backdating across benefits, we submit a more effective means of doing so would be to reintroduce 12 months' backdating for income support and jobseekers' allowance.

**7.4** Far from being a source of error, as the Department asserts, the backdating rules provide a means of remedying errors in benefit administration and decision making.

**7.5** The suggestion that enquiries about the claimant's circumstances are intrusive ignores the fact that claimants must provide information to establish their current entitlement, backdating may add little to this requirement. We discuss this point further under the proposals for 60s and over below.

### **The changes may adversely affect new claimants**

**8.1** We do not accept these changes will only affect new claimants. The case studies in Annex 2 show that many existing claimants will be affected. For example:

**Case 23** The claimant was unable to deal with a review form following the murder of her child and a subsequent breakdown.

**Case 24** The claimant was in and out of hospital for treatment for cancer; he did not provide information on his changed circumstances following the termination of his jobseekers' allowance (JSA).

**8.2** These claimants were already in receipt of HB which was terminated when they were unable to cope with requirements for further information because of illness or mental health problems.

**8.3** We do not accept that the benefits of these proposals will outweigh their disadvantages – see our comments in the introduction and below.

### **Encouraging claimants to take responsibility and encouraging landlords to take action promptly on rent arrears.**

**9.1** SSAC's 14<sup>th</sup> Report p 21 para 13 says:

"The Government's first stated reason for alignment...is to *instil in claimants a sense of rights and responsibility by encouraging them to claim on time*. This implies that claimants deliberately delay making their claim or renewing their entitlement. We are at a loss as to why they should want to do so, as there can be no financial advantage in delaying a claim for benefits whose sole purpose is to meet an identifiable, continuous and inescapable need."

**9.2** We could not put this point better. It is illustrated time and again in the case studies in Annex 2; these claimants are not making late claims deliberately, but are prevented from claiming promptly by ill health or other pressing circumstances. To take just one example:

**Case 13** The claimant was prevented from claiming when he first became entitled initially because of his developing mental health problems and then by hospitalisation.

**9.3** As far as landlords are concerned, it is our understanding that social landlords are already well aware of the need to inform tenants about rent arrears promptly, and yet the case examples annexed to this submission persist.

### **Overall these measures will be an improvement/costs implications**

**10.1** We do not believe it is fair or right for the DWP to engage in an exercise of setting benefits for one group of claimants off against detriments to others. There is no fair means of weighing up the advantage to one group against the disadvantage to another.

**10.3** At paragraphs 11.2 and 11.3 the Department accepts that the data it has on backdating for these benefits is restricted and unreliable. We received the following response from Carol Foster-Middleton in the Housing Benefit Strategy Division to an enquiry about these proposals:

You asked about figures. Prior to April 2007 no information was collected from local authorities on the number of claims for backdating or the amount of backdated benefit paid out to HB / CTB claimants. Following the introduction of a new data source this information will become available in the future, but at the moment there is insufficient data to be able to estimate the number of claims or the amount spent on backdating.

At para 11.9 the DWP sets out responses it received to questionnaires sent to local authorities. Again it accepts this may not be reliable. It estimates that around 3,000 or 0.2% of "new" claims will be affected. "New" is not defined, and we have already queried whether only "new" claims will be affected.

**10.4** We question the DWP's figures. One of CPAG's workers in our Glasgow office asked four housing associations (HAs) in Glasgow for the numbers over the past year of cases where their tenants had claimed a HB backdate of over 3 months. These came back with figures of 2.67%, 2.6%, 2.05% and 3.08% respectively. A grid showing the responses is attached at Annex 3. These were only the cases where the HA's welfare rights officer was involved, there may have been others where tenants had their benefit backdated without assistance. The HAs had 4,500 tenants between them, 3,000 of which were

claiming HB. This is not a scientific survey, but there is no reason to think it any less reliable than the DWP's evidence.

**10.5** We understand the DWP has now produced figures<sup>4</sup> indicating savings of £35 million in HB in the first year, and £70 million in each of the following three years. The Department accepts this is based on unreliable information from local authorities. In our submission, no true assessment can be made of the costs or savings to be made by these measures unless these are set off against the increased costs of poverty and homelessness outlined above.

### **There have been beneficial changes in the HB scheme since SSAC's Fourteenth report in 2001**

**11.1** This is one area where we can agree with the Department. We accept there have been sensible and beneficial changes in the HB rules such as the abolition of benefit periods and the change to allow HB to continue where IS/JSA stops.

**11.2** However the central and unique feature of the HB scheme has not altered;

HB and CTB are unlike other benefits, in that they are paid to meet particular liabilities; rent and Council Tax. Consequently where benefit is not paid, this results in a debt which in turn may result in enforcement action being taken against the claimant. If a claimant does not get HB and as a result cannot pay the rent, they will be left owing rent arrears or at worst, losing their homes. If their Council Tax is not paid, there is a risk of bailiff action or action by the sheriff officer in Scotland, or even imprisonment.<sup>5</sup>

**11.3** Improvements in the claiming process are very welcome, however these unfortunately will not resolve the problems faced by those who are unable to claim promptly in the first place.

**11.4** Of the points considered by SSAC in its 2001 report several remain relevant, in particular:

#### *Complexity of the scheme*

**11.5** Despite improvements, the rules remain complex. See for example:

**Case 29** Non-dependent deductions were wrongly made where the claimant was in receipt of DLA care component.

**11.6** The 2001 report comments that "it is common for people not to realise that HB/CTB are in-work as well as out-of-work benefits" and take up of HB as an in-work benefit remains low. At the DWP's Annual Forum on 5/7/06, Jim Murphy MP said:

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<sup>4</sup> Addendum to Explanatory Memorandum

<sup>5</sup> CPAG's submission to the SSAC on the 2000 proposals – see Annex 1

"There is a high level of underclaiming of in-work Housing Benefit. We want people to make claims, because it is an important level of support that people can still have when they go into paid employment. So if there is anything that you can do to help us raise awareness of the fact that people can get important in-work benefits, that the State still provides support even when you do go into part-time, and sometimes full time, employment, then we want to work together to make that happen."

*The award is reliant upon the award of another benefit*

**11.7** There is no equivalent in the HB rules to regulation 6(16)-(29) Social Security (Claims and Payments) Regulations 1987 allowing for backdating on an award of a qualifying benefit.

*Interaction with other benefits*

**11.8** Although the rules have changed so that HB entitlement does not automatically cease when entitlement to IS/JSA ceases, some local authorities still stop HB when IS/JSA stops. Sometimes this may be done in error. If that happens then the local authority could revise its decision to terminate the claim for official error<sup>6</sup>.

**11.9** However HB may not have been stopped in error; if IS/JSA ends, the claimant's award will need to be superseded on the basis of their new circumstances. This gives the local authority a ground to suspend HB until further information is provided. If information is not provided, HB can be terminated. The harsh effects of this draconian power can be mitigated by backdating.

**11.10** There are several examples of HB stopping where IS/JSA stops in Annex 2 Part 1 for instance:

**Case 3** The claimant was remanded in custody for 6 weeks; her HB stopped when her income support stopped.

**Case 11** The claimant became unable to work because of depression following the death of her baby son. Her HB stopped when her JSA stopped.

*Administration*

**11.11** It may be right that administration by local authorities has got better and we agree any improvement is very welcome. Nevertheless our case studies demonstrate that administration remains a problem, and this sometimes originates with the Department for Work and Pensions. For instance:

**Case 30** The claimant's HB ended when the local authority was wrongly notified by the DWP that his JSA had stopped.

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<sup>6</sup> Although failure to do so would not attract a right of appeal, leaving the claimant with no effective remedy

**Case 3** The claimant was given contradictory advice on whether to claim IS or IB by the DWP, and the claimant's 7 applications for crisis loans failed to alert the local DWP office to her desperate need for assistance.

### **3 months backdating is adequate**

**12.1** We have dealt with this issue on pp 4-5 above. We submit three months is not enough. We would also like to point out that cases may arise where the claimant has rent arrears arising from a gap in his/her HB claim which dates from a period prior to 3 months before possession proceedings are commenced. See for example:

**Case 4** The claimant's son was able to submit a claim for a 2 month period which had arisen 3 months before the date of claim, which filled a gap in HB created when the claimant was in prison.

### **The effects of these proposals can be mitigated by publicity and advice**

**13.1** Under para 2 on p 8 we pointed out that claimants do not claim late on purpose, but are prevented from claiming on time by circumstances. A publicity campaign is not likely to help in these situations, nor is it likely to reach a claimant who simply cannot get to the front door, see **Case 18**, who is looking after a sick child, see **Case 28** or suffering from depression following a bereavement, see **Case 43**.

**13.2** In its Diversity and Equality impact assessment, the DWP concedes that the proposed changes may adversely affect people with health problems, but believes many with health or communication difficulties will have access to help from carers and advisers.

**13.3** It is clear from the cases in Annex 2 Part 1 that advice services play a vital part in helping claimants to get their full entitlement to benefit, but even with the benefit of advice, these claimants need more than 3 months' backdating. However existing advice services are inadequate, and cuts to legal aid, and unreliable local authority funding mean that vital advice and voluntary sector services are vulnerable to closure.

**13.4** The DWP ignores the fact that claimants may be at risk when a carer dies or becomes ill themselves and there is no-one to take their place; for example:

**Case 5** The claimant's problems arose when his mother who was also his appointee died.

## Part 2

### **Pension credit and housing/council tax backdating for claimants who are 60 and over**

**14.1** In summary the Department argues the following in respect of restrictions on Pension Credit backdating.

- Four years after its introduction, Pension Credit is no longer a new benefit
- Although the time limits will be different for PC and state retirement pension, this will be outweighed by the gains made by simplification, and reduced need for intrusive enquiries about claimants' circumstances
- Older claimants will be worse affected than others, but this will be minimised by take-up activities including a targeted local approach. The DWP will work with Age Concern and Help the Aged on take up.
- The HB backdating rule for 60s and over was a transitional provision introduced to mirror the PC provisions
- There will be improvements to the claiming process for HB

#### **PC is no longer a new benefit**

**15.1** It was not our understanding that the backdating rules were meant to be a transitional provision, but rather that this more generous provision recognised the particular vulnerability of this group of claimants. As one adviser commented:

I have come across numerous cases where pensioners have been living in extreme poverty and have been unaware that they can claim PC for many years. They are normally brought to our attention following hospitalisation. It is common in this client group for people not to complain. Many are housebound and their plight goes unnoticed.

**15.2** The cases in Annex 2 Part 2 illustrate the fact that claimants in this age group may be coping with disability and ill health, and may be going in and out of residential care or hospital. See for example:

**Case 1** The claimant was aged 77 and suffered from a visual impairment so was unable to read letters he received.

**Case 2** The claimant was admitted into a residential care home and no PC was claimed.

#### **Simplification and lack of intrusion**

**16.1** As with housing benefit, changing the time for backdating from 12 to three months cannot be described as simplification, especially where this takes PC out of step with state retirement pension.

**16.2** As with housing benefit, a claimant will have to submit a certain amount of information to establish his/her entitlement to PC. Helpfully claimants need only supply information once for both PC and HB where they are entitled to the Guarantee Credit of PC. They are then passported to full HB.

**16.3** It is not clear to us how much backdating adds to the requirements that already exist, nor are we aware of any concerns that this is intrusive to claimants. Indeed one adviser commented:

In all our years of experience of benefit take up with older people, we have come across few people who have been put out by having to provide verification back 12 months. Most people who have a Visiting Officer are happy to show them whatever documents they ask for.

### **The negative effects can be minimised by take up campaigns and advice**

**17.1** We refer to our comments above in relation to HB. They apply even more in relation to this age group, which, as the adviser quoted at para 1 above may be particularly disadvantaged in claiming their correct entitlement. See for instance:

**Case 7** An 80 year old polio affected claimant had not claimed PC as she thought it would affect her DLA

**17.2** Many claimants such as the woman in this case study, would clearly be assisted by advice, but we refer back to our comments on the under-resourcing of the advice sector. The following is an excerpt from Age Concern's campaign; "The Price of No Advice"

Our advisers tell older people what they may be entitled to, help them fill in the forms and visit them in their own homes where necessary. But these services are being cut because of lack of funding.

- 80% of Age Concerns say their information and advice funding is precarious or that they are under funded for what they do.
- A majority say they have experienced funding cuts in the past twelve months.
- There is a particular problem with lack of information and advice in rural areas.

### **The HB backdating provision was a transitional measure**

**18.1** The fact that HB/CTB entitlement is tied to receipt of GPC means that in cases where there is a delay in the claimant's PC claim being assessed, the claimant will have to rely on HB/CTB backdating to meet his/her entitlement for the period of the assessment. If backdating is reduced to 3 months, the claimant will be left without a remedy where it takes longer than this to assess his/her PC claim. For example:

**Case 14** There was a 6 month delay in the claimant's PC claim being assessed. She had been advised she was not entitled to CTB because she had £16,000 savings. She was able to make a backdated claim for CTB once she got PC.

**18.2** In addition, elderly claimants are particularly vulnerable to eviction and council tax enforcement, where HB backdating is limited see for instance:

**Case 1** The claimant aged 77 could have lost his home of 50 years but for HB backdating of 33 weeks.

**18.3** We believe these are good reasons why the current rule should remain in place.

### **Improvements to the claims process**

**19.1** Once again, whilst improvements in the claims process are always welcome, they will unfortunately not help people who were unable to claim sooner because their circumstances did not allow them to do so.

### **About CPAG**

CPAG is the leading charity campaigning for the abolition of poverty among children and young people in the UK and for the improvement of the lives of low income families. CPAG aims to: raise awareness of the causes, extent, nature and impact of poverty and strategies for its eradication and prevention; bring about positive policy changes for families with children in poverty; and enable those eligible for income maintenance to have access to their full entitlement. CPAG is a founder member of the campaign to End Child Poverty.

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## Annex 1

### **The Housing Benefit and Council Tax Benefit (General) Amendment (No. X) Regulations 2000**

#### **Submission by the Child Poverty Action Group to the Social Security Advisory Committee**

1. The Secretary of State proposes to amend Regulation 72 of the Housing Benefit General Regulations 1987 and Regulation 52 of the Council Tax Benefit (General) Regulations 1992 so as to restrict backdating of these benefits to three months in defined circumstances. **CPAG opposes this proposal for the reasons set out below.**

2. CPAG has recently commented in detail on the housing benefit scheme in a submission to the House of Commons Social Security Committee dated 18/2/00, which is at p 314 of the Committee's minutes of evidence. CPAG has also responded to the Housing Green Paper, "Quality and Choice: A Decent Home for All". A copy of that response is attached. Backdating is not addressed directly, but parts of these papers, particularly where they relate to Housing Benefit administration, are relevant.

3. The reason given for the Secretary of State's proposal is that HB and CTB backdating rules are being aligned with those of other benefits to fit in with the changes to appeal rights. From April 2001 H B and CTB appeals procedures will be streamlined with those of other benefits. Claimants will have rights to request revisions, or supersessions of decisions, and to appeal to the Appeal Tribunal as appropriate. CPAG welcomes the right of appeal to a tribunal. Indeed, this is essential to ensure that the appeals procedure for HB complies with the European Convention on Human Rights, which is incorporated into domestic legislation by the Human Rights Act 1998 with effect from October 2000.

However, we do not see any reason why the new procedures should necessitate any change in the backdating rules, or why they should cause any problems with adjudication. We make the following general points:

- a. Local authorities are accustomed to administering the existing "good cause" test. We submit that central adjudication by tribunals will help standardise any variations in interpretation.
- b. Tribunals have a wealth of experience in adjudicating on "good cause", and there is already an established body of case law for them to draw on.
- c. Tribunals have to make decisions on different benefits with widely varying rules of entitlement. None of the other rules are being standardised; it is difficult to understand why this aspect of HB should be picked on.
- d. No positive evidence has been put forward to justify the need for change.

CPAG recommends that if it is felt that there is uncertainty over the interpretation of “good cause”, consideration be given to simplifying the rules by giving automatic backdating where a claimant can show underlying entitlement.

#### **4. Proposed changes**

a. We oppose the limitation of backdating to three months for the following reasons:

- i. HB and CTB are unlike other benefits, in that they are paid to meet particular liabilities; rent and Council Tax. Consequently where benefit is not paid, this results in a debt which in turn may result in enforcement action being taken against the claimant. If a claimant does not get HB and as a result cannot pay the rent, they will be left owing rent arrears or at worst, losing their homes. If their Council Tax is not paid, there is a risk of bailiff action or action by the sheriff officer in Scotland, or even imprisonment.

The vast majority of Housing Benefit claimants are not in work, but are in receipt of other benefits which are intended to meet subsistence needs only. This means they will have not have other resources available to pay rent not covered by benefit.

- ii. There are very serious problems with the administration of HB in a significant number of local authorities. These are recognised and addressed in the Housing Green Paper, “Quality and Choice: A Decent Home For All”, and by the minister in her evidence to the Social Security Committee. The severity of the problem is indicated by the fact that it is highlighted in virtually every piece of evidence submitted to the Committee. CPAG’s own submissions on the subject are at paragraph 7 of its evidence. The reports of the Local Government Ombudsman give numerous examples of maladministration and can be found on the website at [www.open.gov.uk/go/hb.htm](http://www.open.gov.uk/go/hb.htm).

The Green Paper sets out action taken to improve the situation, and sets out a range of other potential areas for further consideration. However, in our opinion there is nothing to suggest that the problems with administration are going to be resolved in the short term. It is submitted that at present backdating can be used to mitigate the worst effects of maladministration.

For example: the Ombudsman’s report on case no. 97/A/4425. In this case, the Council claimed they had not received the first claim, which the claimant’s housing association said it had sent on his behalf in March 1997. His claim was only assessed from November 1997. He subsequently had to apply for backdating. That was finally agreed in March 1999. Under the present proposals, this claimant would only have been able to get three months’ backdating, which would have left him in arrears through no fault of his own.

- iii. The rules on entitlement to HB and CTB are highly complex, and give rise to many situations where claimants will have good cause for a claim made more than three months out of time. Claims have to be renewed every six or twelve months. Some vulnerable claimants who may be elderly, have physical or mental health problems, problems with literacy, or who may not have English as a first language, may have difficulty making a first application, let alone renewing it regularly. Some further examples are discussed at paragraph b, below. It is submitted that many of these could give rise to long delays in applications for backdating, which the proposed changes could not accommodate.
- iv. Because HB is often paid direct to a landlord, and notification of assessments are often unclear or even non-existent, a tenant may not know there has been a problem with a claim until months or even years afterwards.

For example: A renewal claim is delayed in the post and the Council receives it four weeks and two days after the previous claim expired. It is therefore assessed from Monday after the receipt of the claim, leaving the claimant with five weeks' arrears. The claimant does not receive notification of the assessment. Because the arrears are not high, the claimant's housing association landlord does not notify her of them. She does not find out about the problem until she moves into another tenancy several months later.

- v. It can take months for Community Care assessments to be carried out. It may be possible in these circumstances to get backdating under the list of prescribed circumstances, but if it does not extend to cover the full period of supported accommodation, the whole project may be jeopardised.
- b. We oppose the replacement of the current "good cause" test for backdating by the list of prescribed circumstances for the following reasons:
- i. We believe the list of reasons is too restrictive. The "good cause" test gives a greater degree of flexibility, which we feel is essential given the variety of circumstances in which late claims may be made, the administrative problems set out above, and the consequences of non-payment of benefit to the claimant. The following are examples which are may not be covered by the list of circumstances, but which could be covered by "good cause":
    - Where there is a delay in determining a claimant's liability for rent or for Council Tax, eg where there is a dispute or a mistake over succession to a tenancy and a delay in transferring it to the successor.

For instance: Ombudsman's report in case no. 99/A/1523-4. In that case, the claimants were a married couple who were pensioners. The Council delayed over a year in assessing their claim, and served notice seeking

possession. The claim was then assessed. Shortly afterwards, the husband died. The Council then wrongly treated the widow as an introductory tenant, paid her housing benefit into the wrong account, and served notice terminating the tenancy. No backdated claim seems to have been necessary in this particular case, but it is easy to see how it might have been in these circumstances.

- Where entitlement to IS or JSA stops, HB should stop automatically even though entitlement may continue. Problems with this can arise either because the Benefits Agency fails to notify the local authority of the end of the IS or JSA claim, or because the claimant, whose circumstances may have changed very little or even worsened, does not realise they need to make a fresh claim for HB. Where IS claimants are admitted to hospital, their entitlement to IS often stops after six weeks, although their entitlement to HB continues. They have to make a fresh claim, although their circumstances may make it impossible to do so promptly.
- Where the claimant claims the wrong benefit, for instance IS instead of WFTC or JSA. It may take some time for them to be refused, and in the meantime there may have been no claim for HB.

An example sent to us by West Bromwich CAB was of a claimant who had claimed Income Support when her partner went into hospital. The claim was refused because she should have claimed JSA. It was not until she went to the agency for advice several weeks later that she was advised to claim Housing Benefit separately.

- Where an asylum seeker is granted exceptional leave to remain, and consequently becomes entitled to claim benefits including HB. There are often lengthy delays in the Home Office notifying them of their change in status.

ii. In the alternative we believe the list of reasons should be widened as follows:

- The requirement that the claimant should have been given misleading advice from other agencies should be amended to cover oral as well as written advice. This is a point which SSAC made in its report Cm3586, when the rules were introduced in respect of other benefits in 1997. We appreciate that this may raise evidential difficulties. However, the complexity of the rules means that claimants are wrongly advised at times, and it is our understanding that such advice is rarely given in writing.
- There should be a ground that covers official errors such as delays, lost claims, lost or repeated requests for information by local authorities.

- There should be a provision reflecting the recent amendment to Reg 6 of the SS(C&P) Regs. to allow backdating of HB following a subsequent award of a qualifying benefit.

## **5. Numbers affected**

The Secretary of State admits he has no idea how many claimants would be affected by the proposed changes to these regulations. He has no information about the current use of backdating by local authorities. He has no information about how they interpret good cause. Given that in our submission, the evidence of the negative effects of the proposed changes is incontestable, we submit that the Secretary of State should put forward evidence of the need for change before any change is accepted.

The Secretary of State says that the changes will ensure claimants get their claims in on time. We submit there is no evidence to suggest that claimants do not claim “on time” at present, although as we have pointed out, there may be many situations where they have good cause for claiming late. There is, however, ample evidence of delays and maladministration in dealing with claims by certain local authorities and of the effects of these on claimants.

Please see Ombudsman report nos. 97/B/4375 and 98/A/2123,2310, 5538 for evidence of evictions as a result of delays in payment of HB. Private tenants with insecure tenancies may be most vulnerable to eviction as a result of delays. However, in some cases where local authorities themselves are the creditors, they will enforce debts against claimants even when their own administration of benefits is at fault. Please see in particular the Ombudsman’s report in case nos. 98/A/1487, where both possession proceedings and council tax enforcement proceedings were taken against the claimant by the Council, even though its own failure to determine her claim was the reason for the arrears.

Social landlords also stand to lose rental income and face increased costs from taking possession proceedings if these changes proceed. Please see Ombudsman Report no. 98/A/0492 and 2972, which is a complaint from a hostel which is also a charity, about delays and errors by the Council. It says its operation and financial viability was put at risk by these problems.

Claimants and their dependants are caused terrible stress and hardship by rent arrears and the threat of eviction or Council Tax enforcement. In case no. 98/A/2123, the claimant had 7 children living with her. The family had to spend months living in bed and breakfast and hostel accommodation. There are a number of examples in the Ombudsman’s reports of claimants suffering depressive and other illnesses, and of claimants who are elderly.

Despite the severity of the hardship and social problems caused by poor administration, it is submitted that very little effective action has been taken about it. In “Quality and Choice: A Decent Home For All”, at para 11.18 it is pointed out that financial sanctions

are available against poor performing local authorities, who can also be obliged to contract out their HB administration. However the minister says in her evidence to the Committee at p 226 that imposing financial sanctions on hard pressed authorities is a “double edged sword” because, in effect, it only increases the pressures on them. Likewise, the minister accepts that “some of the horror stories have occurred around contracting out”.

At paragraph 11.19 of the Green Paper it is suggested that under Best Value, responsibility for HB administration can be taken away from Councils in extreme cases. However, this has never happened, and the minister effectively acknowledges that the Benefits Agency would not be in a position to take over the administration of HB.

As we pointed out above, at present, flexible powers to backdate can help to mitigate some of the worst effects of poor administration, and of over-complex rules on entitlement. We submit that any restrictions on backdating should be matched by effective provisions to ensure local authorities meet their obligations to assess claims within 14 days.

In our submission, restrictions on backdating powers are likely to result in increased debt and hardship for claimants, many of whom will be vulnerable. We also think it likely that some claimants will lose their homes as a result of any such changes. In the Green Paper on housing the DETR puts forward proposals to help prevent homelessness. It is submitted that any limitation on HB backdating conflicts with these aims.

## **6. Costs/savings.**

There is also little or no information about this aspect of the proposals, although the Department clearly is expecting the tighter regulation to mean that claimants will lose out. However, savings are expected to be balanced by the full subsidy to local authorities. These rather vague assumptions contrast with the changes to backdating other benefits in 1997 which were carefully costed, and unashamedly intended to save money.

In our submission the costs of dealing with increased indebtedness, homelessness and the social consequences of these should be taken into consideration. It is submitted that the costs to social landlords of increased rent arrears and possession proceedings should also be assessed and included.

CPAG supports the Secretary of State's proposal to increase the subsidy for backdated HB to 100%. There seems to be no reason why local authorities should not be fully reimbursed payment of benefit to which claimants are entitled. It is submitted that failure fully to reimburse authorities may foster a reluctance to backdate even where “good cause” is clearly shown.

Summary of CPAG's recommendations

1. We oppose the proposal to restrict backdating of Housing and Council Tax Benefit to three months.
2. If it is felt that there is uncertainty over the interpretation of "good cause", consideration should be given to simplifying the rules by giving automatic backdating where a claimant can show underlying entitlement.
3. The Secretary of State should be invited to put forward of any need to restrict backdating.
4. In the alternative, if it is felt that backdating should be restricted, we recommend the list of reasons be extended to include -
  - misleading advice given to claimants orally as well as in writing
  - official errors
  - provision to allow backdating following subsequent award of qualifying benefit
5. Any restrictions on backdating should be matched by effective provisions to ensure local authorities meet their obligations to assess claims within 14 days.
6. The full costs of any restriction should be considered.
7. We support the Secretary of State's proposal to increase the subsidy for backdated HB to 100%.



James Plaskitt MP  
House of Commons  
London SW1A 1AA

28/1/08

Dear *James*

**Re: Housing Benefit and Pension Credit backdating**

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We are writing to express our strong concerns over the government's proposal to reduce backdating for housing benefit and pension credit from 12 to 3 months. The change to pension credit was announced in a DWP press release by Mike O'Brien and was announced in the House of Commons by Caroline Flint, together with the change to housing benefit, on 5/12/07.

Pension Credit

It is suggested that the reduction in pension credit backdating will benefit pensioners by making the questions they are asked on claiming less intrusive. It is not clear to us what evidence there is to suggest that the proposal will "benefit" pensioners in this regard. When PC was being introduced one of the Government's own "selling points" of PC was the 12 months' backdating provision. We appreciate that the longer the period that the DWP has to consider in order to establish past entitlement, the more information the pensioner may need to provide. However, pensioners have a choice whether to ask for their PC to be backdated. We believe this proposal is not consistent with the Government's drive to tackle pensioner poverty.

Housing benefit

You will be aware that the government put forward a similar proposal in respect of housing benefit when changes were made to the decision making and appeals framework for that benefit in 2001. Following widespread objections from ourselves and others including Citizens' Advice, and a strongly unfavourable report from the Social Security Advisory Committee, those proposals were dropped. We enclose a copy of SSAC's report on this issue, together with a copy of our own submissions.

Housing benefit is unique in being paid for the specific purpose of securing the claimant's home. Strong concerns have been raised about the potential for increased homelessness if backdating were reduced. This would undermine the government's housing policies, which aim to reduce homelessness, see for instance "Sustainable Communities; Settled Homes; Changing Lives".

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You asked about figures. Prior to April 2007 no information was collected from local authorities on the number of claims for backdating or the amount of backdated benefit paid out to HB / CTB claimants. Following the introduction of a new data source this information will become available in the future, but at the moment there is insufficient data to be able to estimate the number of claims or the amount spent on backdating.

We submit it would be irresponsible to continue with these proposals without a better understanding of their likely impact; in our view they are most likely to impact on the most vulnerable claimants who due to disadvantage such as illness, disability, English language difficulties, need to rely on the 52 week provision. Without the backdating provisions these claimants may face eviction and homelessness.

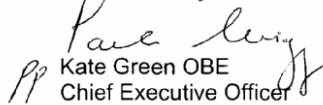
Benefit simplification

These changes have been presented as part of the government's benefit simplification programme.

If the aim of this measure is to simplify the benefit system then we question why the complex backdating rules for income support and jobseekers' allowance have not also been reviewed. Our understanding is these proposals would only affect the period for which backdating is allowed, and not the fact that there are different tests for backdating for PC, HB, IS and JSA, not to mention non-means tested benefits. In our view the best and most effective way for the government both to simplify the benefit system and to meet its policy aims of tackling poverty and homelessness, would be to introduce 12 months' automatic backdating for all benefits.

We look forward to hearing from you.

Yours faithfully,

  
PP Kate Green OBE  
Chief Executive Officer

## **Annex 2**

This Annex contains cases sent to CPAG from the following organisations. Part 1 concerns cases of working age claimants and Part 2 concerns cases of people aged over 60.

- Barnet Citizens Advice Bureau
- Bedfordshire County Council Welfare Rights Service
- Camden Community Law Centre
- Coatbridge First Stop Shop
- Consumer Credit Counselling Service
- Citizens Advice Scotland
- City of Edinburgh Council Income Maximisation
- Croydon Welfare Rights Team
- Dudley MBC Benefits Shop
- East Ayrshire Council
- Fife Council Money Advice Service
- Hertfordshire County Council Money Advice Unit
- Leeds City Council Welfare Rights Unit
- Leicestershire Council Adult Social Care Services
- Milton Keynes Citizens Advice Bureau
- National Debtline
- Newham Welfare Benefits Advice Service
- Nottingham Welfare Benefits team
- Prospect Community Housing - Edinburgh
- Royds Advice Service
- South Lanarkshire Council Welfare Rights Service

- Stirling Council Housing Services
- Three Rivers Housing Association
- Trafford Council
- Wakefield Council
- Wrexham County Borough Council Social Services
- Local Authority in Scotland

## **Part 1 – cases relating to working age claimants**

### **Case 1**

The claimant was in her early 50s with alcohol and mental health problems. She had lived with her mother all her life and claimed income support as her carer. Her mother claimed housing benefit (HB) for the property. When she died HB stopped. The claimant's income support (IS) stopped after 8 weeks. The claimant did not claim anything for 9 months living off hand outs from the local church. Eviction proceedings commenced to the point of forcible entry to the property. The bailiffs found her in a distressed state and she was referred for advice. Income support could not be backdated further than 3 months so she had massive bills to pay but at least her HB/council tax benefit (CTB) was backdated and she was saved from eviction.

### **Case 2**

The claimants are a couple who are in and out of temporary work. Although they get jobseekers allowance (JSA) on occasion they never properly sort out HB. As their income is irregular they built up rent arrears. When eviction proceedings were started, the claimants were able to claim backdated HB for the periods when they were not working.

### **Case 3**

The claimant suffers from depression as well as some physical health problems and has a history of self harming. She was in receipt of IS through incapacity but was remanded in custody for 6 weeks in June – July 2007 and because of this failed to attend a medical. Her IS stopped and as a result her HB and CTB stopped as well with effect from June 2007.

When the claimant came out of prison she was advised to make a rapid reclaim of IS which she did, however when she subsequently followed it up she was told that no trace could be found of it. She made another application in September but was told she was not entitled as she had not submitted a medical certificate, although in fact she had. She submitted 2-3 further claims.

While all this was going on the claimant applied for and received SEVEN crisis loans but the local DWP office did not do anything else to try and help this vulnerable client to resolve the problem

The claimant sought advice in December. The adviser phoned the DWP and was told an incapacity benefit (IB) form was needed, as they already had an IS claim. The adviser was then told two weeks later that the IS claim had been closed and the claimant needed to make another claim. The adviser helped the claimant make a fresh claim for IS and a new claim for HB with a request for backdating.

IS was finally reinstated in February 2008 with effect from December 2007. HB was also reinstated and backdated. By this stage the claimant had eight months of rent arrears and it was only because the adviser kept in contact with the Housing Department to assure them full backdating of HB was being pursued that they held off taking action to evict her.

#### **Case 4**

The tenant had been in jail and was released with rent arrears of £629.53. HB/CTB covered the first 13 weeks of incarceration. A claim was submitted in the son's name in March 2008 for the period November 2007 to December 2007, as the son was resident for the period in question and in receipt of JSA.

#### **Case 5**

The claimant was aged 20 with learning difficulties and behavioural problems. His mother who had been his appointee died suddenly and his family did not sort out his affairs. He was moved to a number of different properties but no HB was claimed so he was repeatedly evicted. He ended up in supported accommodation but the care providers failed to support him with claims for HB. An adviser helped him get HB backdated so he was finally able to stay in his supported accommodation.

#### **Case 6**

A patient with mental health problems had been evicted from his home in August 2007 because he had arrears of rent going back to November 2006. This was because he had not attended a medical for incapacity. His IS was stopped and HB stopped too. He was homeless until a PCT care worker became involved with him in October 2007. They were having problems getting him re-housed due partly to the outstanding rent arrears. They eventually found him some temporary accommodation in a hostel and managed to sort out ongoing housing benefit with help from an adviser. The local authority agreed to backdated housing benefit from November 06 until August 07 as he had no real income during that time and due to his mental health problems wasn't able to sort out his own affairs. This improved the claimant's prospects of securing permanent accommodation.

### **Case 7**

A woman in her 50s with literacy problems and general coping difficulties with 3 school aged children was widowed in July and unable to cope with the paperwork. She sought advice in February when threatened with eviction, good cause backdating reduced the arrears and the threat of eviction.

### **Case 8**

A 54 year old married man with mental health problems, who had a conviction for banking fraud, let his benefits lapse. When he first claimed incapacity benefit he had capital over £3,000 and therefore (wrongly) assumed he was not entitled to HB. As his condition worsened, his benefit claim with the DWP lapsed as he neglected to send in medical certificates and he accrued massive rent arrears. His private-sector landlord started eviction proceedings. The local authority under the circumstances agreed to a 52 week HB backdate which cleared his rent arrears and prevented eviction and homelessness.

### **Case 9**

A single man, who had a conviction for criminal damage, an alcoholic with severe mental health problems, had not responded to correspondence from his LA. He had no memory of appointments and could not respond to letters. In consequence his rent account was £2199.17 in arrears. He already had a possession order against him. The housing association was going for eviction. The LA admitted they should have followed up his claim and awarded full benefit, backdated for 52 weeks. The possession order was quashed and he was allowed to keep his home.

### **Case 10**

A young mother with a long history of heroin abuse, was returned to her tenancy and drug using partner following a detox programme which offered no follow up support. She immediately resumed heroin use. At the time of her admission into the detox HB was suspended and a claim form issued to the home address. Due to the claimant's chaotic drug use she was incapable of recognising the need to complete the HB claim form.

It was not until almost 10 months of arrears had accrued and just days before an eviction court hearing that the tenant was able to see an adviser who helped her claim backdated benefit. Court proceedings were adjourned pending a decision, and fortunately the local authority consented to backdate with almost £2500 HB paid to clear arrears in full. As a consequence all court action was dismissed and the claimant was able to stay in her accommodation.

### **Case 11**

The claimant's baby son, age 6 weeks, died in April 2007. She was in receipt of JSA until she had a breakdown and suffered from depression; and claimed

IS in June 07. Her HB & CTB stopped when her JSA stopped. She was sent new forms to complete, but did not do so because of her mental health problems. She was not aware that rent arrears of £2,000 were accruing until possession proceedings were brought. She was seen at a County Court Outreach. With help from an adviser she made a fresh claim for housing benefit and the local authority agreed to pay backdated HB for 8 months.

### **Case 12**

The claimant lives alone in council accommodation. He has learning difficulties. He has a support worker who makes occasional visits to see if he is all right. His HB stopped on 10/12/2006 because he failed to supply the HB office with information which they requested. He did not seek help when he received letters about his HB and his rent arrears. The problem only came to light the following August when his support worker found a HB form which had been sent to him some months before. With help from an adviser he made a fresh claim for HB and asked for backdating on the grounds of his learning difficulties. This stopped any eviction and brought about a large reduction in his rent and council tax arrears.

### **Case 13**

The claimant lives alone in a council house. He was self employed and working for a Catalogue company. At about the end of 2006 he became increasingly isolated and unable to cope and developed memory problems. He started to neglect himself and stopped eating properly. He did not tell his family what was happening. In July 2007 his brothers visited him and found him in a state of collapse from dehydration and he was rushed to hospital. He was not discharged until the end of August. He did not claim any benefits and went into overdraft with his bank. He received a number of letters about rent arrears and in April 2007 he received a Notice of Seeking Possession. With help from an advisor he claimed backdated HB in July 2007 and was able to get this backdated to the beginning of the year. This saved him from being evicted. It also cleared up his rent and council tax arrears and saved him from a considerable debt.

### **Case 14**

The claimant has learning difficulties and epilepsy and is very vulnerable. He was living with his mother who looked after him in accommodation owned by her. At the end of 2006 his mother became seriously ill and went into hospital and the client was left at home to manage by himself. His mother died in April 2007. His CTB stopped in February 2007. His IS stopped at about the same time. As a result of this he came to the attention of social services after a couple of months. With help from advisors he claimed income support and backdated CTB. This stopped enforcement action for council tax arrears. This would have included a court summons and bailiff action which would have put a vulnerable claimant under very severe stress.

### **Case 15**

The claimant is a 37 year old single parent with 4 children. She is an owner occupier struggling to cope following the break-up of her marriage in June 2006. She has considerable council tax arrears and the account had been passed to Sheriff Officers to pursue.

The claimant suffers from medical problems for which she takes medication, and depression for which she has help from a community psychiatric nurse. One child suffers from severe asthma and requires frequent attention during the day and at night.

The only source of income since the break up of the claimant's marriage was incapacity benefit, child benefit and child tax credit. She claimed CTB in August 2006 but did not respond to requests for further evidence so her claim was refused. With help from an adviser a fresh claim was made in December 2007, which was backdated to December 2006. This cleared her council tax arrears of £927.45

### **Case 16**

The claimants are a young couple with a 6 month old baby living in local authority accommodation. Mr X is aged 24 and suffers from depression and dyslexia. He finds it impossible to complete forms and deal with his affairs. His partner is aged 19. They had been focusing all their attention on looking after their child and had been slow to claiming benefits which could help ease their financial situation.

Mr X had been unemployed since August 2007 and Miss Y was off work on maternity leave. The only income the couple had was statutory maternity pay and child benefit. They did not realise they could get CTC until they got advice.

The claimants got into rent and council tax arrears. Court action had started against them due to their rent arrears and their council tax accounts had been passed over to Sheriff Officers to pursue. The claimants claimed HB and CTB in August 2007 but failed to respond to requests for evidence so their claim was refused. A fresh claim was made in December with help from an adviser, and backdated to August on the grounds of their health and circumstances in the sum of £912.72 HB and £256.22 CTB. This saved them and their baby from eviction and enforcement of council tax arrears.

### **Case 17**

The claimant suffers from depression and has difficulties dealing with correspondence. She did not complete a HB renewal form or the subsequent form sent by the housing benefit office. It was not until a housing officer went around with an eviction notice that she realised she had not been paid HB or CTB from August 2007 to November 2007. The housing officer helped the

claimant complete the form and asked for the benefit to be backdated. This was refused on the basis that client had not returned all the forms sent by the HB department. The claimant sought advice in March 2008 when she was awaiting the date for eviction. The adviser helped her successfully apply for backdating on the basis that she had mental health issues. This prevented eviction.

### **Case 18**

Claimant with ulcerated legs has difficulty getting to the front door. As a result she missed two intervention visits from HB and as a result her claim was cancelled. She struggled to deal with her post until she got advice, and help with a fresh claim and four month backdating request.

### **Case 19**

The claimant lost her job and suffers from depression following this. She received IS but struggled to deal with correspondence and did not answer the door to anyone. After 5 months she went to the doctors and began dealing with her problems. She applied for HB backdated for 5 months.

### **Case 20**

Claimant has alcohol problems he is also agoraphobic. Doesn't tend to keep to appointments due to chaotic lifestyle and has benefit cancelled following intervention visits being missed. 5 month back date was required once he let people into the house.

### **Case 21**

The claimant is a 38 year old man who was referred to the Advice Service by the school where he worked part time. He had worked at the school 14 years as an assistant caretaker. He had learning difficulties and his colleagues were worried about him. They were concerned that he was getting increasingly into debt and was becoming depressed to the extent that he had started taking days off work, although he had always enjoyed his work up to then.

He had previously received HB but his claim had lapsed some time ago as he was confused about the forms. This meant he was paying full rent and council tax out of his part time earnings. The adviser helped him to apply for backdated HB. This helped clear some of his rent and council tax arrears. As he had learning difficulties he applied for disability living allowance (DLA) and he was awarded both care and mobility components. This gave him an extra £31.10 a week in income. Because he had been awarded DLA, his HB was then reassessed and he was awarded the disability premium. As a result of this he got full rent and council tax rebate.

As a result of the above he ended up £80 in credit with his council tax and over £700 in credit with his rent. This money has now been refunded to him.

The claimant also received debt advice, the adviser was in contact with all the client's creditors to stabilise his debt situation. Financial statements were sent and affordable offers were accepted. Some creditors agreed to write off their debts.

As a result of the above our client is now back at work and feels that he some control of his life again. He knows he can go back to the adviser at any time if he has any problems in the future.

## **Case 22**

The claimant's HB had been cancelled and significant rent arrears were building up. Normally, the Housing Officer would talk directly to their tenant to try and resolve the problem. However, in this case the tenant has acute mental health problems. Due to his paranoia he will not answer the door, respond to letters or talk on a phone. The Housing Officer therefore asked the adviser to help as rent arrears stood at £1,225 and he was facing eviction.

The adviser had helped the client on several occasions and had built up a degree of trust. With considerable effort and patience the adviser managed to establish contact with the client and find out why his benefit had been stopped. The adviser helped the claimant re-apply for HB get it backdated for seven months. This cleared the arrears in full. In total, this case took from January 2006 to May 2006 to resolve successfully.

As a result of this case the Advice Service has established closer working links with the local authority's HB department. Where it is known that a client is vulnerable and has mental health problems, HB will work with the advice service at the earliest possible stage if a problem arises with their claim. This will hopefully work to everyone's advantage, as well as lowering the risk of eviction.

## **Case 23**

Following the murder of the claimant's child she suffered from mental health problems and was virtually unable to leave the house. She received a review form around the anniversary of her child's death and was unable to cope with it. Her HB was stopped. Rent Officers had been unable to contact her. The adviser managed to make contact and visited the claimant at home and help her to complete a new claim with a HB backdate request for a period of 5 months. This was successful and cleared her rent arrears.

## **Case 24**

The claimant suffered from cancer and had been in and out of hospital for operations and treatment. His HB was stopped when his JSA ended and he had not provided information on his new circumstances. The adviser managed to contact him and helped him apply for HB backdated for a period exceeding 3 months.

### **Case 25**

This claimant suffered from Huntingdon's Disease and had been in prison for 3 months. It had taken some time to get his benefits sorted out when he came out of prison and Social Services had been helping out with money for living expenses. He had been homeless and lived rough in the past and was terrified of losing his tenancy. The adviser helped him claim backdated HB for 6 months which cleared the rent arrears.

### **Case 26**

The claimant was joint tenant of a council property with her daughter. She was unable to handle her own affairs or engage with offers of support because she suffered from a severe alcohol and depression problem. She failed to supply information in support of her HB claim. The tenant was unable to do this due an inability to handle her own affairs or engage with any offers of support due to her illness.

Following the granting of decree at court the tenant finally engaged with both the housing service and social services and HB was backdated for more than 3 months resulting in the arrears balance of £1434 was cleared.

### **Case 27**

The claimant was a single parent lost her job due to her depression and due to her mental illness was unable to apply for benefits. She fell into arrears and could not engage with support and possession proceedings were started. A decree was granted and she then engaged with the local authority; backdated HB was awarded of £1359 for more than 3 months so the applicant and her daughter did not lose their home.

### **Case 28**

The claimant's baby son was born blind and she was staying regularly at a children's hospital while he underwent a number of operations. The claimant had been getting benefit but had moved to a new property. She did not submit a new claim form until 15 weeks after she had moved in.

### **Case 29**

The claimant was disabled and in receipt of DLA care component. HB/CTB had been terminated for high non-dependent income, although non dependant deductions should not be made where the claimant receives DLA Care. A 52 week backdate was awarded and the rent arrears of £1,234.61 were cleared.

### **Case 30**

The claimant was enrolled in a job-training programme with Jobcentre plus but the local authority was wrongly notified by the DWP that his JSA had stopped. His HB was terminated. The claimant was not aware of this. He accrued rent arrears of £790.54 and possession proceedings were commenced. With help from an adviser, he submitted a claim for HB with a request for backdating for 4 months.

### **Case 31**

Claimant suffers from serious depression and had tried to commit suicide. Housing Officer could not get access for months and all letters / visits were being ignored. HO eventually got in and got HB backdated 6 months.

### **Case 32**

Claimant is a drug user. Her housing benefit had stopped as a review form had not been returned. It took months of visiting to eventually get the required information in. Decree for eviction cancelled. Length of backdate – 4 months

### **Case 33**

Claimant is a single parent suffering from depression attending college. She didn't understand why she wasn't entitled to HB as she wasn't getting any money so she just ignored it thinking it would go away. Eventually got her to engage and she got a backdate and decree for eviction was cancelled. Length of backdate – 6 months.

### **Case 34**

Claimant suffers from severe depression and was not claiming welfare benefits or HB even though she was entitled. Got her to engage working alongside Housing Support Officer and got her a backdate - decree for eviction cancelled. Length of backdate – 8 months.

### **Case 35**

Claimant had problems with his HB as his claim was refused but he was not earning enough money to pay the rent. A partner moved in and then moved out so this made his HB claim hard to process. The Housing Officer worked with the Benefits Section to enable his HB to be backdated for 5 months and prevent Court action.

### **Case 36**

The claimant claimed HB but failed to provide hospital details regarding her sick child as she was too stressed making daily visits to the hospital. Information was finally provided and HB backdated for 8 months.

**Case 37**

The claimant applied for HB but did not supply information within the time allowed because of illness. She requested a good cause backdate because of her circumstances and this was awarded for 6 months.

**Case 38**

Tenant suffering from depression, was unable to deal with correspondence and did not answer door to CBHO. He did not answer any letters that revenues had sent out to him requesting further information. His benefit was backdated for 6 months.

**Case 39**

Claimant had addiction problems and was not dealing with his day-to-day business. He had come off heroin but was very withdrawn and depressed and did not answer the door to anybody. He got HB backdated for 8 months.

**Case 40**

The claimant was an alcoholic and also suffered severe depression including several suicide attempts. Claimant finally engaged and provided evidence for HB purposes. HB was backdated due to his circumstances for 4 months.

**Case 41**

Claimant started work in October 2007 and at that point was receiving support from Social Work which ceased. Claimant soon had difficulty coping without support, lost his job and declined into deep depression as he felt there was no point and had every intention of ending his life. Request for backdate of 5 months.

**Case 42**

Claimant who struggles to manage her financial affairs, is easily confused and relies heavily on her aged mother for assistance. She works part-time and has a 17 year-old daughter. She had not realised she could claim HB to top up her income. Due to her inability to cope she has not been able to face her problems and has become depressed and anxious lessening her ability to cope still further. It was only when her rent arrears reached £2124 and she was facing possible court action that she finally found the strength to seek help. She was assisted with a claim for HB and CTB which resulted in a HB backdate award of £1335 and CTB of £877 which ensured she kept her tenancy and was not taken to court for council tax arrears. The Supported Housing Team that helped with this works with vulnerable clients in all kinds of situations and frequently need to request HB backdate to help clients keep their tenancies.

### **Case 43**

The claimant is a local authority (LA) tenant who is 51 years old. He has worked most of his life paying full rent until recently when he suffered a double bereavement of losing both his mother and wife within a short period of time. The claimant turned to alcohol and was suffering from depression. As a result of his problems he lost his job in July 2007 and due to his mental health condition and dependency on alcohol he was unable to deal with his every day affairs including claiming Housing/Council Tax benefit and other benefits.

The LA contacted him about rent arrears which were rising by £52.00 per week, and he was visited on several occasions by his Housing Officer who would have been able to offer assistance with claiming HB. The claimant was either intoxicated or out when these visits took place and often couldn't remember anybody being at his house. The LA Housing Officer alerted Social Services who were able to make contact and offer him counselling for his dependency, the In Court Advice Service (Feb 2008) was also alerted as the claimant was now being pursued through the courts for rent arrears and was in danger of being evicted from his home of 30 years.

The In Court Advisor made contact with the claimant and helped him apply for backdated HB and to obtain information regarding his mental health from his GP and also proof of his alcohol addiction through his Alcohol Addiction worker from Social Services. As a result his HB was backdated for 26 weeks and £905.00 was credited back into his rent account, this cleared his rent account and as a result the case against him was dismissed from court with no expenses.

### **Case 44**

Tenant is a single person aged 41 with a non-dependent in the household. Tenant suffers from severe depression and ignored all correspondence resulting in court action for recovery of possession commencing. A final visit was carried out prior to the court date which resulting in the tenant submitting a HB claim and a backdate request. This resulted in benefit being backdated for a period of 9 months.

### **Case 45**

Tenant is a single person with two dependents aged 17years and 15 years. She is self-employed. HB ended as she failed to return proof of her income. Court Action was instructed. Prior to the court date tenant did submit proof of her earnings benefit was then awarded and this was backdated for a period of 52 weeks.

## **Case 46**

Tenant is a single parent with one dependent child aged 1. Tenant has advised she suffers from ill health and has been in hospital on a couple of occasions. HB form and a backdate request were completed which was granted for a period of 4 months.

## **Part 2 - Cases relating to backdating of PC, HB and CTB for those over 60**

### **Case 1**

The claimant is a Housing Association tenant who is 77 years of age and unable to read due to a visual impairment. He has no family or professional support (at his own request) and relies on friends who visit occasionally to read letters, etc for him. The claimant receives state pension and also a small works pension, so has a small rent charge which he pays on time each week.

His claim was reviewed by the LA HB Intervention Team who called without prior notice at his home address. The claimant was not at home and the team left a card asking him to make contact to arrange a visit regarding his HB. The claimant could not read this card or the letter with an appointment date and time which was subsequently sent and was of course, was not at home for the planned visit.

A letter was then sent advising the claimant that his benefit would be suspended pending him making contact with the LA HB office and as no contact was made, a further letter was sent advising the claimant that his HB was cancelled from 22<sup>nd</sup> July 2007.

The claimant however continued paying his weekly amount, totally unaware that his HB was cancelled and that arrears were accruing. He was of course sent subsequent letters by the Housing Association which he couldn't read.

Eventually the claimant was visited by a Housing Officer who read his mail and identified the problem, although unfortunately, this visit did not occur until Feb 2008, at which point, arrears stood at £1344.10 and the Housing Association had raised a court action for eviction.

The claimant was referred to the Kilmarnock In Court Advice Service for assistance and a letter was written on his behalf, detailing the problems, demonstrating good cause and requesting that an appropriate backdate be considered. HB of £1294.40, backdated to the date of cancellation was awarded (33 weeks) and the court action was dismissed with no expenses.

If the proposed changes to HB backdating regulations had already been in place, this vulnerable older person may well have been evicted from his home of 50 years.

## **Case 2**

The claimant was admitted into a residential home in 2006 and where no pension credit was claimed. (Attendance Allowance (AA) however, was paid in error and the claimant's adviser is dealing with the overpayment). The claimants' adviser has requested 52 weeks' backdating. The claimant's husband who also is a pensioner has been paying the shortfall from his own monies, as his wife did not have the income to pay the residential care home.

## **Case 3**

The claimants are a married couple with no savings receiving state and occupational pensions and one getting AA They did not realise they were entitled to HB and CTB until they got advice. They were awarded pension credit (PC) and full HB and CTB backdated 52 weeks. By this time they had HB + CTB arrears of £2643.

## **Case 4**

The claimant is a single man living in owner occupied home – his only income state pension. Plus savings above £16,000 - the savings have a 'life insurance' element so are ignored for means tested benefits purposes. Following advice the claimant was awarded AA, PC and full CTB backdated 52 weeks (he had been entitled for longer). PC arrears paid £1639. CTB arrears paid £964.

## **Case 5**

The claimant is a 75 year old lady living in Local Authority sheltered housing complex. She is in receipt of State Retirement Pension, two superannuation pensions, high rate DLA care and high rate DLA mobility. Struggling to cope with ongoing rent and council tax liabilities and unaware that she would be entitled to HB and CTB.

Claim for HB & CTB submitted 18/10/07 with request for automatic 52 week backdate as claimant over qualifying age for state pension. HB and CTB backdated HB 52 weeks - HB of £1245.42 and CTB of £240.52. If backdate period was reduced to 3 months then client would only have been awarded HB of £342.42 and CTB of £61.62

## **Case 6**

The claimant was a pensioner whose son was registered blind. The adviser helped her claim PC backdated including the Severe Disability Amount. She was awarded PC Guarantee £58.75 and PC Savings of £12.87 and a backdated award of £4,991.22 for 52 weeks.

## **Case 7**

The claimant was in her 80s and had suffered polio as a child - she never

claimed PC as she thought it would affect her DLA. An adviser helped her make a claim and she was awarded £107.10 weekly PC(G) and received a backdated amount of £6,730 for 52 weeks.

### **Case 8**

The claimants were a couple who after advice as part of a Carers Campaign successfully claimed the following benefits. Carers allowance x 2 applications made for underlying entitlement for PC AA £43.15 weekly plus backdate of £560.95 PC £85.28 weekly plus backdate of £1397.98 CTB £18.72 and backdate of £31.94

### **Case 9**

The claimant was aged 86. After a home visit from an adviser she was found to be entitled to the following benefits:

CTB - £9.21 weekly plus backdate of £508.67 HB - £38.42 weekly plus backdate of £1740.34 AA - £64.50 weekly plus backdate of £322.50 PC - £27.21 weekly plus backdate of £272.10

### **Case 10**

The claimant was aged 62. He was referred to Welfare Rights Service by the Adult Social Care Access Team as he had a low income, poor health and was being threatened with notice to seek possession of his flat by his local authority landlord and a liability order for arrears of Council Tax.

The adviser visited the claimant with his sister present. His only income was incapacity benefit and a very small works pension. Paperwork in his flat suggested that he had previously written to the Pension Service to enquire about PC but had failed to respond to their requests for further information such as proof of income or in offering to visit him. The adviser helped him claim PC guarantee credit of £4.98 per week which passported him to full HB and CTB. This was backdated for 12 months, enabling him to clear debts and most of his rent and council tax arrears, removing the threat of enforcement action, and homelessness, by the local authority. He was therefore, able to remain in his council flat supported by Adult Social Care Services until his death, from his health problems, some ten months later.

### **Case 11**

The claimant had learning and literacy difficulties. He was struggling financially as his only income was incapacity benefit. In fact he was entitled to £13.55 per week PC. He was not aware of this until his adviser told him. His claim was backdated 9 months to his 60<sup>th</sup> birthday and he received over £700 in arrears. This helped him get back on his feet financially and have some peace of mind.

## **Case 12**

The claimant was self-employed but had no work coming in. He and his wife only received a small pension of £21.93 per week. Their total credit debts totalled £29,104 with a combined monthly repayment of £1065. A benefit check was carried out on same day which indicated as a couple they were potentially entitled to the following benefits:

- Pension Guarantee Credit £159.77 per week
- Mortgage Interest Relief £136.15 per week
- Council Tax Benefit £32.26 per week (full amount)

The client was advised to apply for PC and CTB. The client subsequently had a Self-Employed Counselling appointment which indicated they were receiving £780.00 pcm PC backdated to 1st December 2007.

## **Case 13**

The claimants were a couple who were referred for a benefit check as the husband had lost his job and had difficulty finding alternative work because of his age. The wife was working part-time. Their credit debts totalled £26,303 with a combined monthly repayment of £986pcm. A benefit check was carried out which indicated as a couple they were potentially entitled to the following benefits:

- Pension Savings Credit £12.19pw
- Working Tax Credit £79.17pw

The claimants were advised to apply for WTC which may be backdated for 3 months without any special reason to be given and for Pension Savings Credit which may be automatically backdated for 12 months.

## **Case 14**

The claimant's PC claim took 6 months to sort out. She was advised by her local authority CTB section that she was not entitled to benefit because she had savings in excess of £16000. Consequently, she did not bother making a claim until the PC was in payment and we advised her that she should make a claim for CTB. No money was lost in this instance because our client could claim up to 12 months backdating. She did in fact receive 9 months backdated CTB.

**Annexe 3**

Association	No. of tenancies	No./% of tenants on HB		No./% requesting backdate of HB of more than 3 months	
Cassiltoun	1500	975	65%	26	2.67%
Govanhill	1601	961	60%	25	2.60 %
Glasgow West	641	391	61%	8	2.05%
Yorkhill	384	227	59%	7	3.08%