

POLICY TITLE

Housing Benefit and Council Tax Benefit - Backdating Claims Policy

REVISION DATE

1 October 2008

REPLACES POLICY

New Policy

POLICY NUMBER

0056

POLICY AIM

This policy outlines South Holland District Council's (the Council's) approach to dealing with customer requests to backdate housing benefit and/or council tax benefit to a date **earlier than** the Monday following the **first** date they contacted us about claiming such benefit(s). It aims to ensure that claims for backdating benefit are treated consistently and fairly, within the scope of the relevant Housing Benefit and Council Tax Benefit Regulations. This includes ensuring that such claims are considered according to their individual circumstances which must include the reasons for not making contact with the Council to claim benefit(s) throughout the entire backdating period.

EXECUTIVE SUMMARY

This policy describes how requests for backdating benefit (late claims) will be dealt with.

When making decisions on backdating a claim for housing benefit and/or council tax benefit, we will take into account all known circumstances which might apply. Once a decision has been made, the customer or appointee will be told of the decision in writing. The policy also explains who is involved in making these decisions, the process to be followed for communicating decisions and the process for dealing with any appeals against them.

POLICY STATEMENT

The Council requires staff making housing benefit and/or council tax benefit backdating decisions to follow the Housing Benefit and Council Tax Benefit Regulations which are in force at the time the decisions are made. Staff should also follow the Department for Work and Pensions Housing and Council Tax Guidance Manual as well as the more general guidelines in this policy.

The Council expects staff to encourage customers to claim housing benefit and/or council tax benefit at the earliest opportunity. This should minimise the need for backdating claims.

A backdating request:

- must be received in writing from either a claimant or appointee on a benefit claim form, a Department for Work and Pensions (DWP) input document or a backdating application form
- must state clearly the date that the customer wants the claim backdating to (and the date it should end if appropriate)
- must give reasons why the claim was not made throughout the entire period of backdating being sought.

In cases where a customer or his/her appointee makes a claim for backdating benefit we will:

- consider fairly and sympathetically whether there is evidence of **continuous** good cause for not claiming throughout the whole backdating period, starting with the date they want to claim from right up to the date the backdating claim is received (subject to the legal maximum of either 3 or 6 months as appropriate from 6 October 2008 and 12 months for any earlier claims).
- ask for medical evidence (at our discretion) if a backdating claim is made on health grounds - if medical evidence is requested and there is a charge for this, we will refund that charge to the customer provided proof of payment is received
- write to the customer or appointee if we have not received sufficient information or evidence on which to decide whether there has been continuous good cause for the late claim - we will say what information we need to make a decision
- allow the customer/appointee 14 days to provide the information we ask for – this time limit can be extended if there are reasonable grounds put forward for doing so
- make a decision after 14 days (or as soon as reasonably practical thereafter) using the only information available if the full information has not been received and no time extension has been sought and granted.

When we make a decision on backdating, we will take into account all the known circumstances relevant to a particular case. We will try to make allowances for any difficulties the customer or appointee may have had but we must always act within the regulations. To make sure we are fair to customers, we will take into account any factors which could be expected to affect their ability to make a claim on time - examples of such factors include:

- how old the claimant is
- the claimant's experience of the benefit system
- any special communication or language difficulties
- length of residence in the UK
- any relevant physical or mental illness or disability
- any relevant personal or family problems or trauma
- availability of advice or help with claiming benefit
- information about claiming benefit which is available to the general public in any form
- information about benefits sent with council tax bills or included in reminder notices
- information about claiming benefit that the customer received from official bodies such as Job Centre+, CAB (Citizen's Advice Bureau), Council Employees or Welfare Rights Organisations
- any information received from Social Services, Mental Health Units, Doctors, Probation Services or Welfare Rights organisations to support the customers backdating claim
- the length of the backdating period and what action the customer/appointee has taken to help themselves.

This list is not intended to be complete and nothing in this policy will prevent staff that are responsible for making backdating decisions from using sensible discretion or taking into account any other relevant factors in a particular case.

Once a decision on the late claim has been made, the customer or appointee will be told of the decision in writing. If continuous 'good cause' for not claiming earlier exists, we will award backdated benefit from the appropriate earlier date and notify the customer.

If the customer or appointee is unable to prove continuous good cause for the late claim, we will write to the claimant refusing the backdating request. The letter will contain details of the backdating period considered, reasons why the claim will not be backdated and the customer's appeal rights.

Where we receive a request for a reconsideration of a backdating decision, or a request for an appeal against such a decision, a different member of staff will look at the original decision to see if there are grounds to change it. If the decision can be changed, we will process the change and we will tell the customer or appointee of the outcome. If the decision cannot be changed, we will tell the customer stating our reasons.

IMPLEMENTATION

Responsibility and Accountability

The Senior Benefits and Revenues Officer will be responsible for implementing this policy, including making sure that relevant staff are familiar with the content of this policy, and will be accountable if this does not happen.

Administration and Appeals

The Benefits Specialist will be responsible for making and communicating decisions under this policy. Where a backdating request is to be granted, the approval of either the Assistant Benefits Manager or the Benefits and Revenues Manager must first be obtained.

Where a customer disputes a decision, the Senior Benefits and Revenues Officer will be responsible for impartially and independently reconsidering the case and notifying the outcome. Where a backdating request is to be granted following reconsideration, the approval of either the Assistant Benefits Manager or the Benefits and Revenues Manager must first be obtained.

Communication of this policy

This policy should be referred to in the Council's approved housing benefit and council tax benefit application, in the explanatory notes issued with all housing benefit and council tax benefit decision notices and on the backdated claim form.

The following people need to be made aware of this policy which will be published on the Council's Website and Intranet in appropriate places (paper copies will be made available on request):

- All New Benefit Claimants
- Staff working in the Benefits and Revenues Team
- Staff working in Customer Services
- Staff working in the Housing Operational Team
- South Holland Citizens Advice Bureau.

MONITORING

The policy will be monitored in the following ways:

MONITORING ACTIVITY	PERSON RESPONSIBLE
Data collection in respect of backdated requests showing those approved, together with a summary of reasons for approval, and those refused due to good cause not being proved.	Benefits Specialist
Check to see if the policy has been implemented effectively by looking at the records of backdated cases and extracting a sample for random checking.	Assistant Benefits Manager and Internal Auditors
Propose policy amendments if appropriate following any successful appeal against either our refusal to backdate a claim or the start date of a claim.	Benefits Specialist
Review policy every two years in line with corporate practice.	Assistant Benefits Manager

POLICY CONSULTATION

South Holland Citizens Advice Bureau, the Finance Portfolio Holder, Benefits Management, Customer Services and Housing Management have been consulted on this policy.

POLICY APPROVAL

Head of Finance

RELATED POLICIES & STRATEGIES

This policy relates to the Equality and Diversity policy.