

**Shelter's response to the Social  
Security Advisory Committee  
consultation on regulations  
2008: Miscellaneous  
amendments - housing benefit  
and council tax benefit  
backdating**

**From the Shelter policy library**

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**Shelter**

Shelter is a national campaigning charity that provides practical advice, support and innovative services to over 170,000 homeless or badly housed people every year. This work gives us direct experience of the various problems caused by the shortage of affordable housing across all tenures. Our services include:

- A national network of over 20 housing aid centres
- Shelter's free housing advice helpline which runs from 8am-midnight
- Shelter's website which provides housing advice online
- The Government-funded National Homelessness Advice Service, which provides specialist housing advice, training, consultancy, referral and information to other voluntary agencies, such as Citizens Advice Bureaux and members of Advice UK, which are approached by people seeking housing advice
- A number of specialist projects promoting innovative solutions to particular homelessness and housing problems. These include 'Homeless to Home' schemes, which work with formerly homeless families, and the Shelter Inclusion Project, which works with families, couples and single people who have had difficulty complying with their tenancy agreements because of alleged anti-social behavior. The aim of these particular projects is to sustain tenancies and ensure people live successfully in the community.
- We also campaign for new laws and policies - as well as more investment - to improve the lives of homeless and badly housed people, now and in the future.

## Introduction

Shelter welcomes this opportunity to respond to the Social Security Advisory Committee's consultation concerning the following proposals:

- Reducing the time limit for pensioners to claim pension credit, housing benefit (HB) and council tax benefit (CTB) from 12 to 3 months;
- Reducing the backdating period for HB/CTB customers of working age from 12 to 3 months; and
- Allowing pension credit to be retained for up to 13 weeks of a temporary absence abroad.

Shelter's consultation response will specifically examine the first two proposals, to reduce the backdating period from 12 to 3 months for housing benefit (HB) and council tax benefit (CTB) for both pensioners and working age claimants. This will address information set out in the explanatory memorandum and accompanying equality impact assessment (EQIA).

Overall, Shelter has serious concerns about the proposed changes. We understand that the rationale for this change is to simplify the benefit system and bring arrangements for HB and CTB backdating in line with those for other income related benefits. Unfortunately, we do not believe that the achievement of this objective warrants the adverse impact which the proposed changes are likely to have on some of our most vulnerable households.

## Response to the consultation

### Intended benefits and simplifications of the proposals

We support the Government's efforts to simplify the HB system to improve the service for claimants, but don't consider that the proposed package is the best way of doing this. Simplifying the system should not come at the cost of disadvantaging some of our most vulnerable claimants who would ordinarily benefit from the 12 month backdating facility. The current provision for proving 'good cause' in order to establish a backdated claim means that people are not able to abuse the system. People are only claiming what is legitimately theirs and reducing the period from 12 to 3 months will inevitably have a damaging effect.

The proposed package is intended to represent an overall improvement to the benefit system for customers and staff. However, Shelter considers that any benefits from the changes outlined in the consultation document are far outweighed by the very real disadvantages to working age claimants. The consultation only outlines particular improvements in processing HB/CTB for those who have attained the qualifying age for pension credit. Therefore this excludes working age claimants who, according to figures set out in the EQIA, make up 63 per cent of total claimant family units in receipt of HB and 50 percent of those in receipt of CTB.

The explanatory memorandum sets out a number of arguments in favour of reducing the backdating facility, to tackle issues around payment delays, intrusion for customers, and errors in the benefit given in the current system. Further, the EQIA discusses that a reduction in backdating should make the task less 'onerous' for claimants and improve the time taken to deal with claims. However, the most complicated element of the process, the requirement to prove 'good cause', will remain for those of working age. Where a claimant struggles to prove 'good cause', this could be remedied by improving the verification process rather than by reducing the backdating facility. The verification framework unintentionally creates barriers for vulnerable people claiming and receiving HB<sup>1</sup>. We believe that reducing and simplifying the requirements of this process will go further in improving the benefit system than the plans to reduce the backdating facilities.

Further, the operational difficulties experienced may be due to the lack of clarity around the criteria used to claim the backdated benefit rather than the length of the backdating. As illustrated in the questionnaire sent out to 27 local authorities (p. 35 section 11.9 of the EQIA), they each used different criteria for counting the number of backdating requests. There was also a lack of understanding of the circumstances under which 'good cause' can be used, for example in some local authorities ignorance of the benefit system was used incorrectly as a reason to award backdating to claimants. Therefore, ensuring local authorities are fully informed and equipped to deal with backdating claims may prove to be of greater benefit than reducing the backdating facility.

### **Impact on claimants**

Reductions in HB and CTB backdating will not help to improve the existing problems with the housing benefit system. Despite improvements, problems with HB administration continue to be a major cause of rent arrears. For example, an application may be lost, or processed incorrectly, and the claimant may believe that their benefit is being paid to the landlord only to find out at a later date that this is not the case. For the claimant the loss of the facility to backdate their claim to the full 12 months may mean that they have accrued rent arrears which they are no longer able to fully recoup and which they have no means of paying off.

Landlords in the private rented sector and housing associations can obtain possession orders when the arrears are as little as two months by using Ground 8; in this situation, a claimant may then face eviction and homelessness. In both public and private sectors, the inability to recover HB which was rightfully due to the claimant over a period of up to nine months is likely to result in his/her eviction because of the scale of arrears involved. Therefore, the facility to get a claim backdated by up to one year is an important mechanism in helping clients avoid homelessness.

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<sup>1</sup> Neuburger, J. and Long, G. *Policy briefing: Housing Benefit*, December 2004, Shelter

The prevention of such a situation should be a primary objective when deciding on the merit of making changes to the housing benefit system. At a time when government is rightly concerned to promote measures for the prevention of homelessness, these measures cannot be reconciled with that agenda. It is no exaggeration to say that these changes will inevitably cause homelessness in a number of cases.

Research by Shelter<sup>2</sup> and Citizens Advice<sup>3</sup> has found that failures in the structure and administration of the housing benefit system are the main cause of rent arrears. Although landlords need to take action to recover rent arrears, evidence suggests that possession action is taken too often as a first rather than last resort. Rent arrears account for nearly all the suspended possession orders and full possession orders granted to social landlords.

There are also wider financial costs to consider; for example, possession action is a costly and ineffective way of managing rent arrears and increases pressure on the court system. The consultation asserts that backdating proposals are needed to enable the release of funding, however if added costs are incurred through an increase in evictions there seems little merit for the proposals to be introduced.

Emphasis within the consultation document has also been placed upon claimants, landlords and local authorities taking more responsibility for their housing costs at an earlier stage. However, for the most vulnerable of households the process of claiming benefits presents difficulties and complications. The backdating facility is there precisely because it is not possible for some people to 'take responsibility' at an earlier stage due to reasons such as health problems, or a failing on the part of an advisor. It is a valuable element of the Government's commitment to make it easier for people with chaotic lifestyles to access DWP services and support. To remove this protection would seriously undermine this commitment.

Advisors in our Housing Aid Centres often deal with people who have run into difficulty meeting their rent payments due to housing benefit difficulties. With HB/CTB normally paid in arrears, it may be some time before a claimant initially realises that they have not been paid or paid the wrong amount. After this initial realisation there may be further delays before a claimant, particularly a vulnerable one who perhaps has mental health difficulties, is able to complete the process for making a backdated payment. Lack of access to support services or a support worker, for example, may delay the backdating claim. Given that the facility to claim backdated housing benefit requires the claimant to demonstrate 'good cause', the award of backdated monies is no more than what is properly due to the claimant.

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<sup>2</sup> Neuburger, J. *House keeping: preventing homelessness through tackling rent arrears*, February 2003, Shelter.

<sup>3</sup> Phelps, L. and Carter, M. *Possession action – the last resort?* February 2003, CAB.

Shelter runs a number of projects that deal with claimants who we feel will be seriously disadvantaged by the proposed changes. In particular we believe that claimants in prison<sup>4</sup>, older people, those with mental health issues and people with dependents will be negatively impacted by the reduction in backdating facilities. However, the equality groups under consideration in the EQIA do not fully encompass those groups Shelter considers may experience a negative impact. While older people and those with a disability or long term illness are highlighted in the EQIA, there is no mention of people in prison or the effect on those with dependents.

The chaotic organisation within the prison system may mean that claimants on remand are not able to complete a HB form until after the 3 month period. Resources are further strained in the prison system by the need for a new claim to be made even if the person was claiming HB before being sent to prison. This also has an impact on any partners involved who are also required to make a fresh claim due to a change in circumstances. Even when individuals are finally able to gain access to an advisor, they may be moved to another prison and end up back at the beginning of the process.

A report by the Norfolk Offender Accommodation Forum<sup>5</sup> argues that there is significant scope for housing benefit to help maintain accommodation during a short period of imprisonment. Preserving tenancies will help to reduce costs associated with temporary accommodation, lessen the number of presentations to homelessness departments, decrease levels of rough sleeping, and reduce time spent trying to find new accommodation prior to release<sup>6</sup>. A reduction in backdating facilities for this group will only exacerbate problems with accessing and maintaining accommodation, which will present greater costs in the long term as well as increase the likelihood of re-offending.

For older people there are often problems effectively managing their paperwork. A study<sup>7</sup> which examined the causes of, and pathways to, homelessness among people aged 50 and over found that one of the main reasons was rent arrears due to problems with housing benefit claims or payments. This was often following the death of the main carer; consequently some people (many of whom had mental health and literacy problems, and poor daily living skills) were unable to cope on their own. Further, a lot of older people do not take up all of the benefits to which they are entitled. Between £3.86 billion and £5.98 billion of benefits, including housing and council tax benefits, were unclaimed by pensioners in 2005/06<sup>8</sup>.

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<sup>4</sup> This refers to remand prisoners who are entitled to claim HB initially for up to 52 weeks.

<sup>5</sup> Norfolk Offender Accommodation Forum (NOAF). *How Housing Benefit can help prevent re-offending*, February 2008, NOAF.

<sup>6</sup> *ibid.*

<sup>7</sup> Crane, M, et al, *Building homelessness prevention practice: combining research evidence and professional knowledge*, Sheffield Institute for Studies on Ageing, University of Sheffield, 2004.

<sup>8</sup> *Income-related Benefits: Estimates of Take-up*, Department of Work and Pensions, 2007.

### **Case Study**

In late 2007 a Housing Aid Centre caseworker had a client in Hackney who was a single man with significant mental health issues. He had a large gap in his HB claim as a result of a failing on the part of his support worker. His housing association landlord had issued a notice to seek possession and was seeking possession on the basis of rent arrears. As a result of Shelter's intervention under the current backdating rules, HB was backdated for the full 12 month period and his landlord withdrew the eviction proceedings.

Shelter London Housing Aid Centre

### **Evidence base**

The Government has indicated that prior to April 2007 no information was collected from local authorities on the number of people who were awarded backdated HB/CTB claims, or the amount paid out on such claims. The EQIA confirms this, that figures on the number and proportion of HB and CTB claimants likely to be affected by the backdating rule only go back 6 months. This seems to be extremely limited evidence on which to base the backdating proposals.

There has also been no assessment as to the impact on child poverty of the HB/CTB changes for working age customers due to lack of sufficient data being currently available. Given the current emphasis by government on reaching its target to halve child poverty by 2010, there does not appear to be any benefit in introducing a process which may be counter-productive to this. Changes should be made on the basis of long term and reliable data, rather than waiting to assess impacts after the fact.

The EQIA draws conclusions from the data available that only a small number of individuals would be affected by the modifications to the backdating rule, and that these would mainly be in the category of working age, disabled people. None of the information used about the equality groups relates specifically to HB/CTB backdating, only to those in receipt of HB/CTB. Given the limited data available it is difficult to see how conclusions can be drawn as to the impact of this specific change on equality groups.

### **Mitigating measures**

Shelter also has concerns with the focus of the EQIA itself. It only explores ways in which the proposals can be mitigated, rather than whether or not to proceed with the changes at all. Part of this proposed alleviation of negative impacts concerns a publicity campaign alerting customers to the potential changes. The consultation document also refers to the publication of leaflets prior to October 2008 in a range of different languages to explain the new rules. Increasing the amount of

information available to claimants will not offset the serious impacts a reduction in backdating facilities will have on vulnerable households.

## **Conclusion**

Shelter has serious concerns about the proposals to reduce the backdating period from 12 to 3 months for housing benefit (HB) and council tax benefit (CTB) for both pensioners and working age claimants. Although the changes are intended to simplify the benefits system, we feel that the proposals will come at the cost of some of our most vulnerable claimants. A reduction in this facility will have a devastating impact upon those groups who rely upon the backdating provision but, through a range of circumstances, are unable to have their application processed within the 3 month period. Proposals to simplify the application process are very welcome, but presumably not incompatible with keeping the 12 month limit. Shelter believes that resources would be better aimed at improving the administration of housing benefit and providing greater clarity for local authorities processing backdated claims.

## **Shelter Policy Unit**

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For further information please contact Francesca Albanese, Policy Officer, on 0844 515 2137 or at [Francesca.Albanese@shelter.org.uk](mailto:Francesca.Albanese@shelter.org.uk)