

Housing Benefit and Council Tax Benefit Backdating Claims



This leaflet provides information on the backdating of Housing Benefit and Council Tax Benefit claims

What is backdating?

Housing Benefit and Council Tax Benefit entitlement normally starts from the first Monday following the receipt of a benefit application form. In certain circumstances a claim for benefit for a past period can be accepted. This is referred to as a claim for backdating and will be treated as if it was made from an earlier date. The conditions that must be satisfied are:

- a) The claimant must show “good cause” for failing to claim earlier; and
- b) That the claimant had continuous “good cause” for failing to make a claim from the date on which backdating is requested until the date the claim for backdating was made.

The maximum period for which a claim can be backdated is:

- For a claimant of working age - 6 months prior to the date on which the backdate request is received.
- For a claimant who is aged 60 years or over - 3 months prior to the date on which the backdate request is received. “Good cause” does not have to be proven in these cases.

What is “good cause” for failing to claim earlier?

The benefit applicant must show good cause for failing to claim earlier and that good cause existed continuously during the period for which the claim for backdating is made.

Consideration of any facts that would have caused a reasonable person to act as the claimant did, for example, due to their age, health, background and knowledge of the Social Security system will be taken into account. Likewise, consideration of any information that the claimant had received or could have obtained will also be taken into account.

Good Cause cannot be established merely by ignorance of the right to claim benefit or of the time limit for claiming. Claimants are expected to take reasonable steps to

find out what their rights and duties are. However, the following factors will be considered:

- a) The reasons for the ignorance; and
- b) Is it reasonable for enquiries not to have been made or to think that there was nothing to enquire about;

Someone who deliberately does not claim; or shows carelessness; thoughtlessness or indifference would **not** normally be considered as showing good cause.

Examples of what may be considered as “good cause”

Each case will be looked at on its own merits. Some examples, but not an exhaustive list, where good cause might be considered include:

- a) The introduction of new legislation means that someone who might previously not be eligible becomes entitled;
- b) A claimant who has lived abroad may be unaware of their entitlement;
- c) A claimant has difficulty with language and requires assistance;
- d) There is an unusual postal delay;
- e) The claimant was misled by official information and acts on that information or advice;
- f) The claimant was misled by advice that was unofficial but they believed the advice to be either official or reliable;
- g) The claimant relies on advice given by a Solicitor or an Accountant on a legal question regarding claims and entitlement to benefit;
- h) The belief that a Solicitor or Trade Union would claim;
- i) The claimant received advice from an employer and the delay was because of this advice;
- j) The claimant was unable to claim because they had a serious illness and were unable to ask someone to claim on their behalf;
- k) The inexperience of a youthful claimant; or
- l) Imprisonment or detention in legal custody.

Making a backdated request

If you wish to make a request for backdated benefit you should:

- a) Make the request for backdating in writing;
- b) Provide the reasons for not claiming earlier and show that these reasons have existed continuously throughout the period concerned;
- c) Define the period for which the backdate request is being made;

Persons who have attained the qualifying age for state pension credit

Where a claimant, or their partner, is aged 60 years or over they do not have to show that good cause existed, in the 3 months prior to their claim being made, for their claim to be backdated.

The claimant does not have to ask for backdating, it should apply automatically if the qualifying conditions are satisfied in any of the 3 months preceding a benefit claim. If this does not happen you should contact the Benefits Section.

Further Information

If you need more information you can contact the Benefits Section, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY.

- Telephone: 01856 873535 Extension 2116
- email: benefits@orkney.gov.uk

You can also seek free, independent and confidential advice from the Orkney Citizens Advice Bureau:

- Orkney Citizens Advice Bureau; Anchor Buildings, Bridge Street, Kirkwall, KW15 1HR
- Tel: 01856 875266

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