



The Social Security
(Miscellaneous Amendments) (No.4)
Regulations 2008
(S.I.2008 No.2424)

Report by the Social Security Advisory Committee
under Section 174(1) of the Social Security Administration Act 1992
and the statement by the Secretary of State for Work and Pensions
in accordance with Section 174(2) of that Act.

*Presented to Parliament by the Secretary of State for Work and Pensions
by Command of Her Majesty
September 2008*



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Statement by the Secretary of State for Social Security in accordance with section 174(2) of the Social Security Administration Act 1992.

The Social Security (Miscellaneous Amendment) (No.4) Regulations 2008.

Introduction

1. The Social Security (Miscellaneous Amendment) Regulations 2008 were referred to the Social Security Advisory Committee on 2nd April 2008 in accordance with section 172(1) of the Social Security Administration Act 1992.
2. The proposed regulations would reduce the time for claiming Pension Credit and Housing Benefit/Council Tax Benefit for those who have attained the qualifying age for Pension Credit, from 12 to 3 months, and reduce the period for which claims to Housing Benefit and Council Tax Benefit (HB/CTB) for customers of working age may be backdated, from 52 weeks to 3 months. The regulations also proposed to extend the period for which Pension Credit customers may retain entitlement whilst temporarily absent from Great Britain from 4 to 13 weeks.
3. These changes are an integral part of a package of measures designed to streamline the process of administering claims and awards so as to make it easier for customers to claim benefit and to reduce the amount of intrusion into their financial circumstances once an award has been made. These other measures include providing for telephone claims to be made for HB/CTB at the same time as Pension Credit claims without the need for the customer to complete or sign a claim form for HB/CTB so that details can be automatically sent on to the relevant local authority for processing and reducing the need for Pension Credit beneficiaries aged 75 and over to report changes to their retirement income (the "AIP run on"). These changes also need to be seen in the context of other measures being introduced for pensioners, such as the one-off winter fuel payment for 2008/09 and the up-rating of Pension Credit by more than the earnings commitment.
4. The purpose of the changes to the time for claiming/backdating rules is to reduce the burden on operational staff when establishing the likely entitlement to benefit for a past period, reduce the burden on customers to provide evidence and documentation for historic circumstances (including any changes over that period) and to simplify the decision making process. As a consequence of making these changes, the Government will be able to implement the other changes that form part of the overall package of measures as set out in paragraph 3 above. These changes will lead to:

- a more streamlined claims process due to the introduction of more automated telephone claims for HB/CTB: Through one telephone call it is now possible to claim HB/CTB and Pension Credit without the need to complete an HB/CTB claim form;
- less intrusion for customers because the Department will only require evidence of their circumstances for the past 3 months or 6 months instead of up to 12 months and for Pension Credit customers aged over 75 who will not normally be required to tell the Department about changes to their savings or retirement income; and
- a benefit system which as a result is improved by being simpler and easier to understand for customers and staff and which encourages customers to take responsibility for claiming benefits promptly.

5. I am very grateful both to the Committee and to those who made representations to it. The arguments for not proceeding with the proposed legislation have been advanced in a clear and forceful way. Nonetheless, after careful consideration, I have decided that the draft legislation in relation to Pension Credit, Housing Benefit and Council Tax Benefit for those who have attained the qualifying age for Pension Credit should be submitted for Parliamentary approval as originally intended.

6. I also believe that there is a strong argument for introducing a 3 month backdating timescale for working age customers claiming Housing Benefit and Council Tax Benefit. **However, after careful consideration of the responses in relation to Housing Benefit and Council Tax Benefit for those of working age, I have decided that whilst the eventual aim should be to reduce the period of backdating to 3 months, this should be done on an incremental basis. I have, therefore, decided that the period of backdating for working age customers under the good cause provisions should be reduced initially to a period of 6 months.** I believe that a different approach for this group is justifiable given that the time for claiming rules for pensioners effectively provide automatic backdating of Pension Credit and HB/CTB for the relevant period and are therefore more generous than the backdating rules for the working age group for which “good cause” must be demonstrated. And the changes that are planned to the way in which HB/CTB is claimed alongside Pension Credit claims should help ensure that more pensioners receive HB/CTB in future.

7. This statement sets out, in accordance with section 174(2) of the Social Security Administration Act 1992, my reasons as to why I have not felt it appropriate to give effect to the Committee’s recommendations in full on this occasion. Despite being unable to accept the Committee’s main recommendations, that the regulations in relation to backdating should not proceed, I have been able to address some of the concerns expressed, and have consequently decided to make some changes to the original proposals.

The Committee's Report and the Government's response

Introduction

8. The Committee broadly welcomed the changes to the rules on temporary absence abroad, and the other measures which formed part of the overall "simplification" package such as the AIP run on and the improved claims process for Pension Credit customers who claim HB/CTB. However, the Committee found that the Department's rationale for generating savings to pay for such improvements through restrictions to the backdating provisions to be unconvincing, and selected these regulations for formal referral for 3 main reasons:

- The Committee's long standing interest in the backdating provisions for income related benefits;
- An apparent lack of reliable evidence for the assertions made in relation to the rationale for making the changes and to support the costings; and
- The unprecedented number of representations from organisations and individuals expressing their concern about the impact of the proposals on vulnerable groups and upon the Government's policies to reduce poverty.

9. The Government considers that the arguments for making these changes are convincing. The Government maintains that it is important and necessary to take steps to simplify and improve the rules in relation to the benefits system and to streamline the claims process.

10. The Government believes that the proposals to reduce backdating, which follow improvements to the claims process for Pension Credit and HB/CTB (such as the ability to make a claim by telephone and to make a claim for all three benefits, Pension Credit, HB and CTB, in one simple phone call), supplemented by a continued campaign to encourage potential recipients to claim their entitlements at the time the need first arises (rather than waiting, in difficult circumstances, for up to a year before making a claim) is an important and coherent step toward a simpler more streamlined system. When the additional measures being introduced as part of the overall package are also taken into account, the Government believes that it has made significant improvements without the need to make detrimental changes to the rules for existing customers.

11. The Committee point out that similar proposals to reduce the period of backdating from 52 weeks to 3 months in HB/CTB were made in 2000 and that these were subsequently abandoned following the Committee's report which concluded that such a reduction would adversely affect some of the most vulnerable people in society, increase rent arrears and potentially increase homelessness. The Committee believe that their objections to the proposals in 2000 are also relevant in relation to the current proposals.

12. Although the proposed reduction to the backdating period from 52 weeks to 3 months was proposed in 2000, the proposals differ from those put forward then as those changes would have replaced the good cause provision with a set of prescriptive circumstances in which backdating could have been considered. We reintroduced the proposal to move from a 52 week timescale to a 3 month timescale for backdating HB/CTB claims whilst retaining the good cause provisions for working age customers, as we believe that the time is right to start making such changes.

13. In its report on the earlier proposals in 2000 the Committee raised a number of objections and concerns about unsatisfactory administration by DWP or local authorities in processing benefits resulting in a delay in claiming Housing Benefit and Council Tax Benefit. The Committee's report about the earlier proposals mentioned that delayed claims were due largely to the complexity of the claims process and benefit system. It also identified processing delays where the claim for HB/CTB is dependent upon a claim for another benefit, highlighting that any delay in processing the first benefit would result in a delay in a claim for HB/CTB.

14. Much has changed since the Committee last considered this matter in 2000 and nearly all the issues and concerns raised at that time have been addressed. In particular there have been significant improvements to HB/CTB administration, and to the rules, to make the process for customers much simpler. The HB/CTB system is far less complex than it was and we have, where possible, aligned rules within HB/CTB to match those in other means-tested benefits. These changes are also intended to bring backdating further into line with the backdating periods for other benefits which are typically 3 months.

15. The Committee previously argued that problems in the administration of HB/CTB led to payments not being made on time, or not being made at all, leading to additional claims for backdating. Real improvements have been made in HB/CTB processing times with the average time taken to process new Housing Benefit and Council Tax Benefit claims halving from 55 calendar days in 2002/03 to 26 days in 2007/08 and the Department for Work and Pensions is continuing to work with local authorities to improve these figures further. The improvement in the way local authorities administer benefits is also supported by the decrease in the numbers of complaints reported by the Local Government Ombudsman in this area. Complaints about HB/CTB administration have reduced quite significantly from 4,028 in 2000/01 to 1,004 in 2007/08.

16. From April this year we further simplified HB/CTB with the introduction of the Local Housing Allowance (LHA) for tenants in the deregulated private rented sector. The LHA is a new way of calculating Housing Benefit based on the area in which a customer lives and household size. It ensures that tenants in similar circumstances receive the same amount of financial support for their housing costs. These changes have significantly reduced the complexity of the scheme and allow the customer to know in advance how much Housing Benefit can be paid in any area before they make their claim.

17. The claims process has also undergone significant changes. Since 2000 a number of important changes have been made which make it easier and quicker for customers to claim or reclaim Housing Benefit, which includes the introduction of:

- a rapid reclaim process for customers undertaking short periods of employment;
- a shortened HB/CTB claim form for pensioners, which omits sections less likely to be used for this customer group and with trigger questions for further action where needed;
- a 3 page claim form for pensioners who are receiving Pension Credit;
- a combined claims process for working age customers where the HB/CTB claim details are taken alongside claims for Income Support, Jobseekers Allowance and Incapacity Benefit in a combined process;
- changes to the date of claiming rules to align with other means-tested benefits to allow the date of claim to be linked to the initial contact date rather than the date of receipt of the claim;
- provisions to allow third sector organisations and County Councils to accept and verify HB/CTB claims;
- contracting provisions and guidance which allow Registered Social Landlords to accept and verify HB/CTB claims for their tenants;
- provisions to allow HB/CTB claims to be taken electronically or over the telephone without the need for a signature; and
- significant improvements in the sharing of information between government departments and local authorities.

Summary of Responses to the Consultation

18. The Committee's report summarises the responses received to their consultation, and points out that a total number of 75 responses were received, the majority of which were specific to HB/CTB. The following paragraphs address each of the points made as set out in the report.

Changes for those who are potentially eligible for Pension Credit

19. The Committee's report notes that respondents to the consultation disagreed with the Government's assertion that the current automatic backdating of Pension Credit for 12 months was intrusive and caused confusion for customers, pointing out that if a customer found the requirement to provide information in relation to the previous 12 months onerous, then they would not proceed with the request. Respondents also questioned why no specific evidence of the alleged problems caused by a 12 month time for claiming had been gathered and presented by the Department.

20. In the first instance, as referred to in paragraph 4, these changes are of benefit as they will result in a system which is improved by being simpler and easier to understand for customers and staff. For Pension Credit the original intention was for the time for claiming to be 3 months. However, a transitional rule allowed claims made in the first year of its introduction (i.e. in the 12 months from 6th October 2003) to be treated as made on 6th October 2003. Twelve months was adopted as the normal time for claiming Pension Credit in October 2004 in recognition that Pension Credit was still a relatively new benefit, thereby removing the "cliff edge" for those who had not claimed by October 2004.

21. The Government believes it is right that those potentially entitled to means tested benefits, which are designed to provide a guaranteed income to cover current day to day needs, should claim as soon they become, or think they may be, entitled to such a benefit, rather than wait for up to one year before making their claim.

22. The Government agrees that customers are free not to claim from an earlier date if they find the provision of information and evidence for that past period onerous. However, the Government's position is that all customers should be able to claim their entitlements from when they become entitled, in a simple and straightforward way, and should not be discouraged from doing so by what may be perceived as onerous requirements. That is why the Government proposes to reduce the time limits for claiming whilst at the same time improving and simplifying the claiming process and taking steps to encourage potential customers to claim at the time they become entitled.

23. The Government is of the view that customers can find it onerous to provide information and evidence, and this assertion is supported by research that indicates that customers may be put off making a claim because of the need to provide financial information and send documents to support it. It is axiomatic that the longer the period in the past a claim is made for, the more information will be required. The Government is also aware through feedback from staff dealing with claims, of concerns expressed by customers on being asked to provide historical information and verification and of difficulties experienced by staff in obtaining such information, which can lead to delays in processing claims. For example, it is often difficult and there may be a cost to obtain duplicate bank statements or duplicate notifications of the rate of

occupational pensions from pension providers for past periods and the customer may not remember with any degree of accuracy what their income or savings were up to 12 months ago. These difficulties are reduced by the introduction of a 3 month time for claiming.

24. The Committee's report notes that respondents had told them that in their experience many pensioners are still reluctant to claim means-tested benefits and that they find the system confusing and hard to access. This leads to pensioners failing to claim until crisis point is reached. It was also drawn to the Committee's attention that between £3.1 and £4.6 billion for income related benefits goes unclaimed each year and that between 1.2 and 1.7 million pensioners are missing out on Pension Credit.

25. The Government accepts that some pensioners who are potentially entitled to Pension Credit may be reluctant to claim. However, we are aware that many that fail to claim are entitled to smaller amounts and latest take-up figures show that up to 78% of those entitled to the guarantee credit are receiving it. Take-up remains a priority and this is precisely why the Government is making changes to simplify and streamline the claims process. The Government has made, and continues to make, improvements to the process for claiming income related benefits for pensioners, and these proposals are part of that wider strategy. The Government believes the system should be made easier to access and maintains that part of the rationale behind the current proposals is to encourage a move toward claiming such benefits at the point of entitlement.

26. The Committee point out that the Department's Explanatory Memorandum indicates that automatic backdating is particularly used for older pensioners. Respondents claim that this is because these pensioners may become entitled to Pension Credit following a major life event such as the death of a partner. Similarly, respondents had pointed out the position of grandparents who may become responsible for their grandchildren, which some respondents had brought to their attention. In these circumstances, following bereavement or other major life event, engagement with the benefit system may not be a priority for the pensioner, and consequently it may be some time before entitlement is identified and pursued. The Committee argue that as a result it is inevitable that despite the Department's efforts to raise awareness of Pension Credit there will continue to be those who miss out. As such, the Committee claim that it is reasonable to assume that the reduction in the time for claiming may increase pensioner poverty especially amongst the oldest and poorest pensioners, and may also contribute to child poverty.

27. The Government accepts that at times of bereavement, contacting the Department about their benefits will not be a priority for customers. In recognition of this the Government is taking steps to make the process of claiming following bereavement easier. For customers already over state pension age whose partner dies the surviving partner's state pension will be reviewed automatically when the death is notified and any one off Bereavement Payment will be paid without the need to complete a claim form. Customers can also request a visit where a full check on which benefits they may be entitled to will be undertaken.

28. The Government accepts that despite its efforts to raise awareness and streamline the claims process for people following bereavement, there will inevitably be some who do not claim as soon as entitlement first arises. However the Government believes that a period of 3 months automatic backdating (without the need to show good cause) is a reasonable period of time in which to make a claim, and one which is more generous than for other income related benefits for which certain conditions need to be satisfied before a backdated claim can be considered.

29. The Government does not accept the Committee's assertion that it is reasonable to assume that the reduction in the time for claiming Pension Credit may increase pensioner poverty, particularly when considered against the progress the Government has made in combating it. Since 1998/99 the Government has lifted 900,000 pensioners out of relative poverty (after housing costs) with pensioners benefiting from the introduction of Pension Credit, Winter Fuel Payments, free television licences for those aged 75 and over and above-inflation increases in the basic State Pension. In addition the Pensions Act 2007 will make the State Pension simpler, more generous and widely available to address the historic inequalities in entitlement, especially for women.

30. The Committee also noted the interaction between the tax and benefits system, which had been raised by one respondent. It was argued that because of the way self assessment tax is calculated, a pensioner's income at the date of claim may be higher than that if the tax for which they are liable were deducted from their income. It was therefore suggested that it was not appropriate to reduce the time for claiming Pension Credit until such time as the Department can demonstrate that it is applying the law correctly in its processes, its guidance and its calculations.

31. The Government is aware of the self assessment tax issue in relation to Pension Credit, and The Pension Disability and Carer's Service have worked closely with HMRC to resolve this issue. The Government considers that its processes, guidance and calculators apply the law correctly and ensure that the correct level of entitlement is ascertained so that no-one need lose out.

Changes for those who are of working age

32. In relation to the changes to the HB/CTB backdating periods for those of working age, the report highlighted that the majority of responses to this consultation focused upon the likely impacts of restricting the backdating of HB/CTB for customers of working age from 52 weeks with 'good cause', to 3 months.

33. The Committee noted a common theme in the responses was concern about the weakness in the evidence base for this proposal. Respondents, especially those working in the independent advice and welfare rights sectors, also pointed to the Department's failure to consult widely with stakeholders at the policy development stage, and the consequent lack of input from those who are both familiar with the operation of the backdating rules, and who work with, and support, some of the Department's most vulnerable customers.

34. The Equality Impact Assessment for these changes sets out their possible impact on different customer groups together with a mitigation strategy to help reduce any negative impacts.

35. Although the Government would like to be able to consult widely on all proposed policy changes as they are being developed this is not always practicable. However, the requirement for the Department to refer draft regulations, unless they are exempted, to the Social Security Advisory Committee for consideration does in itself provide an effective consultation mechanism. Depending on the nature of the proposed changes the Committee may decide to initiate a public consultation on specific draft regulations as it did with these.

36. Evidence from a wide range of sources is used in developing policy changes. The Government is aware of how the backdating rules operate in practice through the contact the Department for Work and Pensions has with its stakeholders, its customers and with local authorities, which administer Housing Benefit. The Department has regular meetings with local authority representatives and deals with HB related enquiries from all local authorities, both policy and operational, on a daily basis. It is also kept informed of decisions made by the Social Security and Child Support Commissioners, some of which deal with Housing Benefit matters, including backdating.

37. The Committee last looked at backdating in 2000 and their report (published as Annex A to their 2001 Annual Report) highlighted a number of concerns and provided some useful material. As mentioned at paragraph 14 much has changed since 2000 and the Government believes that many of these concerns have been addressed through improvements to the claims processes and the administration of HB/CTB.

38. The Committee comment that the Department’s argument that the proposal represented a simplification was questioned by many respondents. It was recognised that this may represent a simplification for the Department but it does not represent a simplification for the customer. The Committee point out that if customers found requesting a backdating of over 3 months on the grounds of ‘good cause’ onerous and intrusive, then they simply would not request and pursue such a backdating. The case studies included in the responses also suggest that complex cases are likely to be supported by expert welfare rights advisers who are able to assist with establishing entitlement. The ‘good cause’ test serves to target backdating on the most vulnerable who are the focus of respondents’ concerns. This test also serves as a barrier to any potential abuse. Backdating is only granted to those who can demonstrate that they have ‘good cause’ for needing it, and the Committee argue that in many cases this only occurs upon appeal.

39. The Government accepts that if customers find the process of claiming backdating onerous and intrusive they might be less likely to pursue a claim for a past period. It also notes that the good cause provisions are used by welfare rights advisers and others to assist with establishing entitlement and is not proposing to change the way these rules operate. However, there is no evidence available to support the view that in a large number of cases backdating is granted on appeal. Local authorities operate the rules in accordance with the guidance¹.

40. The Government is keen to foster a greater sense of responsibility amongst customers for their financial affairs. An unintended consequence of lengthy backdating periods is that it can increase the likelihood that people, particularly those in the more vulnerable groups, become complacent about their situation and avoid taking action to tackle their debts. It is, therefore, important that they do not delay making their claims for HB/CTB, regardless of the length of any backdating period, particularly when rent arrears have started to build up.

41. The Committee notes that the Department suggests in the Explanatory Memorandum (paragraph 36) that the proposed change would bring the backdating period for HB/CTB into line with other working age benefits. However, a number of respondents pointed to the very different nature of benefits which are designed to provide an income with which to purchase day to day necessities, and benefits which meet particular, defined liabilities (rent and Council Tax). Failure to meet either or both of the latter liabilities risks debt, legal penalties (in the case of CTB), and the potential loss of the home. Unlike benefits such as Income Support or Incapacity Benefit, the absence of the benefit may not be noticed by the customer immediately. Considerable arrears can build up very quickly, and action to recover the debt (in the case of Council Tax arrears) and possession proceedings (in the case of

¹ Contained in Part A and Annex A of the Housing Benefit Guidance Manual, which is available on the DWP website at: www.dwp.gov.uk

rent arrears) may be commenced before any intervention takes place that identifies that the appropriate benefits are not being paid. As one organisation observed:

'... in the majority, 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 the customers 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'.

42. The Government acknowledges that Housing Benefit and Council Tax Benefit are intended to meet very specific accommodation related costs and that in some instances, unlike benefits designed to meet general living expenses, customers may not make it their priority to claim straight away. Nevertheless, the onus is on the customer to claim HB/CTB on time. The combined claims process for those claiming Income Support, Jobseekers Allowance and Incapacity Benefit enables the HB/CTB claim details to be taken at the same time.

43. Given all the improvements that have been made to the claims processes (such as the rapid re-claim, shortened HB/CTB claim form, a 3 page HB/CTB claim form for pensioners receiving Pension Credit and provisions for allowing HB/CTB claims to be taken electronically or over the telephone, amongst other key improvements described at paragraph 17 above) the Government believes that a 3 month backdating period is a reasonable period of time. The backdating proposals form an essential part of the Government's ongoing benefit simplification agenda. By streamlining the process the need to backdate for longer periods is likely to reduce, which would help speed up overall processing times to ensure payments to customers are made more quickly and efficiently. At the same time these changes will increase customers' understanding of their rights and responsibilities in relation to claiming promptly.

44. However, the Government has looked carefully at the arguments presented by a number of commentators on the potential effect of these changes, particularly on vulnerable groups, and is persuaded that an immediate move to 3 months for working age customers might not allow sufficient time in which to help mitigate their impact.

45. The Government is grateful to all those who provided detailed case studies. It recognises that those with chaotic lifestyles or in hard to reach groups in particular are less likely to engage with support workers at an early stage, if at all, and that when they do substantial rent arrears could have built up. The Government believes that moving to an initial backdating period of 6 months (which is a longer period of backdating than is allowed in most other benefits), rather than the proposed 3 months, for working age customers and retaining the good cause provisions is the right approach in the short term.

The Government will continue to monitor the impact of these changes and continue work to help mitigate their impact.

46. The Committee points out that the Department also argues (paragraph 41 of the Explanatory Memorandum) that the restriction on backdating ‘...will encourage landlords and Local Authorities to fulfil their responsibilities...’. Respondents questioned whether it was appropriate to achieve this by penalising vulnerable customers. The Committee also questioned whether this was the most effective and fair way of encouraging landlords and local authorities to live up to their responsibilities, and pointed out that even the most diligent landlords could not always prevent tenants from falling into arrears. At the same time, in some cases benefits were backdated because of administrative problems and failures in the interactions of Jobcentre Plus offices, local authorities and HMRC (particularly in relation to Working Tax Credits).

47. The Government believes that more can be done to ensure that landlords tackle rent arrears at an early stage to help avoid formal eviction proceedings. If this happened routinely landlords would be able to alert their tenants to the help and support available to them, including the financial support that might be available through Housing Benefit.

48. While not exclusively their responsibility, by engaging with landlords to demonstrate to them the greater benefits of earlier intervention when rent arrears start accruing it ought to be possible to generate a positive shift in their approach to their most vulnerable tenants. The Government accepts that it will not always be possible to prevent tenants falling into significant arrears with their rent payments, even where landlords fulfil all their responsibilities at an early stage.

49. The Committee states that respondents provided them with numerous case studies of where the backdating provisions had been used. The sorts of cases presented included people who have:

- mental health problems;
- learning difficulties;
- experienced a traumatic life event;
- experienced domestic violence;
- language difficulties;
- been on remand in prison;
- been sectioned under mental health legislation;
- been hospitalised.

50. Examples of the case studies in each of these groups of people are provided in *Appendix 3* of the Committee’s report. Further details and web links to some of the responses we have received can be found in *Appendix 4*.

51. Many respondents suggested that these proposals would work against other government policies, particularly those intended to tackle child poverty and homelessness. Among the many case studies that were provided to us were examples of the use of backdating to prevent evictions taking place at a late stage in the legal process. It was also pointed out to us that since the large majority of those for whom 'good cause' is currently applied are very vulnerable, it is very likely that they will have to be re-housed as and when eviction takes place. Re-housing in temporary accommodation adds to the costs to the public purse. In addition there are likely to be knock-on costs to education, health and children's services.

52. The Government is aware that there is a wide range of circumstances in which the backdating provisions are used to help reduce personal debt or, in extreme cases, to avoid eviction. Introducing the reduction to a 3 month backdating period for working age customers on a staged basis, starting with the introduction of a 6 month period, will provide more time to work with stakeholders on helping to mitigate any adverse impact.

53. The Government accepts that it is not in anyone's interest to introduce changes that might work against Government policies to reduce the level of homelessness and reduce the numbers of people in temporary accommodation and bed and breakfast. The Department for Work and Pensions will continue to work with Communities and Local Government to develop a mitigation strategy.

The Committee's view

54. The Committee state that looking back to their report on similar proposals in 2000 they had hoped that the Government would be seeking to establish a general principle which governs backdating in the benefits system. However, despite their claimed contribution towards simplification and rationalisation of the system, these changes go no further towards articulating and achieving a general principle. The Committee also point out that while the Department claims that the proposed change to HB/CTB backdating for those under pension age would bring the benefit into line with other income related benefits for those of working age, it is simultaneously setting different times for claiming Pension Credit and State Pension.

55. In April 1997 there was a general alignment of the rules relating to the time within which claims can be made and the rules about the backdating of claims. The rules converged around the figure of 3 months so that most contributory and other non income-related benefits had a prescribed time for claiming of 3 months, whilst a claim for an income-related benefit, such as Income Support or Job-seeker's Allowance, could be backdated by up to 3 months if certain circumstances were met.

56. At that time the Government pointed out that a plethora of different rules about time limits had been allowed to develop and that there needed to be simpler and more consistent rules. There was, in addition at that time, a commitment on the part of the Department to make clear in leaflets and forms that anyone wishing to claim benefit should do so as soon as possible and that any delay in claiming could affect entitlement. It was stated that a period of stability was needed so that people could become accustomed to the new rules.

57. When State Pension Credit was introduced in October 2003, the expectation was that it would also fit within the prevailing 3 month claiming regime. However there were unusual factors at play which led to a decision that, in this matter, Pension Credit was justified in taking a more generous approach. People were being invited to make a claim for the new benefit through a programme of advertising and mailshots which had to be staggered over a period of 8 or 9 months. Clearly the Government would have been criticised for encouraging people to claim a new benefit if, in a significant proportion of cases, people were disallowed for an earlier period of potential entitlement. Those receiving the mailshot early in the process would be placed at an advantage over those receiving information at a later stage. As a result a transitional rule gave people up to a year in which to make their claim.

58. This transitional arrangement was adopted as the normal rule when the time for claiming Pension Credit was changed from 3 to 12 months in October 2004. This change was introduced to remove a “cliff edge” whereby those who had not claimed Pension Credit by October 2004 could lose out and in anticipation of a forthcoming change to the time for claiming State Pension from 3 to 12 months which was introduced as part of the new rules in relation to deferrals.

59. Although this has been the settled position for some while, the Government has not been entirely comfortable that the large disjunction within the claiming rules for income related benefits should continue indefinitely. There are advantages in having common rules and common time limits, particularly as people move between benefits. Working age benefits have continued to be aligned around the 3 month figure and, over the past decade, that principle has generally been absorbed and become known amongst the claiming public. Although pension age benefits have been out of kilter in more recent times, there is still an argument to be made for putting them back into line once again.

60. The Committee also point out that:

“...there should be a balance between rules which protect vulnerable claimants and the costs of administration to which such backdating rules give rise, in the absence of a clear exposition of principle, we are not satisfied that these regulations provide such a balance.”

“If the primary purpose of the proposed regulations was simplification this could be achieved much more effectively by, for example, full alignment of the provisions for pension and working age customers, removing “good cause” and providing both groups with an automatic 12 month backdating period.”

61. The Government agrees that there must be a balance between protecting vulnerable customers and protecting the public purse. That is why the time for claiming rules for those who have attained the qualifying age for Pension Credit and the good cause rules for working age customers will be retained. The Government believes that allowing 3 months in which to make a claim strikes the right balance between giving customers a reasonable time in which to claim and minimising the administrative burden. In this the principle is clear. A common period of 12 months across all benefits, without good cause, would not be affordable.

62. The Government considers the proposals set out in this response, which ease the claims process and reduce intrusion, coupled with a continuing targeted campaign to encourage customers to claim entitlements when they are due (rather than claiming several months after entitlement first arises) go some way to striking the balance suggested by the Committee.

63. The Committee also state that they find the negative effects of the proposed restrictions on backdating far outweigh the limited positive effects of an extension to Pension Credit entitlement for periods of temporary absence abroad, and therefore they do not find this to be a “balanced package”. They also suggest that the measures have been assembled without either a sound evidence base, or consultation with those groups and organisations that have experience of the impacts of the provisions to be amended.

64. The Government believes that the proposals to change the time for claiming and backdating periods are part of a balanced package, when seen in the context of the simplification package as a whole, and other measures being introduced for pensioners. The backdating measures should not simply be seen as a way of paying for the extension to the temporary absence abroad period, but should also be seen in the context of the improvements to the claims process for HB/CTB for pensioners, the automatic “run on” of the assessed income period for those aged over 75 (which will mean that Pension Credit customers after that age will not be required to report changes to their savings and most retirement income), and other measures for pensioners, such as the one off extra winter fuel payment for 2008/09 and the up-rating of Pension Credit by more than the earnings commitment.

65. The Committee recognise that the current backdating provisions may place some greater demands upon decision makers in terms of evidence gathering and securing all the information required to establish eligibility. However, they do not believe it is equitable or fair that vulnerable claimants should be put at more risk so that the administrative burden can be reduced. Nor do the Committee believe

that the current backdating periods place unreasonable demands upon claimants. The Committee state that it is independent agencies who support claimants through the complex backdating cases and take on the burden of securing full benefit entitlement.

66. The Government recognises that the reduction in the time for claiming and backdating periods may help reduce the administrative burden, but contends that this is only one consequence of the reduction in these periods, which are primarily intended to achieve a more straightforward and simpler claims process for pensioners claiming Pension Credit, Housing Benefit and Council Tax Benefit. The Government believes that these measures, along with those measures being introduced to ease the claiming process and reduce intrusion into customer's affairs will make the claiming process less onerous and will enable customers to make their claims promptly and in most cases without the need to seek assistance in doing so.

67. The Committee also claim that the proposed measures are no more than a re-mix of existing provisions, and that while some calculations of entitlement for a past period may be challenging for decision makers, complex calculations are a feature of the income related benefits system. The Committee cite calculations of overpayments which are carried out by the Department and argues that if the Department can cope with these calculations it has the ability to cope with calculating entitlement for backdating periods.

68. Whilst the Government accepts that the Department does, of necessity, often make complex calculations of benefit entitlement, a major concern of the Government is the complexity of the benefits system. This complexity has been quoted in research as a barrier to customers making claims to their entitlement. The Government considers that although the Department may be equipped to make complex calculations, it is nevertheless important that steps are taken to reduce such complexity and simplify the system, which in turn will enable more time to be spent dealing with claims accurately and on time, ensuring customers get their correct entitlement without delay.

Pension Credit

69. The Committee is sceptical about the Department's assertion that calculating Pension Credit entitlement for the year preceding the date the claim is taken is exceptionally, and inevitably, onerous, either for the claimant or the Department and points out that representations they have received suggest that many organisations were accustomed to supporting and assisting claimants through a backdated claim and did not recognise the problems highlighted by the Department.

70. The Government believes that the current rules do stand in the way of a more straightforward claims process, it can be onerous for staff and may create barriers to claiming for customers as well as delays for those who do claim for the reasons set out in paragraphs 22 and 23 of this paper. The Government believes these changes are necessary and will, along with the improvements to the way HB/CTB for pensioners may be claimed; help to create a more straightforward claims process for pensioners.

71. The Committee questions the Department's statement in the Explanatory Memorandum that it "is confident that everyone who currently may have entitlement to Pension Credit has been contacted by The Pension Service and have had every opportunity to make a claim" because each day there are people with a new potential entitlement. The Committee also point out that this statement by the Department does not match what is said in page 21 where it is stated: "in recognition that there may be some who are unaware of their potential entitlement to Pension Credit".

72. The Government does not believe these statements to be contradictory. The first statement relates to those with a current potential entitlement (that is an entitlement up to the time of writing). The second statement recognises that some people will be unaware of their potential entitlement, and captures those currently with an entitlement who may not be aware of Pension Credit, and those who may have entitlement in future. The Government is confident that it has contacted all those with a current potential entitlement. In this respect the Pensions, Disability and Carers Service have established a database to identify those potentially entitled. These potential customers have been contacted using a variety of methods (many up to 5 times). The Government will continue to use data matching to identify potential customers as well as marketing and contact with potentially new customers to raise awareness and invite claims.

73. The Committee finds an apparent contradiction in paragraph 32 of the Explanatory Memorandum. If the proposed changes to the claims process for pensioners will result in 100% of those with potential entitlement to HB/CTB being captured at the earliest opportunity (thus reducing the need for backdating), it is difficult to see why the backdating provision needs to be removed since it would be used very rarely, in very exceptional circumstances, and result in no savings. Meanwhile, the figures for 'savings' suggest that it is anticipated that substantial numbers would continue to claim and be entitled to backdated benefits.

74. The Government does not agree with the Committee's view on this point, as there is no proposal to remove the backdating provisions altogether. The Explanatory Memorandum explains the improvements planned from October 2008 to enable HB/CTB claims to be taken over the telephone, as now, when applying for Pension Credit without the need for a claim form. Not all pensioners who claim HB/CTB claim Pension Credit and vice versa. The 'savings' figures are calculated on the basis of a reduction in backdating

timescales from 52 weeks to 3 months and include both working age and pension age customers.

75. The Committee claim that the 12 month time for claiming rule in Pension Credit was introduced with the needs of the hardest to reach customers in mind, and those who may be resistant to the claims process. They go on to state that the proposed measures in relation to Pension Credit will work against tackling pensioner poverty and impact disproportionately on the poorest and oldest pensioners, particularly women aged over 75.

76. When Pension Credit was introduced it was always intended that the normal time for claiming should be 3 months. However, a transitional rule allowed all eligible applications received before 6th October 2004 to be backdated to the start of Pension Credit on 6th October 2003 or to the date of entitlement if that was later. These transitional provisions were introduced to facilitate a gradual take-on of Pension Credit. The decision to replace the 3 month normal time for claiming with the 12 month period was intended to remove a “cliff edge” whereby those who had not claimed Pension Credit by October 2004 (when Pension Credit was still a relatively new benefit) could lose out.

77. Whilst it is true that the Government’s own figures on the incidence of backdating suggest that those aged 75 and over are more likely to have had a backdated award than younger pensioners, the Government does not agree that the changes will lead to an increase in pensioner poverty. Many customers who request backdating are those entitled to small amounts of the Savings Credit element of Pension Credit and some 78% of those entitled to the Guarantee Credit are getting it. Furthermore, as stated above, the Government believes that the total package of measures being introduced to ease the claiming process and reduce intrusion into customer’s affairs, will make the claiming process less onerous and will, along with the continued campaigns to raise awareness of the benefit, enable customers to make their claims promptly so that no one need live below the Guarantee Credit minimum for lengthy periods before making a claim.

78. The Committee gave a qualified welcome to the extension to the period for which Pension Credit recipients may retain entitlement for temporary absences from GB, but have concerns about how these arrangements could be abused, noting the absence of a linking rule. As such the Committee believe that this may allow substantial periods to be spent abroad without the loss of benefit. It is not clear to the committee whether this is the intention or whether the cost of such long-term absences has been factored in to the calculation of the costs.

79. The measures introduced in this package are simplifications. One aim of the extension to the time Pension Credit may be retained during temporary absences abroad is to simplify the rules. To introduce a linking rule, which would require close monitoring by the Pension, Disability and Carer’s service would increase administration.

80. There is currently no linking rule for the existing 4 (and in some circumstances, 8) week rule, and the Government is not aware that the lack of such a rule has resulted in significant behavioural changes, or that it will lead to such behavioural effects when the changes are introduced. However, control mechanisms are to be introduced to ensure that Pension Credit is not paid for longer than 13 weeks of a temporary absence without confirmation from the customer that they have returned. The Government is aware that the existing 4 week period is too short and that many customers do spend temporary periods of between 4 and 13 weeks abroad, and those who do, and whose entitlement ends as a result, are required to go through the process of claiming again on their return. Estimates based on the International Passenger Survey suggest that the majority of those aged over 60 who do go abroad for over 4 weeks return before they have been away for 13 weeks. The intention of the proposed extension of the period is to allow the majority of those who do go abroad temporarily to retain their entitlement and not need to reclaim on return.

81. It is not the intention to allow lengthy periods to be spent abroad. The rule applies to temporary absences from GB. If customers were to attempt to circumvent the rules by returning to GB for short periods in between lengthy periods abroad, their residence in GB and consequently their entitlement to benefit would be in question. There is no evidence that this type of abuse of the rules is any more likely to occur than at present. The Government believes that the incidence of fraud caused by customers going abroad for more than 4 weeks without informing the Department (but returning within 13 weeks) will be reduced by the introduction of the new rule. The costs of long term absences as envisaged by the Committee have not therefore been factored in, as the Government does not envisage such costs arising.

Housing Benefit and Council Tax Benefit for people of working age

82. The Committee comment that they are particularly concerned about the impact of the changes to HB/CTB backdating upon working age customers. The pre-scrutiny representations they received highlighted the potential negative impacts of the changes on some of the most vulnerable tenants, and the knock-on impacts in terms of child poverty, homelessness and increased burdens on other services, and overall public expenditure. These representations have increased and reinforced our concerns during the consultation period. The Committee note that there are striking discrepancies between the impacts of the proposed changes envisaged by the Department, and those presented by the agencies and individuals who work with the most vulnerable customers.

83. The Committee also notes that the potential 'losers' are those whose circumstances may initially put them beyond the reach of the organisations and agencies that could intervene to prevent them being taken to court for failure to pay their Council Tax or losing their homes through failure to pay rent. As respondents to the consultation exercise

have pointed out, advice and welfare rights organisations may not get to hear of a customer's problems until a very late stage in the process. With a maximum of just 3 months Housing Benefit backdating, early intervention and action by even the most conscientious and well-resourced landlords in the social housing sector will not be enough to prevent unmanageable rent arrears building up and consequent evictions. The evidence that has been presented to the Committee suggests to them that those most likely to be adversely affected are those with mental health problems, with chronic health problems, with learning difficulties, people suffering domestic violence, ex-prisoners, and other people suffering traumatic life events, particularly the people facing multiple problems. In many cases, the immediate cause for the need to make a backdating will be administrative failings by the Department for Work and Pensions, housing authorities or HMRC (or a combination of failings).

84. The Government notes the Committee's specific concerns about the impact of the changes on working age customers and the evidence presented on those most likely to be adversely affected. It does not accept that the immediate cause for the need to make a backdating payment is due to administrative failings. In these circumstances other, existing provisions protect a customer's entitlement from their date of claim. Backdating relates to claims for a past period prior to the date of any current claim.

The Committee's recommendations

85. The Government notes the Committee's recommendations that:

- The maximum period for backdating awards of Pension Credit and HB/CTB for those eligible for Pension Credit should remain at 12 months and that;
- For those of working age, backdating HB/CTB, providing good cause for up to 52 weeks, should continue.

86. The Government has considered these recommendations carefully, but for the reasons outlined in my statement intends to proceed with the changes to the time for claiming Pension Credit and HB/CTB for those who have attained the qualifying age for Pension Credit. Although the Government is clear that the maximum backdating period should be 3 months for pension age and working age customers, it has considered the evidence provided and has decided that for working age customers this period should initially be reduced to 6 months with a view to moving to a 3 month period at a later stage. The Government will review these arrangements at the end of 2009.

Conclusion

87. The Government is grateful to the Committee, and the interested parties who responded to the consultation exercise, for their consideration of the draft regulations and their comments on them.

88. The regulations are now laid before Parliament.

The Rt Hon James Purnell MP
Secretary of State for Work and Pensions
Caxton House
London SW1H 9DA

14 July 2008

Dear Secretary of State

**REPORT OF THE SOCIAL SECURITY ADVISORY COMMITTEE MADE
UNDER SECTION 174 OF THE SOCIAL SECURITY ADMINISTRATION
ACT 1992**

**THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) (No.2?)
REGULATIONS 2008**

1. Background

1.1 At the Committee's meeting on 2nd April 2008, officials from the Department for Work and Pensions presented proposals for the Social Security (Miscellaneous Amendments) (No.2?) Regulations 2008 for our consideration. These proposed draft regulations were accompanied by a detailed Explanatory Memorandum from the Department (*Appendix 1*).

1.2 The proposed regulations would:

- reduce the time for claiming Pension Credit, Housing Benefit (HB) and Council Tax Benefit (CTB) for persons who have attained the qualifying age for Pension Credit from the current 12 months, to a period of 3 months;
- to reduce the backdating period in HB and CTB from the current 52 weeks to 3 months for those who have not attained the qualifying age for pension credit; and
- to allow Pension Credit recipients to retain entitlement to that benefit whilst temporarily absent from Great Britain for up to 13 weeks.

1.3 We required these regulations to be formally referred to us, and on 4th April we placed the Explanatory Memorandum (*Appendix 1*) on our website (www.ssac.org.uk), and published a press release inviting comments on the proposals to reach us by 2nd May. An addendum to the Explanatory Memorandum (also at *Appendix 1*), providing some more detailed information that we had requested, was published on the 28th April.

1.4 Separate regulations, similar in effect, are proposed for Northern Ireland.

1.5 We received responses from the individuals and organisations listed at *Appendix 2*. We are grateful to those who responded and also to officials of the Department of Work and Pensions for their assistance.

2. Introduction

2.1 These proposals were announced by the Minister of State for Pension Reform on 5th December 2007, and were presented to us by the Department as being part of an overall package of measures, which includes an extension of the assessed income period (AIP) for those who are aged 75 or over, and from October 2008, there will be an automatic telephone claim ('teleclaim') process for HB/CTB on making an application for Pension Credit, and an increase in Winter Fuel Allowance. The first measure requires a change to primary legislation and is included in the current Pensions Bill; it is therefore not subject to our scrutiny. The other two measures were subject to regulations which we scrutinised earlier in 2008.

2.2 At the time these two proposed measures were presented to us for scrutiny (in May and March 2008 respectively) we were not offered detailed information about the complete package of planned measures, in particular we did not receive information about how the Department proposed to put savings from changes to the backdating rules towards the costs of teleclaims and a one-off increase in the Winter Fuel Payment. The Department has asked us to consider the current set of proposals alongside the earlier measures, as a single, 'balanced' package. However, we cannot revisit earlier proposals that we agreed without 'formal reference'. Accordingly, the focus of this report is on the three distinct elements within the current set of proposals.

2.3 We required these regulations to be formally referred to us for three main reasons:

- first, because we have a long standing interest in the backdating provisions in income-related benefits, and also in the importance of these provisions with regard to the circumstances of the most vulnerable benefit claimants;
- second, because we were concerned that the Department appeared to have little reliable evidence either for the assertions it made in setting out the rationale for changes to backdating that are similar to those which we reported upon in 2000 (and which it

subsequently abandoned), or to support its costings for the proposed package presented for our consideration; and

- third, because in advance of the submission of the regulations to us by the Department, we had received an unprecedented number of representations from organisations and individuals expressing concern about both their negative impact upon vulnerable groups and upon the Government's policies to reduce pensioner and child poverty.

2.4 We last looked at backdating in 2000, when our report on the proposed Housing Benefit and Council Tax Benefit (General) Amendment (No. X) Regulations 2000 (published as Annex A to our 2001 Annual Report)² highlighted a number of concerns about proposed reductions of HB and CTB backdating periods from 52 weeks to three months. In the event, the Secretary of State decided not to proceed with these regulations.

2.5 The objections to those proposals that we raised in 2000 included the following:

- our consultation had revealed that delayed claims were largely due to the complexity of the claims process and benefit system;
- those with inexperience of the system, older people, and people with mental health problems, restricted language or literacy skills, addictions and chronic ill health have most difficulty in negotiating the claiming process;
- where a claim for HB/CTB is dependent upon a claim for another benefit, any delay in processing the first benefit will result in a delay in a claim for HB/CTB;
- interaction between the DWP and local authorities may generate delays;
- unsatisfactory administration on the part of the DWP or local authorities in processing benefits may result in a delay in claiming.

2.6 In our Report in 2000 we concluded that the reduction of backdating from 52 weeks to three months would adversely affect some of the most vulnerable people in society, whilst also increasing rent arrears and, potentially, homelessness. We believe that our objections to the earlier proposals remain relevant to the new proposals.

3. The Department's Position

The Department states that the proposed changes to backdating will simplify the benefit system and argues that it will represent an overall improvement to the benefit system for customers and staff.

² Social Security Advisory Committee: Fourteenth Report 2001. Available on the SSAC website <http://ssac.org.uk>

Changes for those who are potentially eligible for Pension Credit

3.1 In relation to those persons who have attained the qualifying age for Pension Credit, and also subsequently have entitlement to HB or CTB, the Department argues that the backdating of Pension Credit for up to 12 months causes a number of problems, leading to delays in payments, intrusion and confusion for customers and errors in awards of benefit. In particular, such claims can result in decision makers carrying out a detailed investigation into the claimant's financial circumstances over the previous 12 months.

3.2 The Department stated that it is confident that everyone who currently may have a potential entitlement to Pension Credit has been contacted by the Pension Service and has had every opportunity to make a claim, and that steps have been taken to simplify the claims process, promote awareness and encourage take-up.

3.3 The Department also proposes to reduce the period a claim for Pension Credit and HB/CTB can be automatically backdated, arguing that this would maintain alignment of HB and CTB provisions with Pension Credit, and help provide a more consistent benefit regime in general. However, whilst asserting that the changes would bring some measure of rationalisation to backdating in the income-related benefits, the Department recognises that they will mean that the time for claiming Pension Credit and State Pension will be different.

Changes for those who are of working age

3.4 For HB and CTB, provisions have existed from their introduction (1983 and 1992 respectively), which allowed a customer to claim up to 52 weeks backdating where they could show continuous 'good cause' for not having made a claim earlier. This rule currently applies to 'working age' claimants. The Department proposes reducing this to 3 months.

3.5 The Department argues that these provisions cause confusion for claimants and staff, and can result in local authorities carrying out a detailed investigation into the claimant's financial circumstances over the previous 12 months.

3.6 The Department seeks to align the backdating period for HB/CTB with the maximum 3 month backdating provisions in place across other working age, income-related benefits including Income Support, Jobseeker's Allowance and the forthcoming Employment and Support Allowance (ESA).

Pension Credit - Temporary Absence from Great Britain

3.7 Under the current rules claimants may retain entitlement to Pension Credit for up to 4 weeks where their absence abroad is not likely to exceed 52 weeks and where there was entitlement to Pension Credit immediately prior to the absence. Entitlement may be retained for up to 8 weeks where the

purpose of the absence is to accompany a young person who normally resides with the claimant, to receive medical treatment abroad.

3.8 The proposed change is to extend the period for which entitlement to Pension Credit may be retained during a temporary absence abroad of up to 13 weeks.

3.9 See *Appendix 1* for a full account of the Department's position as presented to us in an Explanatory Memorandum and subsequent addendum. This contains the evidence provided to us to support the case for the proposed regulations.

4. Summary of Responses to the Consultation

4.1 The total number of responses to the consultation - 75 - is unprecedented in recent years. The majority of responses were HB/CTB specific, and of these only one expressed a measure of support for the changes. We have received evidence from individuals, welfare rights workers and organisations and social housing providers, and we have been impressed by the depth and detail of many of these responses, particularly with regard to the case studies illustrating how backdating is being used to assist vulnerable claimants.

4.2 We are very grateful to those (listed below in *Appendix 2*) who have put considerable work into addressing the issues raised by the proposed changes and for providing us with cogent examples of the negative impact these proposed changes would have upon very vulnerable claimants.

Changes for those who are potentially eligible for Pension Credit

4.3 Less than half of those who responded (27 out of the 75) commented on the Pension Credit proposals. Respondents disagreed with the Department's assertion that the current automatic backdating of a Pension Credit claim for twelve months was intrusive and caused confusion for claimants, pointing out that if a claimant found the requirement to provide documentation over a twelve month period onerous, then they would not proceed with a request for an automatic backdating. A claimant is under no obligation to pursue a claim for an earlier period, and a number of respondents questioned why no specific evidence of the alleged problems created by backdating had been gathered and presented by the Department.

4.4 Respondents also told us that, in their experience, many pensioners are still reluctant to claim means-tested benefits, and that they find the system confusing and hard to access. This leads to pensioners failing to claim until a crisis point is reached. Age Concern drew our attention to DWP research published in 2007 (dealing with take-up of the income-related benefits) which estimated that, currently, between £3.1 and £4.6 billion of income-related benefits due to pensioners each year go unclaimed, with between 1.2 and 1.7 million pensioners missing out on Pension Credit

4.5 The Department's Explanatory Memorandum indicates that automatic backdating is particularly used for older pensioners. Respondents explained that this is because older pensioners may become entitled to Pension Credit and HB/CTB following a major life event such as the death of a partner. Faced with these circumstances, engagement with the benefit system may not be a priority for the pensioner, and it may be some time before potential entitlement is identified and pursued. Accordingly, despite what the Department has said about its sustained efforts to raise awareness and reach those who may have entitlement, it is inevitable that there will continue to be some who miss out. It is thus reasonable to assume that reduction in backdating may increase pensioner poverty especially amongst the oldest, poorest pensioners.

4.6 The position of grandparents who may become responsible for their grandchildren was drawn to our attention. Again, this may be triggered by major life events and coincide with domestic stress and disruption, at which time engagement with the benefits system is not an immediate priority. In these cases if backdating is restricted, the proposed changes may also contribute to child poverty.

4.7 The interaction between tax and benefits regulations was also pointed out to us in relation to the backdating provision. Pension Credit and HB/CTB are calculated on income after deducting 'tax payable' on that income. Many pensioners who are in the self-assessment scheme for tax purposes may have incomes at a level which mean that they receive little or no Pension Credit or HB/CTB, when the DWP calculates their income. However, some tax liabilities which are 'payable' on the date of the claim are not in fact paid until up to 18 months later. Therefore at the date of claim the pensioner's income appears higher than it would if tax payable had been correctly taken into account. It was suggested to us that it is inappropriate to reduce the backdating period at least until such time as the DWP can demonstrate it is operating the law correctly in its processes, guidance and calculations. Overcoming this apparent mismatch between tax and benefit provisions will require close co-operation between Her Majesty's Revenue and Customs (HMRC) and DWP.

4.8 We return to some of these issues in our conclusions below.

Changes for those who are of working age

4.9 The majority of responses to this consultation focused upon the likely impacts of restricting the backdating of HB/CTB for claimants of working age

from 52 weeks with 'good cause', to three months. Only one respondent offered a measure of support for the proposals (on the grounds of reducing the administrative burden on local authorities); the rest expressed their opposition in the strongest terms. Many respondents pointed to the findings and conclusions of our 2000 Report on proposals for a similar restriction.

4.10 A common theme in the responses was concern about the weakness in the evidence base for this proposal. Respondents, especially those working in the independent advice and welfare rights sectors, also pointed to the Department's failure to consult widely with stakeholders at the policy development stage, and the consequent lack of input from those who are both familiar with the operation of the backdating rules, and who work with, and support, some of the Department's most vulnerable customers. These are points which we consider in our conclusions.

4.11 The Department's argument that the proposal represented a simplification was questioned by many respondents. It was recognised that this may represent a simplification for the Department but it does not represent a simplification for the claimant. It was pointed out that if claimants found requesting a backdating of over three months on the grounds of 'good cause' onerous and intrusive, then they simply would not request and pursue such a backdating. The case studies included in the responses also suggest that complex cases are likely to be supported by expert welfare rights advisers who are able to assist with establishing entitlement. The 'good cause' test serves to target backdating on the most vulnerable who are the focus of respondents' concerns. This test also serves as a barrier to any potential abuse. Backdating is only granted to those who can demonstrate that they have 'good cause' for needing it and in many cases this only occurs upon appeal.

4.12 The Department suggests in the Explanatory Memorandum (paragraph 36) that the proposed change would bring the backdating period for HB/CTB into line with other working age benefits. However, a number of respondents pointed to the very different nature of benefits which are designed to provide an income with which to purchase day to day necessities, and benefits which meet particular, defined liabilities (rent and Council Tax). Failure to meet either or both of the latter liabilities risks debt, legal penalties (in the case of CTB), and the potential loss of the home. Unlike benefits such as Income Support or Incapacity Benefit, the absence of the benefit may not be noticed by the claimant immediately. Considerable arrears can build up very quickly, and action to recover the debt (in the case of Council Tax arrears) and possession proceedings (in the case of rent arrears) may be commenced before any intervention takes place that identifies that the appropriate benefits are not being paid. As one organisation observed:

'... in the majority, 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 the 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’.

4.13 The Department also argues (paragraph 41 of the Explanatory Memorandum) that the restriction on backdating ‘...will encourage landlords and Local Authorities to fulfil their responsibilities...’. Respondents questioned whether it was appropriate to achieve this by penalising vulnerable claimants. They also questioned whether this was the most effective and fair way of encouraging landlords and Local Authorities to live up to their responsibilities, and pointed out that even the most diligent landlords could not always prevent tenants from falling into arrears. At the same time, in some cases benefits were backdated because of administrative problems and failures in the interactions of Jobcentre Plus offices, local authorities and HMRC (particularly in relation to Working Tax Credits).

4.14 Respondents provided us with numerous case studies of where the backdating provisions had been used. The sorts of cases presented included people who have:

- mental health problems;
- learning difficulties;
- experienced a traumatic life event;
- experienced domestic violence;
- language difficulties;
- been on remand in prison
- been sectioned under mental health legislation
- been hospitalised.

4.15 Examples of the case studies in each of these groups of people are provided in *Appendix 3*. Further details and web links to some of the responses we have received can be found in *Appendix 4*.

4.16 Many respondents suggested that these proposals would work against other government policies, particularly those intended to tackle child poverty and homelessness. Among the many case studies that were provided to us were examples of the use of backdating to prevent evictions taking place at a late stage in the legal process. It was also pointed out to us that since the large majority of those for whom ‘good cause’ is currently applied are very vulnerable, it is very likely that they will have to be re-housed as and when eviction takes place. Re-housing in temporary accommodation adds to the costs to the public purse. In addition there are likely to be knock-on costs to education, health and children’s services.

Pension Credit - Temporary Absence from Great Britain

4.17 Those respondents who mentioned this change welcomed it. It will assist people who wish to stay abroad for more than four weeks and particularly help older people from black and minority ethnic groups who have family abroad and may have to go abroad when illness or deaths occur in the

family. However, some respondents objected to funding this improvement at the potential expense of other vulnerable people.

5. The Committee's View

5.1 As we noted in our introduction to this report, our initial examination of these proposals generated substantial reservations and concerns. Looking back to our report in 2000, we had hoped that the Department would be seeking to establish a general principle which governs backdating in the benefit system. However, despite the claimed contribution towards simplification and rationalisation of the system, these changes go no further towards articulating and achieving a general principle. While we recognise that there should be a balance between rules which protect vulnerable claimants and the costs of administration to which such backdating rules give rise, in the absence of a clear exposition of principle, we are not satisfied that these regulations provide such a balance.

5.2 Within this miscellaneous set of regulations, we find that the negative effects of the proposed restrictions on backdating far outweigh the limited positive effects of an extension of Pension Credit entitlement for periods of temporarily absence abroad. Even when the other measures (see paragraphs 2.1 and 2.2 above) that the Department has presented as forming part of a package are included in our consideration, we can find no justification for changes to backdating provisions that will disproportionately affect some of the Department's most vulnerable and socially excluded customers. We have looked carefully at the Department's Equality Impact Assessment (*Annex C to Appendix 4 below*) for these measures, and we have concluded that the Department has offered neither adequate evidence to support its case for change, nor a convincing proposal for mitigation of the potential negative impacts of the change.

5.3 Accordingly, we do not find this to be part of a 'balanced package'. The measures appear to have been assembled without both a sound evidence base, and consultation with those groups and organisations that have experience of the impacts of the provisions to be amended. If the Department and local authorities have access to reliable data on the use of HB/CTB backdating, this has not been analysed or presented to us. Nor were we offered hard evidence of Pension Credit customers finding the backdating process intrusive and off-putting.

5.4 This lack of evidence (such that we had to ask the Department to provide an addendum to the Explanatory Memorandum to support our consideration of the proposals) is of particular concern when it is set against the wealth of material provided for us in responses to the consultation exercise. We found the arguments presented to us by respondents to be compelling and convincing. The evidence we have received has impressed us (see *Appendix 4* for links to some of this evidence), and we are very grateful for the detailed work which has gone into its production.

5.5 We recognise that current backdating provisions may place some greater demands on decision makers in terms of evidence gathering and securing all the information required to establish eligibility. However, we do not think it is equitable or fair that vulnerable claimants should be put at more risk so that any administrative burden may be reduced. We do not believe that the backdating regulations, as they stand, place unreasonable demands upon claimants. If anything, it would appear that it is independent agencies who support claimants through the complex backdating cases and take on the burden of securing full benefit entitlement.

5.6 We have considerable reservations about the description of the current proposed regulations as ‘simplification’ measures. If the primary purpose is simplification, this could be achieved much more effectively by, for example, full alignment of the provisions for pension and working age customers, the removal of ‘good cause’, and providing both groups with an automatic twelve months backdating period.

5.7 As they stand, the proposed measures are no more than a re-mix of existing provisions, and while we can appreciate that some calculations of entitlement for past periods may be challenging for decision makers, complex calculations are a feature of the income-related benefits system. For example, calculating entitlement for past periods must still be undertaken in connection with overpayments. If the Department, as it does, can cope with calculating overpayments, then it has the ability to cope with backdating claimants’ past entitlements as well.

5.8 While the Department argues that the proposed change to HB/CTB backdating for those under pension age would bring the benefit into line with other income related benefits for those of working age, it is simultaneously proposing setting different time limits for claiming Pension Credit and State Pension. In both cases the Department suggests that these changes will reduce complexity. It is our view that they will add to complexity, and we find the assertions made about the contribution these measures will make to simplification of the benefits system to be entirely unconvincing.

5.9 To illustrate this point we detail below some of the existing backdating provisions and entitlement to backdating.

Benefit	Backdating period allowed prior to date of claim	Circumstances for backdating entitlement
Attendance Allowance/ DLA	None	n/a
Bereavement Benefits	Bereavement payment twelve months, Widowed Parents Allowance and Bereavement Allowance three months unless not aware of the death when time limits	Automatic

	extended.	
Carer's Allowance	Three months, except in specific circumstances linked to claim for Disability Living Allowance (DLA), Attendance Allowance (AA), or Constant Attendance Allowance (CAA) when may be longer.	Automatic save for specific circumstances related to qualifying benefits conditions
Child Benefit	Three months, except refugees who have claims backdated to date of asylum application	Automatic
Child Maintenance Bonus	Six months	Good cause for failing to claim earlier
Child Tax Credit/Working Tax Credit	Three months save where disability benefit claim pending when may be longer	Automatic save for specific disability benefit claim circumstances
Guardians Allowance	Three months, except refugees' claims backdated to date of asylum application	Automatic
Income support income based JSA	One month or three months	No automatic backdating, and extent of backdating based on specific circumstances
Industrial Injuries Benefit	Three months	Automatic backdating
Incapacity Benefit	Three months except in very specific circumstances regarding a claim for DLA, AA,CAA when may be longer	Automatic backdating
Jobseeker's Allowance	One month or three months	No automatic backdating, and extent of backdating based on specific circumstances
Maternity Allowance	Three months	Automatic backdating
Retirement Pension	Twelve months	Automatic backdating
Statutory Maternity/paternity Pay	28 days notice or as soon as reasonably practicable after that date	28 days automatic backdating otherwise must show claim made as reasonably practicable as

		possible
Statutory Sick Pay	Within time limit set by employer or in absence of this seven days or within 91 days	Automatic backdating if meets employer time limit of seven days. Specific circumstances otherwise
Sure Start Maternity Payment	3 months from the date of birth of child	Automatic backdating
Social Fund Funeral Payment	3 months from the date of the funeral	Automatic backdating

Set against this range of provisions, the proposals we are considering do not simplify the backdating provisions in the benefits system.

Pension Credit

5.10 We were sceptical about the Department's assertion that calculating Pension Credit entitlement for the year preceding the date the claim is taken is exceptionally, and inevitably, onerous, either for the claimant or the Department. Indeed, as we note above, representations about these measures that we have received suggest that many organisations were accustomed to supporting and assisting claimants through a backdated claim, and did not recognise the problems highlighted by the Department.

5.11 The Department states that it is: *'...confident that everyone who currently may have a potential entitlement to Pension Credit has now been contacted by The Pension Service and has had every opportunity to make a claim'* (paragraph 18 of the Explanatory Memorandum). We would question this categorical assertion. Each and every day there are people with a new potential entitlement to Pension Credit, either because they reach the qualifying age or, more importantly, a life event occurs for a person over pension age that would trigger entitlement to Pension Credit. The statement in paragraph 18 also does not match that made in paragraph 21 of the Explanatory Memorandum: *'In recognition that there may still be some who are unaware of their potential entitlement to Pension Credit...'* We fail to see how these two statements can be reconciled.

5.12 We also find an apparent contradiction in paragraph 32 of the Explanatory Memorandum. If the proposed changes to the claims process for pensioners will result in 100% of those with potential entitlement to HB/CTB being captured at the earliest opportunity (thus reducing the need for backdating), it is difficult to see why the backdating provision needs to be removed since it would be used very rarely, in very exceptional circumstances, and result in no savings. Meanwhile, the figures for 'savings' suggest that it is anticipated that substantial numbers would continue to claim and be entitled to backdated benefits.

5.13 We recognise that the backdating of Pension Credit is rather different from the backdating of HB and/or CTB for people of working age. Pension Credit backdating – and the backdating of HB/CTB for people of pension age – is an automatic backdating from the date of claim, whether or not there is ‘good cause’ for a late claim. However, this provision was introduced with the needs of the hardest-to-reach customers in mind, such as those who have not responded to several previous approaches by The Pension Service and who may be resistant to the claims process for an income-related benefit.

5.14 We are concerned that the proposed measures in relation to Pension Credit will work against tackling pensioner poverty and will impact disproportionately upon the poorest and oldest pensioners, particularly women over the age of 75. We note that Table 1 in the Addendum to the Explanatory Memorandum indicates that currently some 60% of Pension Credit claims by those over 75 were backdated for more than 3 months – some 50,000 people aged over 75. The Households Below Average Income Report published by the Department on 10th June 2008 points to an increase in pensioner poverty in 2006/7. As we note above, pensioners who are most likely to be poor are older pensioners. The Department's Explanatory Memorandum to us indicates that older pensioners are more likely to benefit from backdating than younger pensioners. These proposals will have a disproportionate impact upon the oldest, poorest pensioners, who are in the main women.

5.15 On first consideration we welcomed the extension of temporary entitlement to Pension Credit in respect of temporary absence from Great Britain that forms part of this set of proposed changes. However, on closer examination, we were concerned about how such arrangements could be abused. The proposed measure also appears to us to be inequitable, since it is to be funded by reducing expenditure on the backdating of benefits for particularly vulnerable claimants.

5.16 Although Pension Credit claimants must, in principle, continue to satisfy the ‘habitual residence’ condition of entitlement, it has not been made clear to us how and when this would effectively be enforced so as to disentitle claimants spending extended periods abroad and returning only briefly to GB. Whilst we believe that the majority of customers would have no wish to break the rules, there can be little incentive to report periods of absence if it is evident that The Pension Service cannot effectively enforce the rules. This measure has the potential to penalise the honest and scrupulous who report their absences.

5.17 We have also noted that the proposed regulations do not appear to allow for the prescribed periods of absence to be aggregated. Without a means of enforcement, and without any ‘linking’ periods, this must allow substantial periods to be spent abroad without the loss of benefit. It is not clear whether this is the policy intention behind this part of the proposed Regulations, and whether the cost of long-term absence has been factored into the calculation of the costs of this proposal. We would welcome further

clarification on this point and urge the Department to ensure that the proposed changes mirror policy intent.

Housing Benefit and Council Tax Benefit for people of working age

5.18 We are particularly concerned about the impact of the changes to HB/CTB backdating upon working age customers. Again, the pre-scrutiny representations we received highlighted the potential negative impacts of the changes on some of the most vulnerable tenants, and the knock-on impacts in terms of child poverty, homelessness and increased burdens on other services, and overall public expenditure. These representations have increased and reinforced our concerns during the consultation period. There are striking discrepancies between the impacts of the proposed changes envisaged by the Department, and those presented by the agencies and individuals who work with the most vulnerable claimants.

5.19 The potential 'losers' are those whose circumstances may initially put them beyond the reach of the organisations and agencies that could intervene to prevent them being taken to court for failure to pay their Council Tax or losing their homes through failure to pay rent. As respondents to the consultation exercise have pointed out, advice and welfare rights organisations may not get to hear of a claimant's problems until a very late stage in the process. With a maximum of just three months Housing Benefit backdating, early intervention and action by even the most conscientious and well-resourced landlords in the social housing sector will not be enough to prevent unmanageable rent arrears building up and consequent evictions. The evidence that has been presented to us suggests that those most likely to be adversely affected are those with mental health problems, with chronic health problems, with learning difficulties, people suffering domestic violence, ex-prisoners, and other people suffering traumatic life events, particularly the people facing multiple problems. In many cases, the immediate cause for the need to make a backdating will be administrative failings by the Department for Work and Pensions, housing authorities or HMRC (or a combination of failings).

6. Conclusions

6.1 Overall, we do not find that a convincing and transparent case has been made for generating savings by reducing entitlement to HB and CTB and Pension Credit for some of the Department's most vulnerable and excluded customers. The estimates of costs and savings that we requested from the Department produced limited information that did support the Department's assertion that the proposed measures should be: ...*considered as key components of a wider set of pension measures, rather than individual changes*³. The savings figures presented to us in the Addendum to the Explanatory Memorandum indicate that the restriction to Pension Credit backdating is expected to save £155 million in 2008 and 2009 and that the restrictions to HB/CTB backdating will save £105 million in the same period. If

³ Addendum to the Explanatory Memorandum, paragraph 3

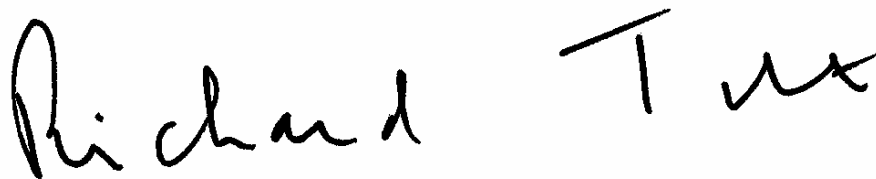
these estimates can be relied upon – and we doubt whether they can - the Committee finds it difficult to follow the Department’s argument that these changes will make the administration of both Pension Credit and HB/CTB more efficient and ensure that backdating will not need to be applied.

6.2 Rather, we believe that these changes will hit the Department’s poorest and most vulnerable customers, increasing indebtedness and evictions. The economic cost of increased possession proceedings (in particular, the costs of re-housing and other services) have not been factored into the Department’s savings calculations. We believe that these costs could be substantial, and that they could, and should, have been set against the estimated savings from the reduction in HB/CTB backdating periods. We are not convinced by the logic of the argument presented by the Department to justify removing benefit entitlement estimated at £260 million over the next two years from a number of the most vulnerable citizens.

7. Recommendations

We recommend:

- the maximum period for backdating awards for Pension Credit and Housing Benefit and Council Tax for those eligible for Pension Credit should remain at 52 weeks; and that
- for those of working age, backdating Housing Benefit and Council Tax Benefit, providing ‘good cause’ for up to 52 weeks should continue.
- The regulations for those in receipt of Pension Credit and are temporally abroad should proceed. However, we would ask the Department to clarify whether it is the policy intention that people can remain abroad whilst retaining entitlement to Pension Credit by making short visits to Great Britain.

A handwritten signature in black ink that reads "Richard Tilt". The name "Richard" is written in a cursive style, and "Tilt" is written in a more stylized, blocky cursive.

RICHARD TILT

CHAIRMAN

APPENDIX 1

THE DEPARTMENT'S EXPLANATORY MEMORANDUM

SSAC Explanatory Memorandum

Proposal

1. The Secretary of State for Work and Pensions proposes the following amendments to regulations:
 - to reduce the time for claiming Pension Credit, Housing Benefit and Council Tax Benefit for persons who have attained the qualifying age for Pension Credit from the current 12 months, to a period of 3 months;
 - to reduce the backdating period in Housing Benefit (HB) and Council Tax Benefit (CTB) from the current 52 weeks to 3 months for those who have not attained the qualifying age for Pension Credit;
 - to allow Pension Credit recipients to retain entitlement whilst temporarily absent from Great Britain for up to 13 weeks.

These proposals were announced by MoS PR on 5th December 2007, and are part of an overall package of measures.

Overall package

2. The Department has for some time recognised that there is a need to simplify the benefit system. The proposals outlined in this memorandum are part of an overall package which attempts to improve the benefit process and simplify certain rules, particularly, but not exclusively, in relation to benefits paid to pensioners.
3. With this package of proposals, the Department believes it has struck the right balance between changes which generate some savings, and those which attract a cost. This is a balance that is appropriate to the current fiscal climate, and helps to ensure that the whole of this important and beneficial package can be taken forward.
4. Taken together, the measures represent an overall improvement to the benefit system for customers and staff. In particular, these measures will improve the claims process for HB/CTB, so that claims can be made over the phone, at the same time as the claim for Pension Credit, without the need to return a signed claim form, and will reduce intrusion for those aged 80 or over by allowing the Pension Credit Assessed income period (AIP) to continue automatically after that age so that changes to savings

and retirement income that would normally result in a reduction of Pension Credit need not be reported. In addition, and recognising the concerns raised by Age Concern and others, this package will introduce a change to allow Pension Credit to be retained for up to 13 weeks of a temporary absence abroad.

5. Important beneficial measures such as the AIP run on and the improved claims process for HB/CTB can only be delivered if we also make savings elsewhere. The proposals to reduce the time for claiming and backdating periods, which are desirable from a policy and operational perspective for the reasons outlined below, also enable the release of funding, without penalising any existing claimants, and in the case of Pension Credit and HB/CTB for pensioners by simply changing the time for claiming to what it would have been had the regulation not been amended in 2004 to allow 12 months.
6. The AIP run on requires a change to primary legislation and is included in the current Pension Bill, and the changes in relation to the improved HB/CTB claims process are in a separate statutory instrument, which will be presented to the Committee in due course. The other changes require amendments to secondary legislation, which will be subject to the negative resolution procedure, and these changes along with the rationale for them are described in more detail below.

Changes to the time for claiming Pension Credit

Background

7. Pension Credit was introduced on 6th October 2003. It replaced Income Support for those aged 60 and over. On its introduction, the normal time for claiming was to be 3 months. However, a transitional rule allowed those claims made up to 5th October 2004 to be treated as made on either the 6th October 2003 (if the conditions of entitlement were satisfied on that day), or the day on which the conditions of entitlement were satisfied, if this was after 6th October. Effectively this meant that Pension Credit claims could potentially be “backdated” for periods of up to 12 months during the first year of its introduction (so that for example a person claiming on 5th October 2004, who could show that they would have had entitlement on 6th October 2003 would have had their claim treated as made on that date).
8. The original intention was that from October 2004, the time for claiming Pension Credit would revert to 3 months. However, this reversion to a 3 month period did not take place as regulations were amended from 6th October 2004 so that the normal time allowed for claiming Pension Credit would be 12 months.
9. The rationale for setting 12 months as the normal time period for claiming Pension Credit was to align the time for claiming Pension Credit and State Pension (the time for claiming State Pension was to increase

to 12 months from April 2005 with the introduction of the new State Pension deferral rules). The increase to a period of 12 months for claiming Pension Credit was also attractive in that it removed a potential “cliff edge” of claimants who would claim after 5th October 2004 at a time when Pension Credit was still a relatively new benefit and eligibility not widely understood. It ensured that no potential recipient need lose out due to simply being previously unaware of the benefit. It was also believed that the potential for some claimants to receive up to 12 months arrears of benefit could act as an incentive to make a claim and supported the ongoing take up campaign.

Current position

10. Although on the face of it the 12 months appears beneficial to customers, operational experience has shown that, unlike State Pension which is a contributory benefit, the ability to effectively “backdate” a means tested benefit such as Pension Credit for up to 12 months causes a number of problems, leading to delays in payments, intrusion and confusion for customers and error in awards of benefit.

11. For example:

- Where a claimant requests that their claim should begin from a date up to 12 months prior to when they make contact with the Department, it is necessary to establish not just their current circumstances, but also what their circumstances were during the previous 12 months.
- The longer the time lapse between the date the claimant makes their claim and the date from which they want the claim to begin, the more difficult it is to obtain the necessary evidence upon which to base the award.
- Some claimants (particularly some of the more elderly) simply cannot remember with any accuracy what their circumstances were, and some have difficulty locating any documentation required by the Department.
- Where such evidence or documentation is supplied, it is then for the person deciding the claim to consider this evidence and assess the award accordingly. Where there have been several changes of circumstances in the past period this process is complex and open to error.

12. The current time for claiming can result in decision makers carrying out a detailed investigation into the claimant’s financial circumstances over the previous 12 months. This involves reviewing their financial position in detail to identify and verify all changes over that time to establish both eligibility and the correct level of benefit during that time and now. This can in some cases lead to a poor experience for those claiming (who will

be asked to provide evidence of their financial circumstances for the past year) and cause difficulties for decision makers in terms of information and evidence gathering in order to establish eligibility for the whole of the past period. The Department therefore recognises that the original policy, whilst being adopted for the good reasons described above, had not taken sufficient regard of its practical application in the context of means tested benefits.

The proposed change

13. In view of the above, the Department proposes to reduce the time for claiming Pension Credit from 12 months to the originally intended 3 months. This period is broadly in line with the time for claiming a number of other benefits such as Income Support and Incapacity Benefit, although unlike the time for claiming Income Support, the claimant under these proposals will not need to demonstrate the reasons why he claimed late. Under this proposal claimants will have 3 months from the time they would have been entitled in which to make their claim and ensure the award begins from the date of entitlement.
14. Other options for overcoming some of the difficulties of having a 12 month time for claiming a means tested benefit have been discounted. For example the idea of simply using the current information provided by claimants as a basis for the award over the previous 12 months, is not acceptable in terms of an income related benefit, where entitlement is calculated on a weekly basis.
15. The Department recognises that this change will mean that the time for claiming Pension Credit and State Pension will be different. However, whilst it was considered that alignment of the time for claiming these benefits would be desirable in terms of having a simple rule applicable to both benefits, operational experience of The Pension Service has shown that any gains in this area are outweighed by the considerable complexity and added intrusion of allowing a lengthy period for claiming an income related benefit such a Pension Credit. On balance, the Department believes that reducing the period for claiming Pension Credit from 12 to 3 months strikes the correct balance between reducing complexity, and allowing a reasonably generous period of time to make a claim.

Impact on claimants

16. This change will have no impact on existing Pension Credit claimants. From 6th October 2008, new claimants will no longer have 12 months to make their claim and will instead have 3 months to claim from the date on which they are entitled to benefit.
17. Although this measure may be seen as adversely affecting some new claimants (paragraphs 52 to 61 refer in relation to the potential effects on different groups), the Department considers that whilst there were sound

reasons for allowing a 12 month period to claim for the 4 years following the introduction of Pension Credit, the time is right to move to a period of 3 months, which is a more appropriate period for an income related benefit.

18. The Department is confident that everyone who currently may have a potential entitlement to Pension Credit has now been contacted by TPS and have had every opportunity to make a claim. Most eligible non-recipients have been contacted numerous times, in a variety of ways, with over 75% of eligible non-recipients having been contacted 5 times or more already. Take-up levels show that up to 81% of those entitled to the Guarantee Credit element of Pension Credit are claiming it.
19. The Department considers that 4 years after its introduction, Pension Credit is no longer a new benefit, and extensive marketing has taken place over those 4 years to publicise it and encourage take-up. For example, the Department has used data matching to identify those who may be entitled and not claiming and has written to every pensioner household to tell them about Pension Credit. In 2007/08 the Department will issue over 1 million mailings to encourage and remind potential claimants to claim and will use inserts aimed at securing the support of friends and family to encourage people to claim in areas with potentially high numbers of eligible customers, in addition to national press advertising, local marketing and media activity.
20. Four years on, the Department believes that the vast majority of potential claimants will be aware of Pension Credit and therefore wishes to change focus so that claimants apply for the benefit nearer to when they become eligible, rather than up to 12 months later. The Department considers that this period is justified on the basis that the time for claiming a number of other social security benefits, including those for the disabled such as Incapacity Benefit and the forthcoming Employment and Support Allowance, is also 3 months, and is more generous in this respect than other benefits for disabled people such as Attendance Allowance and Disability Living Allowance.
21. Steps have been taken to simplify the claims process, promote awareness and encourage take-up. In recognition that there may still be some who are unaware of their potential entitlement to Pension Credit, the Department intends to continue to promote take-up of benefits by those entitled and will continue to use data matching as described above to identify those eligible to, but not claiming Pension Credit. Help in claiming is also provided for vulnerable customers through home visits. The Department will work closely with customer organisations such as Age Concern and Help the Aged to ensure that potential customers are aware of the new rules. The change to 3 months will also be included in any planned take-up activity, giving those who may currently have entitlement for a past period and who have not yet claimed, the opportunity to do so before the rules change. Literature for claimants is written to plain English standards and to the standards set by RNIB. If a

customer needs the literature in an alternative language/format The Pension Service will arrange for this to happen. Customer literature also signposts our website that can allow access to customers whose first language is not English.

Changes to the time for claiming Housing Benefit and Council Tax Benefit

- i) persons who have attained the qualifying age for Pension Credit**
- ii) persons below the qualifying age for Pension Credit**

Background – persons having attained the qualifying age for Pension Credit

- 22. As with Pension Credit, the Housing Benefit (HB) and Council Tax Benefit (CTB) regulations for people who have attained the qualifying age for Pension Credit contain a provision that allows the customer 12 months in which to make their claim.
- 23. These provisions were originally introduced as a transitional rule to allow those claims made up to 5th October 2004 to be treated as made on the 6th October 2003 (if the conditions of entitlement were satisfied on that day) or the day on which the conditions of entitlement were satisfied, if this was after 6th October. This was introduced to mirror Pension Credit rules and maintain a consistent approach for pensioners to the period for claiming income related benefits.
- 24. The intention was to maintain the link between the HB and CTB rules and the Pension Credit rules, and that the 12 month claim period for pensioners would be reduced to 3 months from October 2004, as was originally planned for Pension Credit.
- 25. When the decision was taken to keep the initial 12 month claim period in Pension Credit beyond October 2004, HB and CTB were similarly amended, to reflect the policy intention of alignment in the pension age income related benefits.

Current position

- 26. The 12-month pensioner claims provision in HB and CTB has raised the same issues as those experienced with Pension Credit, in that the ability to effectively “backdate” entitlement for up to 12 months causes problems, leading to delays in payments, intrusion for customers and errors in the benefit.

The proposed change

- 27. In view of the above, and to maintain alignment of HB and CTB provisions with Pension Credit and help provide a more consistent benefit regime in general, the Department proposes to reduce the time

for pension age customers to claim HB and CTB from 12 months to 3 months in line with Pension Credit proposals.

Impact on claimants

28. This change will have no impact on existing HB and CTB claimants. From 6th October 2008, pensioners making new claims will no longer have 12 months to make their claim, but will instead have 3 months.
29. The 12 month claim provision for pensioners was introduced to reflect the provision in place in Pension Credit to provide a consistent process for our customers, and so it follows that any changes to the rules in Pension Credit should be mirrored in HB and CTB, for the same reasons.
30. Reducing the 'blanket' 12 month claim period to 3 months will allow us to refocus resources on the poorest pensioners by providing improved access to HB and CTB for Pension Credit claimants which will make it simpler and easier for them to claim. The existing combined claim process means that Pension Service staff complete a short form for HB/CTB on the customer's behalf, which the customer has to check, sign, and send to the local authority. Blank supplementary forms are also issued for customers with children, non dependants or a private rent liability.
31. Despite this simple process, only around 50% of customers send their forms in and so those who do not return their forms are potentially missing out on their entitlement. Reasons customers gave for the non-return of the forms were varied, but there were a large number which were due to the claims process, which included:
 - the claims process was complicated;
 - completing supplementary claim forms was difficult and very time consuming;
 - they were too busy to return the forms;
 - they did not recall receiving the form;
 - it was not clear that they had to return the form to the LA.
32. Having identified that the current process is not working as effectively as it should, we will make improvements so that from October 2008, CTB and HB claims will continue to be taken over the telephone by The Pension Service when people apply for Pension Credit, but there will be no need for a claim form or supplementary forms in respect of children and non-dependants. The information collected will automatically be sent directly to local authorities for assessment and so 100% of claims made in this way will reach the local authorities. This means customers with potential entitlement to pension age HB/CTB will be captured at the earliest opportunity, reducing the need for "backdating" and ensuring they do not miss out on entitlement.

Background – persons below the qualifying age for Pension Credit

33. Additionally for HB and CTB generally, provisions have existed from their introduction (1988 and 1992 respectively) which allowed a customer to claim up to 52 weeks backdating where they could show continuous good cause for not having made a claim earlier. This rule currently applies to 'working age' claimants (ie. those who have not attained the qualifying age for Pension Credit).
34. Similar issues in establishing the customer's circumstances have always occurred with the general 52-week backdating provision. Additionally, customers have had difficulty proving continuous good cause for such a length of time and providing evidence of their circumstances for a past period of up to a year.
35. The existing provisions also cause confusion for claimants and staff, and can result in local authorities carrying out a detailed investigation into the claimant's financial circumstances over the previous 12 months. This is intrusive as well as causing difficulties for decision makers.
36. In view of the above, and to maintain alignment of HB and CTB provisions with other benefits and help provide a simpler consistent benefit regime in general, the Department proposes to reduce the maximum backdating period in working age HB and CTB from 52 weeks to 3 months. This aligns with the maximum 3 month backdating provisions in place across other working age benefits including Income Support, Jobseekers Allowance, Tax Credits and the forthcoming Employment and Support Allowance (ESA).

Impact on claimants

37. This change will have no impact on existing working age HB and CTB claimants. From 6th October 2008, working age customers making a new claim will only be able to apply for a maximum of 3 months' backdating rather than 52 weeks.
38. For the working age provisions, it has always been the Department's intention to align rules where possible to simplify the benefit system in general. In the last 10 years we have improved access by ensuring that a full claim to HB and CTB can be made alongside DWP income related benefits, for example Income Support and Jobseeker's Allowance, usually in a combined claim process.
39. We have further extended this to:
 - allow claims to be made through a combined process alongside certain non means-tested benefits such as Incapacity Benefit;
 - introduce 'first contact' rules allowing HB/CTB claims to be paid from the date a customer asks for a claim form, rather than from the date the claim form was received back at the LA; and

- enable alternative ways of claiming, including by telephone thus ensuring our customers can gain access to HB and CTB quickly and simply.
40. It is also the intention to introduce new HB/CTB claims rules which will mirror the pensioner process for ESA customers (once ESA is established) so that CTB and HB claims being taken over the phone by Jobcentre Plus can also be sent directly to local authorities for assessment. This means customers with potential entitlement to working age HB/CTB will be captured at the earliest opportunity, reducing the need for “backdating” and ensuring they do not miss out on their entitlement.
41. While the change in the backdating provision from 52 weeks to 3 months may be seen as adversely affecting new claimants, the Department considers that the need to simplify the benefit system (both for the understanding of our customers, as well as simplifying administrative processes), supported by the developments made to ease the claiming process, and improve accessibility, justifies this change. The change should also help to encourage claimants to take more responsibility for their housing costs at an earlier stage and encourage landlords and Local Authorities to fulfil their responsibilities to collect rent/council tax and take prompt action when arrears accrue.
42. In allowing 3 months’ backdating, in line with other income related benefits, we will provide a consistent time limit across income related benefits, which will still allow vulnerable customers facing eviction processes (triggered when 8 weeks’ rent arrears exist) to make a claim and receive backdated benefit to meet their rent due. As stated above, existing provisions protect the date of claim from the point of first contact. There are also provisions for a “payment on account” of HB to be made where there is a delay in deciding the claim which is not due to the customer’s failure to provide information or evidence relating to their claim, to ensure that delays in benefit processing do not cause customers to lose their accommodation. Our planned publicity to landlords (and others) will emphasise the need for them to ask questions about non payment of rent earlier and encourage tenants to make their claims sooner rather than later.

Pension Credit - Temporary Absence from Great Britain

Background

43. A condition of entitlement to Pension Credit is that the claimant must be in Great Britain (GB). There are, however, circumstances in which claimant’s may retain their entitlement to Pension Credit during temporary absences from GB.
44. The current rules regarding temporary absence were carried forward from Income Support, which in turn had adopted the rule from

Supplementary Benefit. Under the current rules claimants may retain entitlement to Pension Credit for up to 4 weeks where the absence is not likely to exceed 52 weeks and where there was entitlement to Pension Credit immediately prior to the absence. Entitlement may be retained for up to 8 weeks where the purpose of the absence is to accompany a young person who normally resides with the claimant, for medical treatment abroad.

45. If a claimant reports that an absence is likely to exceed these periods, their claim is closed after the first 4 weeks of their temporary absence (or 8 where the absence is to accompany a young person for medical treatment abroad). On return to GB after such an absence, a new claim for Pension Credit must be made.
46. The 4 week period originally adopted for Supplementary Benefit was based upon an estimate made at the time that the period would cover the majority of temporary absences from GB for those in receipt of that Benefit. The 8 week rule for customers accompanying children abroad for medical treatment was introduced for Income Support in 1990. Housing Benefit and Council Tax Benefit (HB/CTB) also have rules regarding temporary absence (from the dwelling normally occupied as the home): customers in receipt of these benefits may normally retain entitlement for up to 13 weeks whilst temporarily absent from the home.

Proposed change

47. The proposed change is to extend the period for which entitlement to Pension Credit may be retained during a temporary absence abroad of up to 13 weeks. The Department considers that a single maximum period of 13 weeks is the appropriate length of time for which Pension Credit recipients should be able to retain entitlement whilst temporarily abroad.
48. The current absence abroad rules were originally designed to reflect the needs and behaviour of a particular client group at a particular point in time (i.e. Supplementary Benefit claimants, almost 25 years ago). It is now apparent that the rationale for retaining those rules in Pension Credit no longer applies. In addition to social and economic changes since 1980, the introduction of the more generous benefit regime of Pension Credit means that more people are eligible to claim Pension Credit than the old Minimum Income Guarantee (MIG). Pension Credit customers are more likely to have modest savings, and the rules regarding the deprivation of such savings in Pension Credit are more lenient.
49. Research conducted on behalf of the DWP⁴ highlighted the desire amongst older people for a simpler benefit system. The difference in the

⁴ Helen Barnard & Nick Pettigrew, "Delivering benefits and services for black and minority ethnic older people", DWP Research Report 201, 2003 p.51

length of time for which Pension Credit can be paid during a period of temporary absence abroad can be confusing for Pension Credit customers who are also in receipt of Housing benefit and Council Tax Benefit (which normally allow temporary absences from the home for up to 13 weeks). Research carried out for the Department and a recent campaign by Age Concern have highlighted a feeling among claimants that the current rules are too restricted.

50. Increasing the period to a single maximum of 13 weeks will enable the majority of these claimants to be temporarily absent from GB without having to make a new claim for the benefit on their return to GB and will simplify the benefit for both claimants and the Pension Service
51. Taking account of the above factors, the Department believes that it is right to change the rules on the length of time for which customers may retain entitlement to Pension Credit whilst temporarily absent abroad.

Diversity and equality

Time for claiming/Backdating

52. The Department has considered these changes in light of its disability, race and gender equality duties. A full Equality Impact Assessment has been carried out. It has been identified that the changes to the time for claiming (for Pension Credit and HB/CTB for pensioners) and backdating (for working age HB/CTB) may have a negative effect for some new claimants.
53. The impact assessment will be published shortly, but is attached for the Committee's information.
54. The proposed time for claiming/backdating period of 3 months is broadly in line with the time allowed for claiming most other social security benefits (including those for disabled people such as income support, Incapacity Benefit and the forthcoming Employment and Support Allowance) and as such the Department considers that these changes are reasonable, particularly bearing in mind the simultaneous improvements to the HB/CTB claims processes, and the improvements to the process for claiming Pension Credit which have already been made since its introduction.
55. It is recognised that whilst the potential negative impact of these changes affects all new claimants, the impact could be greater for older customers and marginally greater for some disabled customers. This is because such customers may not always be in a position to make their claims on time, perhaps because they may not be aware of the benefits existence due to mental health or language problems, or may not be able to make a claim on time due to physical disabilities.

56. The Department considers that such impacts are minimised for potential Pension Credit claimants by take-up and awareness activity and the help provided to enable people to claim. In particular, the use of data matching to identify those eligible, home visits to vulnerable customers, and changes to make the claiming process simpler will ensure customers do not need to delay claiming if they think they are entitled. Prior to October 2008, leaflets (available in many different languages) will be amended to explain the new rules so that those claimants who may have entitlement from more than 3 months ago are aware that they should claim before 6th October 2008. The Department will also continue to work closely with ethnic minority groups to improve take-up and ensure people are aware of the new rules.
57. Additionally, Local Partnership agreements are either in place or approaching completion with all 203 primary tier Local Authorities and surrounding voluntary sector organisations to provide a single point of access to social care and benefit entitlement. This provides access to some of the most vulnerable pensioners, many of whom have never applied for any entitlement, and may not be aware of what is available or how to claim.
58. The Department has also set up Alternative Offices (which allow Local Authorities and voluntary organisations to accept claims from people aged 60 or over for Social Security benefits, or a person under 60 for benefits from Disability and Carers Service), together with community based Information Points (formerly known as surgeries) in places that customers are familiar with, such as Age Concern, Citizens Advice and voluntary sector organisations, providing access for some of the most vulnerable pensioners.
59. The Pension Service has an outline campaign plan for 2008/09, which moves towards a targeted local approach. This will entail dividing our customer base into groups, defined by their characteristics and geography. Communications will be tailored to each customer group depending on their needs and will combine indirect/endorsed communication channels such as press releases, editorials, presence at local events and local radio with direct communications from The Pension Service as a follow up. As stated earlier, the Department will work closely with Age Concern and Help the Aged on the benefit take-up campaign to highlight the backdating changes. All current and future materials issued to claimants will advise of the change of rules.
60. Similarly for HB/CTB, the Department considers that the impacts of these changes are minimised by the past and future improvements in access to the benefits described above (some of which are an integral part of this package of measures and have only been made possible because of the changes to the backdating rules), which will help ensure that people with potential entitlement are able to claim promptly due to a more automatic claims process, reducing in turn the need for backdating. And while working age claimants will no longer be able to ask for their HB/CTB

claim to be backdated for 52 weeks, this change will be well publicised to key stakeholders including landlords, welfare rights organisations, local authority social services and “supporting people” staff, and front line DWP staff dealing with benefit claims, to help ensure that customers apply for their entitlement in good time; and to encourage landlords to tackle rent arrears before more than three months’ debt has accumulated.

61. The Department will continue to work closely with customer groups to assess the way these changes affect different groups.

Temporary Absence

62. A screening exercise has been carried out in respect of potential race, disability, gender, age and sexual orientation impacts for this proposal. The Department considers that the change to extend the time for which Pension Credit may be retained during periods of temporary absence abroad is beneficial and would not discriminate unlawfully on grounds of race, disability, gender, age, sexual orientation and/or religious belief. This proposal may promote equality by allowing claimants to attend religious festivals abroad and by allowing extended visits to for claimants who may have relatives abroad. The stage 1 Diversity and Equality impact assessment for this proposal will be published in due course.

Child poverty

63. It is not considered that the proposals in relation to Pension Credit would have an adverse effect on child poverty.
64. No assessment of the impact on child poverty of the HB/CTB changes for working age customers has been carried out as sufficient data for such an assessment is not currently available. We will carry out a child poverty assessment for future monitoring purposes once this data becomes available.

Simplification

65. These measures, along with associated measures contained in the current Pensions Bill, are being introduced in order to simplify various aspects of the benefits system. Consequently these changes will reduce complexity.

Timing

66. The Department proposes to bring these amendments into force from 6th October 2008.

Costs

67. The Department does not anticipate that there will be additional costs as a result of the introduction of these measures.

Appendix

Synopsis of the regulations

Regulation 1

Provides the citation and the dates on which the regulations are to come into force.

Regulation 2

Amends regulation 19 and schedule 4 of the Claims and Payments Regulations 1987 to allow the time for claiming Pension Credit to be 3 months.

Regulation 3

Amends regulation 3 of the State Pension Credit Regulations to allow entitlement to be retained for periods of temporary absence abroad of up to 13 weeks, and makes consequential amendments to regulation 5 and Schedule 3 of those regulations.

Regulation 4

Amends regulation 83 of the Housing Benefit Regulations to reduce the backdating period to 3 months.

Regulation 5

Amends regulation 64 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations to reduce the time for claiming and backdating period to 3 months.

Regulation 6

Amends regulation 69 of the Council Tax Benefit Regulations to reduce the period of backdating to 3 months.

Regulation 7

Amends regulation 53 and 56 the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations to reduce the time for claiming and backdating period to 3 months.

Equality Impact Assessment

Name of strategy/project/policy/process/function:

Changes to the time for claiming Pension Credit and Housing Benefit and Council Tax Benefit for those of Pension Credit age from 12 to 3 months and a change to the backdating period allowed within Housing Benefit and Council Tax Benefit for working age customers from 52 weeks to 3 months

Name and contact details of the officer(s) responsible for the assessment:

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1. Introduction

- 1.1 A change in the rules for three established benefits is being proposed. These benefits are Pension Credit, Housing Benefit (HB) and Council Tax Benefit (CTB) and are specifically aimed at those on low incomes. Pension Credit provides an income top up for pensioners, HB provides financial help towards rent and CTB reduces council tax liabilities.

Disability Equality Duty

- 1.2 The Department is required to give due consideration to the Disability Equality Duty in reaching a decision on policy.⁵ In addition, public bodies listed in regulations are subject to specific duties, which include a requirement to produce a Disability Equality Scheme that sets out

⁵ Disability Equality Duty: Section 49A of the Disability Discrimination Act 1995 places a general duty on all public authorities to carry out their functions with due regard to the need to:

- promote equality of opportunity for disabled people,
- eliminate unlawful disability discrimination;
- eliminate disability-related harassment;
- promote positive attitudes towards disabled people;
- encourage disabled people's participation in public life; and
- take steps to take account of disabled people's disabilities, even if that requires more favourable treatment.

arrangements for assessing the impact of policies, practices and procedures on disability equality.⁶

Race Equality Duty

1.3 The Race Relations Act (RRA) as well as protecting against discrimination places a general Race Equality Duty on public authorities to:

- Eliminate racial discrimination.
- Promote equality of opportunity.
- Promote good relations between persons of different racial groups.

To help meet the Race Equality Duty public bodies have a specific duty to assess the likely impact of current and proposed policies and services and any changes to those.

Gender Equality Duty

1.4 Since April 2007 public bodies are required to promote gender equality. The obligation covers all public functions, policies and services and will require public bodies to:

- Eliminate unlawful discrimination and
- Promote equality of opportunity between women and men.

The Gender Equality Duty requires public bodies to carry out impact assessments when considering new policy developments or changes to ensure that there will be no adverse impact on either women or men.

This document provides the findings of the impact assessment relating to proposed changes to Pension Credit, Housing and Council Tax Benefit.

Proposals for change

1.5 The changes proposed do not provide for a new benefit or service as they simply change an existing rule within the established benefits listed above. These benefits are income related benefits and as such are not aimed at providing support for needs associated with disability as other benefits are available for this purpose, although it is acknowledged that a significant number of HB/CTB customers are disabled or have a long-standing health condition. As figures in section 11 below indicate, 40% of HB customers under age 60 fall within this category, and 43% of those receiving CTB. We have therefore focused the impact assessment on the extent to which the rule application

⁶ Disability Discrimination (Public Authorities)(Statutory Duties) Regulations 2005 (SI 2005/2966)

would have an impact on disability equality as well as the potential impact on other customer groups.

- 1.6 Currently, the time allowed for making a claim to Pension Credit is 12 months from the date on which the claimant is entitled. This effectively means that claimants who make a claim up to 12 months following entitlement may receive a payment in respect of the past period. This is commonly known as “backdating”.
- 1.7 As with Pension Credit, HB and CTB regulations for people who are of the qualifying age for state Pension Credit contain a provision that allows the customer 12 months in which to make their claim.
- 1.8 Provisions that exist for HB and CTB for customers of working age (set when these benefits were introduced in 1988 and 1992 respectively), allow customers to claim up to 52 weeks backdating where they can show continuous good cause for not having made a claim earlier. (See paragraph 12.2).
- 1.9 As part of a package of measures to streamline the benefit process, reduce intrusion into customers’ financial circumstances and improve the claims process, the Department proposes to change the time allowed for claiming and for backdating within these benefits. Other measures included in this package will:
 - introduce a more automatic claims process for HB/CTB for pensioners, enabling claims to be made entirely by telephone alongside claims to Pension Credit;
 - reduce the need for those Pension Credit claimants aged 80 and over to report changes to their retirement income (the “AIP run on”); and
 - enable all Pension Credit claimants who go abroad temporarily to keep their Pension Credit for up to 13 weeks.
- 1.10 The Pension Credit temporary absence abroad change is included in the same statutory instrument as the time for claiming changes but is the subject of a separate impact assessment. The other measures are contained either in the forthcoming Pension Bill, or in separate Statutory Instruments.
- 1.11 The changes covered by this impact assessment are those which:
 - (a) reduce the time for claiming Pension Credit from 12 months to 3 months
 - (b) reduce the time for claiming HB/CTB for pensioners from 12 to 3 months; and
 - (c) amend the period a claim can be backdated for working age customers, from 52 weeks to 3 months.

- 1.12 It is considered that a period of 3 months to make a claim is an appropriate period, particularly in the context of an income related benefit. The change to 3 months brings the time for claiming and for backdating broadly into line with the backdating period which applies in other income related benefits such as Income support.
- 1.13 There are similar issues and considerations for the changes covered by this impact assessment but for ease these are covered in separate sections below.
- 1.14 This impact assessment has been undertaken in order to assess these proposals against the Department's disability, race and gender equality duties, under the Disability Discrimination Act 2005, the Race Relations Amendment Act 2000 and under the Sex Discrimination Act 1975, as amended by the Equality Act 2006.
- 1.15 This assessment considers the changes to the time for claiming and backdating periods for Pension Credit and HB/CTB in the light of the above duties, and those duties underpin the considerations that are given below to the impact of these proposals on different groups of customers.

A: CHANGE TO THE TIME PERIOD FOR CLAIMING PENSION CREDIT

2. Purpose and aim(s) of the proposal or change:

- 2.1 The purpose of this change is to:
- reduce the burden on operational staff when establishing the likely entitlement to benefit for a past period;
 - reduce the burden on customers to provide evidence and documentation for historic circumstances and changes; and
 - simplify decision making as evidence should be readily available and remove the need to rely on judgement and balance of probabilities.
- 2.2 The desired outcome is a more streamlined claims process, enabling claims to be investigated and cleared more effectively.
- 2.3 The rationale for reducing the time allowed for claiming Pension Credit is that it is now a well established benefit and as such there is no longer a rationale for allowing a longer period for claiming than other established income related benefits. The reduction in the time for claiming for Pension Credit still retains more generous treatment for pensioners, as customers do not have to justify the time they have taken to claim. In comparison, other social security benefits, including those for disabled people such as Incapacity Benefit and the forthcoming Employment and Support Allowance, have a period of 3 months in which to claim.

AA and DLA have a waiting period applied to the benefit and as such do not allow any backdating.

3. Who will benefit mainly from this proposal or change?

3.1 The Department, will benefit operationally from the time for claiming change in Pension Credit as this change will help to relieve the difficulties described above, and the process of claiming will become more efficient. A reduction to a 3 month period in which to claim Pension Credit will benefit those processing claims by:

- reducing the amount of evidence and information to be collected from customers;
- simplifying the verification process as documents will be more likely to be available for a 3 month period; and
- easing decision making as there will no longer be a need for evidence and detailed review of changes of circumstances and entitlement over a 12 month period.

3.2 Customers should find the claiming process less onerous as:

- evidence of their circumstances over a period of up to 3 months is more likely to be accessible;
- it may be easier to recall changes in circumstances over a shorter period; and
- claims should be dealt with more quickly.

3.2 The change also enables the Department to make the other beneficial changes across Pension Credit/Housing Benefit and Council Tax Benefit described in section 1.

4. What information and/or data (evidence) has been obtained to impact assess this proposal or change?

4.1 The assessment has drawn upon evidence from Departmental administrative data sources and from Pension Service operations. Welfare rights and other similar organisations have been invited to send in details of case studies or other information about the potential impact of the draft proposals.

4.2 The Department has already consulted key stakeholders such as Help the Aged and Age Concern and is continuing to receive representations from other bodies such as Citizens Advice. Help the Aged and Age Concern, whilst not welcoming this change, have said that steps should be taken to ensure that the Department maintains momentum on raising awareness and take up campaigns that mitigate against the potential impact, by encouraging people to apply as soon as they may be eligible and encouraging those who may have been eligible for some time to claim before the proposed changes come into force.

5. What is the impact of the proposal or change on different groups?

- 5.1 Changing the time for claiming to 3 months will mean that those customers who claim after the change will have 3 months to claim once they think they may be eligible. The changes will apply to all new claimants and as such, will be equally applied to all customer groups but we have considered the potential impacts on different customer groups and this is covered in the following sub sections.

Existing customers

- 5.2 There will be no impact on existing customers, i.e. those who are already in receipt of Pension Credit or on those who make a new claim before the proposed new regulations come into force

Customers already potentially eligible but who have not yet applied

- 5.3 Those customers who may have been eligible for longer than 3 months at the time of the proposed changes will not be able to extend their time for claiming for up to 12 months once the change is implemented. However the Department is taking steps to encourage these people to apply before the new rules come into force. Section 6 below explains these steps in detail.

Customers who apply after the change

- 5.4 Potential future Pension Credit customers who make a claim following the change will only have 3 months to make their claim. There will be no adverse effect on anyone making a claim within 3 months of entitlement.

Disabled people, women, older customers and ethnic minorities

- 5.5 An analysis of the differential impact of the policy proposal by gender, age group and disability based on historical records of Pension Credit claims has been undertaken. It is not possible to extend this analysis to include analysis by ethnic group because that information is not collected on the data source used.
- 5.6 In 2006/07 we estimate that around 40% of customers who successfully claimed Pension Credit backdated⁷ their claims for more than 3 months. On average they received backdated payments of around £1,200. Just over half those who backdated their claims, did so for the maximum period of 12 months. Table 1 summarises what we

⁷ There is no data held directly on backdated payments of Pension Credit so the number of weeks backdated has been derived from the difference between the entitlement and award start dates and an adjustment made to allow for some of the difference being due to processing time.

know about the incidence of backdating Pension Credit across customer groups.

Table 1: The incidence of backdating in Pension Credit in 2006/7 by customer group

	Percentage of successful claims within the group that were backdated for more than 3 months	Percentage of successful claims within the group that were backdated for 12 months
All successful claimants	40%	25%
Males	35%	20%
Females	40%	25%
Under 75	30%	15%
75+	60%	40%
In receipt of AA/DLA	40%	25%
Not in receipt of AA/DLA	35%	25%

Note: percentages rounded to the nearest 5%

Source: DWP administrative records.

5.7 The data we have therefore suggests that:

- Older pensioners are more likely to be affected by the proposed rule change. In 2006/7 older pensioners were more likely to backdate their claims than younger pensioners and were also more likely to do so for the maximum 12 months.
- A similar percentage of female and male claimants backdated their claims for more than 3 months.
- A similar percentage of disabled (those receiving Attendance Allowance or Disability Living Allowance) and non-disabled customers backdated their claims for more than 3 months.

5.8 The Department recognises that the impact could potentially be greater for older customers. Customer representatives have suggested that people with certain disabilities such as mental health impairments or communication difficulties may be less able to make their claims within the 3 month period, because they may not be aware of the existence of the benefit or may fail to understand the process for making a claim. So, even though our data suggests that disabled people are no more likely to be affected by the policy as non-disabled people overall, the Department recognises that there may be people with certain disabilities that face particular challenges in claiming within 3 months of their entitlement starting.

5.9 We have been unable to establish how many customers of ethnic minority origin backdated for this period as the Department does not collect such information.

6 Proposed mitigation of any negative impacts

- 6.1 Since the introduction of Pension Credit in 2003, the Department has significantly improved and simplified the process for claiming. It is now possible to make a claim for Pension Credit in a single telephone call (although claims may still be made in writing if preferred). Additionally, The Pension Service will always offer customers a home visit to help them make a claim. As such, disabled or elderly customers will not need to delay claiming until they can find a friend or relative to support them.
- 6.2 Local partnership agreements are either in place or approaching completion with all 203 primary tier Local Authorities and surrounding voluntary sector organisations to provide a single point of access to social care and benefit entitlement. This provides access to some of the most vulnerable pensioners, many of whom have never applied for any entitlement, and may not be aware of what is available or how to claim.
- 6.3 The Department has also set up Alternative Offices (which allow Local Authorities and voluntary organisations to accept claims from people aged 60 or over for Social Security benefits, or a person under 60 for benefits from the Disability and Carers Service), together with community based Information Points (formerly known as surgeries) in places that customers are familiar with, such as Age Concern, CAB and voluntary sector organisations, providing access for some of the most vulnerable pensioners
- 6.4 The Department has already undertaken extensive marketing and publicity in order to encourage people to claim Pension Credit and will continue to work closely with Age Concern, Help the Aged and others to ensure that potential customers are aware of the proposed new rules. At a national level both organisations are members of the Partnership Against Poverty forum set up at the outset of the Pension Credit campaign to help to encourage take-up. We are building on the relationships we already have with Help the Aged and Age Concern to work with both organisations to promote Pension Credit take-up over the coming year.
- 6.5 The Department is confident that everyone who currently may have a potential entitlement to Pension Credit has now been contacted by The Pension Service and have been given the opportunity to make a claim. From our take-up and marketing analysis we have established that most of those potential claimants who may be eligible for Pension Credit, but who have not yet claimed have been contacted and made aware of the benefit, in a variety of ways: with over 75% of those people that the Department has identified as having a potential entitlement having been contacted 5 times or more by a combination of telephone calls and targeted mailshots.

- 6.6 Data on take-up shows that up to 81% of those entitled to the Guarantee Credit element of Pension Credit are claiming it. However, in recognition that there may still be some potential customers who are unaware of their possible entitlement to Pension Credit, the Department intends to continue to promote take-up of benefits by those entitled and will continue to use data matching to identify those eligible to, but not claiming Pension Credit.
- 6.7 Home visits will continue to be used to target vulnerable customers (in 2007/2008 the Pensions Service aims to carry out around 680,000 face to face visits) and seek to ensure that customers claim all of the benefits they may be entitled to.
- 6.8 Take-up activity, information and awareness, leaflets and the claim process already take account of equality and diversity requirements. Information which is sent out to customers is written to plain English standards and to the standards set by RNIB. If a customer needs the literature in an alternative language/format The Pension Service will arrange for this to happen. For those customers whose first language is not English interpretation services are available on request.
- 6.9 Prior to October 2008 when the changes are introduced, leaflets (available in alternative formats) will be amended to explain the proposed new rules so that those claimants who may wish to claim for a period which is more than 3 months will be aware of the need to do so before the proposed new regulations come into force.
- 6.10 The Pension Service through its local service will continue to work closely with local partners such as Help the Aged, Age Concern, and other community groups to improve take-up and ensure people are aware of the new rules. The Department will continue to work with these groups following the introduction of the change to continue to help those with potential entitlement to claim and to ensure that all potential claimants are aware of the benefit and the time limits for claiming.

7. Does the proposal or change have a positive impact on any group?

- 7.1 The change enables us to focus expenditure on improving the benefit process through a package of simplification measures which brings benefits to all customers in terms of an improved service and less intrusion into their financial circumstances. For example, from October 2008 those who claim Pension Credit by telephone will also be able to claim Housing Benefit and Council Tax Benefit without the need for a claim form and signature. The claim details will then be sent to the Local Authority for assessment. Making the process simpler and more customer focussed. Around 50,000 pensioners will gain from this measure.

8. Conclusion

- 8.1 The Department believes that a change in the time period for claiming Pension Credit will improve the administrative process for benefit claims and enable us to focus on improvements in the benefit process overall, which will lead to a better experience for customers making claims and less intrusion for older customers with Assessed Income Periods.
- 8.2 The Department recognises that there may potentially be impacts on some customer groups but believe the steps taken to maintain focus on take-up and highlight awareness of the change should minimise any impacts that could arise.
- 8.3 The Department will continue to review take-up activity and the benefit process and will ensure appropriate support and help is available to the most vulnerable customers to identify potential entitlement and to ensure that they are able to claim Pension Credit as soon as possible once they become eligible.

B: CHANGE TO THE TIME PERIOD FOR CLAIMING HOUSING BENEFIT AND COUNCIL TAX BENEFIT FOR THOSE OF PENSION CREDIT AGE

C: CHANGE TO THE BACKDATING RULES FOR HOUSING BENEFIT AND COUNCIL TAX BENEFIT FOR THOSE OF WORKING AGE

9. Purpose and aims of the proposals

- 9.1 The Department plans to amend the time for claiming Housing Benefit (HB) and Council Tax Benefit (CTB) for pensioners from 12 to 3 months, to align with changes proposed to Pension Credit. To ensure consistency and simplicity for customers, it is also proposed that the period a claim for HB/CTB from working age customers can be backdated will be reduced from 52 weeks to 3 months. Both of these changes are consistent with the overall simplification agenda, making the rules for HB/CTB easier for customers and staff to understand. They broadly align HB/CTB with the backdating rules for other income related benefits. And these changes will also support the drive to improve administrative efficiency.

10. Who will benefit mainly from this proposal or change?

- 10.1 The changes to the time for claiming and backdating in HB/CTB are part of the overall simplification package that will enable resources to be targeted at improving the benefit process for these benefits as

explained in Section 1. In particular the changes will allow resources to be invested in a change to the claims process for HB/CTB that will remove the need for a signed claim form for those claims taken by phone alongside Pension Credit, making the claims process more automatic for these customers.

10.2 Operational staff will also benefit from improvements in the administration process, as a result of:

- reduced levels of evidence and information to be collected from customers;
- simplified verification process as documents will be more likely to be available for a 3 month period; and
- improved speed and efficiency of decision making as there will no longer be a need for evidence and detailed review of changes of circumstances and entitlement over a 12 month period.

10.3 In addition, for people of pension age, the claiming process will be less onerous as:

- evidence of their circumstances over a period of up to 3 months is more likely to be accessible;
- it may be easier to recall changes in circumstances over a shorter period; and
- claims should be dealt with more quickly.

11. What information and/or evidence has been used to assess the impact of this proposal ?

11.1 The assessment has drawn upon evidence from Departmental analysts, from local authorities; and from a number of external stakeholders such as Citizens Advice (CA), and Child Poverty Action Group (CPAG).

Information about the data used

11.2 The scope of our analysis is restricted by the breadth and reliability of the data available to us. The information presented here represents the most complete and in-depth impact assessment possible subject to these data limitations.

11.3 Figures on the number and proportion of HB and CTB claimants likely to be affected by the backdating rule are derived from the Single HB Extract (HBSD-IAD scan)⁸. The backdating variable in the Single HB Extract was introduced relatively recently (April 2007) and accordingly we have no means of corroborating the data's robustness against historical data. The data only goes back 6 months. There are some

⁸ HBSD-IAD scan is a case level dataset of HB/CTB claims, extracted directly from LA computer systems

concerns about the consistency of information provided by each local authority, but this will improve over time.

Data relating to number of claims backdated

11.4 Based on the first six months of data available, it is estimated that approximately 0.2%, of new HB and CTB claims would be affected. In absolute terms, this is approximately 3,000 HB and 3,000 CTB claims per year (Great Britain). These figures may be subject to revision as more data becomes available, however it is clear that the proposal would affect a relatively small group of individuals.

Existing HB and CTB claimants broken down by Equality group

11.5 The figures below correspond to the existing stock of HB and CTB claimants, for which we have reliable data. The data below present information on claimants' age, disability, ethnicity, claim type (passported/non-passported) and tenancy type.

11.6 Information on existing Housing Benefit and Council Tax Benefit claimants relate to Quarterly data. This aggregate-level data, provided by Local Authorities, offers a point-in-time estimate of the HB and CTB stockcount based on clerical returns. It is a trusted data source, however it contains no information on backdating. To no extent therefore is this information a substitute for information on backdating clients. Nevertheless, it is hoped that these figures are suggestive of the groups likely to be affected under the proposals.

11.7 Receipt of Housing Benefit

(a) Age, Disability and Tenancy Type

At February 2007, there were 4.04 million family units in receipt of Housing Benefit in Great Britain. During the four quarters to February 2007, there were on average:

- 37% (1.50m recipients) classed as elderly
- 63% (2.52m recipients) classed as working
- Of the elderly, 48% (0.72m) were in Local Authority housing, 39% (0.59m) were in Registered Social Landlord housing, and 13% (0.19m) were in the Private Rental Sector.
- Of the working age, 38% (0.95m) were in Local Authority housing, 35% (0.89m) were in Registered Social Landlord housing, and 27% (0.67m) were in the Private Rental Sector.

Source: quarterly 121 & 122 data

(b) Of recipients aged under 60:

- 40% (1.02m recipients) had a disability or long term illness
- 34% (0.85m recipients) were lone parents

- 11% (0.28m recipients) were unemployed
- 15% (0.38m recipients) were 'Others' - mostly in work, carers, widows, or had a short term illness.

Source: quarterly 121 & 122 data, averages over 4 quarters to February 07, splits by provisional May 05 1% data

(c) Ethnicity of recipients

The 2005-06 Family Resources Survey details the proportion of all benefit units in the sample in receipt of HB by ethnic grouping (based on the ethnicity of the head of the household):

- 11% of all 'white' benefit units are in receipt of HB
- 15% of 'mixed race' benefit units
- 8% of 'Asian or Asian British' benefit units, including
 - 4% of 'Indian' benefit units
 - 11% of 'Pakistani and Bangladeshi' benefit units
- 22% of 'Black or Black British' benefit units, including
 - 22% of 'Black Caribbean' benefit units
 - 23% of 'Black non-Caribbean' benefit units
- 12% of 'Chinese or other ethnic group' benefit units.

(d) Claim Type

Passported HB recipients: At February 2007, there were 2.92 million HB recipients (72% of the total HB caseload) also in receipt of a passporting benefit, and therefore in receipt of a full HB award.

Non-Passported HB recipients: At February 2007 there were 1.12 million HB recipients (28% of the total HB caseload) not in receipt of a passporting benefit.

Note: Passported benefits: refers to people in receipt of Income Support, income-based Jobseekers Allowance or guarantee credit or treated as receiving one of these benefits, who qualify for maximum HB/CTB.

11.8 Receipt of Council Tax Benefit

(a) Age, Disability and Tenancy Type

At February 2007 there were 5.10 million family units in receipt of Council Tax Benefit in Great Britain, of which:

- 50% (2.55m recipients) were classed as elderly
- 50% (2.55m recipients) were classed as working age

Source: February 2007 quarterly 121 & 122 data.

(b) Of recipients aged under 60, we estimate:

- 42% (1.07m recipients) have a disability or long term illness.
- 34% (0.87m recipients) are lone parents.
- 11% (0.29m recipients) are unemployed.
- 13% (0.34m recipients) are 'Others'- either in work, carers, widows or had a short term illness.

Source: quarterly 121 & 122 data, averages over 4 quarters to February 07, splits by provisional May 2005 1% data

(c) Ethnicity of Recipients

The 2005-06 Family Resources Survey details the proportion of all benefit units in the sample in receipt of CTB by ethnic grouping (based on the ethnicity of the head of the household):

- 15% of all 'white' benefit units are in receipt of CTB
- 17% of 'mixed race' benefit units
- 15% of 'Asian or Asian British' benefit units, including
 - 10% of 'Indian' benefit units
 - 21% of 'Pakistani and Bangladeshi' benefit units
- 24% of 'Black or Black British' benefit units, including
 - 25% of 'Black Caribbean' benefit units
 - 23% of 'Black non-Caribbean' benefit units
- 14% of 'Chinese or other ethnic group' benefit units.

Source: 2005-06 FRS report

(d) Claim Type

Passported CTB recipients - At February 2007 there were 3.61 million CTB recipients (71% of the total CTB caseload) also in receipt of a passporting benefit.

Non-Passported CTB recipients - At February 2007 there were 1.49 million CTB recipients (29% of the total CTB caseload) not in receipt of a passporting benefit.

Additional information

11.9 A questionnaire was sent to 27 local authorities (out of a total of 408 local authorities), seeking information from them about HB/CTB claims that are backdated. All submitted responses, but the quality of the data provided varied considerably, and we have concerns that they each used different criteria for counting the number of backdating requests. There are a number of reasons why a claim may be paid from an earlier date, and backdating on the basis of good cause forms just one category. Of the responses we did receive, the figures given for the number of claims that were successfully backdated varied from 0.9% to 20%. The reasons given for backdating varied but commonly included ignorance of the benefit system (which in fact is not a reason for 'good cause' backdating), and health problems. The majority of authorities backdated claims for less than 3 months, with 25% saying

they backdated some claims for periods greater than 3 months. Both the reliability of this data, and the lack of specific detail about how many claims are backdated for particular periods, means we cannot draw any firm conclusions from this exercise. It does, however, indicate that practices vary across local authorities and that people with health conditions are probably a key group that will be affected by the proposed change.

11.10 Welfare rights and other similar organisations have been invited to send in details of case studies or other information about the potential impact of the draft proposals. We received 11 emails from a variety of local organisations, providing details of case studies. Also two letters were sent to DWP Ministers, from CPAG, and from CA. The majority of examples related to people with mental health impairments or other disabilities, and pensioners who were unfamiliar with the claims process. A small number related to claims where insufficient information was provided and the claim was subsequently closed. While it is not possible to draw any conclusions regarding numbers who might be affected, there may be some people, notably those with health problems, who potentially may be disadvantaged. However in many cases people with health or communication difficulties will have access to a third party such as a carer, advice worker, etc who may be able to offer assistance with the claiming process.

12. What is the impact of the proposal or change on different groups?

12.1 There will be no impact on those customers who are already in receipt HB/CTB or on those who make a new claim before the new regulations come into force. All new customers on or after 6 October 2008 will have 3 months in which to make a claim.

12.2 There are no changes proposed to the rules on backdating. In summary, for people of working age, they must show that there was a good reason for not applying sooner. Ignorance of a particular benefit is not considered to be an acceptable reason. The circumstances in which good cause can be established generally falls into four main categories:

- the customer was so ill or otherwise unable to act that they could not claim and could not ask someone to claim for them;
- someone the claimant should have been able to rely on wrongly advised them they could not get HB/CTB;
- there were good reasons for the customer not believing they could claim, amounting to more than just not thinking or caring;
- some external factor prevented the customer from making a claim (eg failure of postal services, imprisonment).

12.3 There may be some impact on new customers who are disabled. In particular, customers who have mental health impairments or communication difficulties may not always be in a position to make

their claims within the 3 month period, because they are not aware of the existence of these benefits or fail to understand the process for making a claim (due to the nature of their impairment), and have no one to advise or assist them.

- 12.4 A clear conclusion derivable from the data is that only a relatively small number of individuals would be affected by the modification to the backdating rule, and this would mainly be in the category of working age, disabled people.
- 12.5 While currently some pensioners may have difficulty claiming on time, we believe that this problem will largely disappear from October when new claims processes are introduced and joint claims are taken over the telephone for Pension Credit and HB/CTB, without the need for customers to complete or sign a claim form. The application will be sent directly to the local authority for processing. This will benefit both disabled and non disabled people of pension age.

13. Proposed mitigation of any negative impacts

- 13.1 When similar proposals were put before SSAC in 2001, a number of concerns were raised and the proposed changes were withdrawn. The present package of changes are being submitted for SSAC's consideration in the knowledge that much has changed in the last seven years, removing many of the previously identified negative impacts. In addition, there are no plans to amend the rules on 'good cause.'
- 13.2 The administration of HB and CTB is now much improved, and this is backed up by Local Government Ombudsmen reports. Complaints about HB Administration have reduced by 74% in the last few years. Significant improvements have been made to local authority performance, which mean for example, that average HB/CTB processing times have been cut from 56 days in 2002/03 to 33 days in 2006/07.
- 13.3 The simplification agenda has considerably reduced the complexity of the benefit system making it easier for customers to get their entitlement. For example:
- the Pension Service now uses a shortened claim form (down from 26 to 3 pages) to target people who are claiming Pension Credit but are not claiming help with HB/CTB;
 - streamlined claim processes have been introduced, including the introduction of combined claims with DWP administered benefits, and more opportunities have been created for benefit claims to be made via third sector partners;
 - to align the benefit system, 'intention to claim' rules for HB/CTB have been introduced, and increased time limits to align with DWP administered income-related benefits;

- and modifications for pensioners applying for Pension Credit have been mirrored in HB/CTB.

- 13.4 The impact of the changes will be mitigated in a number of ways. The Department will undertake a publicity campaign alerting customers to the potential change and encouraging them to apply before October 2008 should they believe that they are entitled to more than three months backdated HB/CTB. The campaign will start in late spring/early summer, and will include information to be circulated via the internet, and in the Departmental publication, Touchbase.
- 13.5 The Department will work with LAs and other landlords, reminding them of the need to address rent arrears promptly and by no later than the 8 week stage (the point at which action is usually triggered). As this will be within the 3 month period proposed, this change would still allow vulnerable working age customers who can show 'good cause' to claim HB/CTB and apply for backdating to cover the period of arrears. Pensioners of course will be able to apply for 'backdating' without having to show good cause. This will give customers an opportunity of claiming HB/CTB within the three-month period should that be necessary, and will help address concerns about a potential increase in evictions and homelessness.

14. Conclusion

- 14.1 The Department considers that the alignment of rules in this area is important in providing consistent rules across benefits to simplify the system as a whole. The period of 3 months strikes the right balance for income-related benefits that are intended to meet current day-to-day needs and which are generally administered far more efficiently than they were only a few years ago.
- 14.2 The Department considers that this change will still protect vulnerable customers from building up large debts, or facing eviction, in that such action is usually triggered where 8 weeks rent arrears has accumulated.
- 14.3 The Department will take steps to ensure people are aware of the changes prior to October 2008 and are encouraged to apply for their entitlement. Landlords will be encouraged to address rent arrears before they build up to more than 8-weeks. The changes will be monitored and further steps to mitigate any impact will be considered if necessary.

Review:

Signed:

Date:

2008 No.

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) (No.2?)
Regulations 2008

Made - - - - - ***
Laid before Parliament ***
Coming into force - - - - - 6th October 2008

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 5(1)(a), 6(1)(a), 189(1),(3),(4) and (5) and 191 of the Social Security Administration Act 1992⁽⁹⁾, section 175(4) of the Social Security Contributions and Benefits Act 1992⁽¹⁰⁾ and sections 1(5), 17 and 19 of the State Pension Credit Act 2002⁽¹¹⁾.

[In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it.]

[In accordance with sections 172(1) and 176(1) of the Social Security Administration Act 1992, the Secretary of State has referred these Regulations to the Social Security Advisory Committee and has consulted with organisations appearing to him to be representatives of the authorities concerned.]

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 2?) Regulations 2008 and shall come into force on 6th October 2008.

⁽⁹⁾ 1992 c. 5. Section 189(1) was amended by the Social Security Act 1998 (c.14), Schedule 7, paragraph 109(a) and Schedule 8, by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), Schedule 3, paragraph 57(1) and (2) and by the Tax Credits Act 2002 (c.21), Schedule 6. Section 191 is cited for the meaning ascribed to the word “prescribe”.

⁽¹⁰⁾ 1992 c.4. Section 175 is applied to the provisions of the State Pension Credit Act 2002 (c. 16) by virtue of section 19 of that Act.

⁽¹¹⁾ c. 16. Section 17 is cited for the meaning ascribed to the word “prescribe”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

2.—(1) The Social Security (Claims and Payments) Regulations 1987⁽¹²⁾ are amended as follows.

(2) After regulation 19(3)(h)(time for claiming benefit) ⁽¹³⁾ add—

“(i) subject to paragraph (3D), state pension credit.”.

(3) After regulation 19(3C) ⁽¹⁴⁾ insert—

“(3D) For avoidance of doubt, where a claim for state pension credit is, or is treated as made on or after 6th October 2008, in respect of any period beginning before 6th October 2008, the time for claiming shall be 3 months.”.

(4) Paragraph 12 of Schedule 4 ⁽¹⁵⁾ (prescribed times for claiming benefit) is omitted.

Amendment of the State Pension Credit Regulations 2002

3.—(1) The State Pension Credit Regulations 2002⁽¹⁶⁾ shall be amended as follows.

(2) For regulation 3 (persons temporarily absent from Great Britain) substitute—

“3. A claimant’s entitlement to state pension credit during periods of temporary absence from Great Britain is to continue for up to 13 weeks only if—

(a) the period of the claimant’s absence from Great Britain is unlikely to exceed 52 weeks; and

(b) while absent from Great Britain the claimant continues to satisfy the other conditions of entitlement to state pension credit.”.

(3) In regulation 5(persons treated as being or not being members of the same household)—

(a) for paragraph (1)(f) substitute—

“(f) he is absent from Great Britain for more than 13 weeks.”; and

(b) omit paragraph (3).

(4) In paragraph 1(8) of Schedule III (special groups: polygamous marriages) [after “regulations”] omit “3”

(5) For the avoidance of doubt, this regulation applies to a claimant—

(a) whose period of temporary absence from Great Britain begins on or after 6th October 2008; or

(b) who is already temporarily absent from Great Britain on 6th October 2008 and whose entitlement to state pension credit was continuing immediately before the coming into force of this instrument.

Amendment of the Housing Benefit Regulations 2006

4.—(1) The Housing Benefit Regulations 2006⁽¹⁷⁾ are amended as follows.

(2) In regulation 83(12)(b)(time and manner in which claims are to be made), for “the day 52 weeks” substitute “subject to paragraph (12A), the day 3 months”.

(3) After regulation 83(12)(b) insert—

⁽¹²⁾ S.I. 1987/1968.

⁽¹³⁾ Regulation 19 was substituted by S.I. 1997/793.

⁽¹⁴⁾ Regulation 19(3C) was inserted by 2007/2740.

⁽¹⁵⁾ Schedule 4, paragraph 12 was inserted by S.I. 2004/1821.

⁽¹⁶⁾ S.I. 2002/1792. Regulation 3 was amended by S.I. 2003/2274 and 2006/718 and regulation 5(1)(f) was amended by S.I. 2003/2274.

⁽¹⁷⁾ S.I. 2006/213.

“(12A) Where a claim for a past period is made in accordance with paragraph (12), in respect of any period before the 6th October 2008, the maximum period for which that claim may be backdated shall be 3 months beginning with the date of claim for backdating.”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006

5.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽¹⁸⁾ are amended as follows.

(2) In regulation 64(1) (time and manner in which claims are to be made), for “The prescribed time” substitute “Subject to paragraph (1A), the prescribed time” and for “twelve months” substitute “three months”.

(3) After regulation 64(1), insert—

“(1A) For avoidance of doubt, where a claim for housing benefit is, or is treated as made on or after 6th October 2008, in respect of any period beginning before 6th October 2008, the time for claiming shall be 3 months.”.

(4) In regulation 64(13)(b), for “the day 52 weeks” substitute “subject to paragraph (13A), the day 3 months”.

(5) After regulation 64(13)(b), insert—

“(13A) Where a claim for a past period is made in accordance with paragraph (13), in respect of any period before the 6 October 2008, the maximum period for which that claim may be backdated shall be 3 months beginning with the date of claim for backdating.”.

Amendment of the Council Tax Benefit Regulations 2006

6.—(1) The Council Tax Benefit Regulations 2006⁽¹⁹⁾ are amended as follows.

(2) In regulation 69(14)(b) (time and manner in which claims are to be made), for “the day 52 weeks” substitute “subject to paragraph (14A), the day 3 months”.

(3) After regulation 69(14)(b) insert—

“(14A) Where a claim for a past period is made in accordance with paragraph (14), for any period before the 6th October 2008, the maximum period for which that claim may be backdated shall be 3 months beginning with the date of claim for backdating.”.

Amendment of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

7.—(1) The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽²⁰⁾ are amended as follows.

(2) In regulation 53(13)(b) (time and manner in which claims are to be made) for “the day 52 weeks” substitute “subject to paragraph (13A), the day 3 months”.

(3) After regulation 53(13)(b) insert—

“(13A) Where a claim for a past period is made in accordance with paragraph (13), for any period before the 6th October 2008, the maximum period for which that claim may be backdated shall be 3 months beginning with the date of claim for backdating.”.

(4) Regulation 56 (time for claiming council tax benefit) becomes paragraph (1).

(5) In that paragraph, for “The prescribed time” substitute “Subject to paragraph (1A) the prescribed time” and for “12 months” substitute “3 months”.

(6) After that paragraph, add—

⁽¹⁸⁾ S.I. 2006/214.

⁽¹⁹⁾ S.I. 2006/215.

⁽²⁰⁾ S.I.2006/216.

“(1A) . For avoidance of doubt, where a claim for council tax benefit is, or is treated as made on or after 6 October 2008, in respect of any period beginning before 6 October 2008, the time for claiming shall be 3 months.”.

Signed by authority of the Secretary of State for Work and Pensions.

Date
Parliamentary Under Secretary of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987, (“the Claims and Payments Regulations”), the State Pension Credit Regulations 2002 (“the State Pension Credit Regulations”), the Housing Benefit Regulations 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, the Council Tax Benefit Regulations 2006 and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

Regulation 2 amends regulation 19 of, and Schedule 4 to, the Claims and Payments Regulations. Regulation 2(2) adds state pension credit to the list of benefits set out in regulation 19(3) of those Regulations so that the time for claiming it is prescribed as 3 months beginning with any day on which, apart from satisfying the condition of making the claim, the claimant is entitled to the benefit concerned. Regulation 2(3) provides, for the sake of clarity, that in the case of a claim that is made, or treated as made, for a period beginning before these Regulations come into force, the time for claiming shall be 3 months. Regulation 2(4) omits state pension credit from Schedule 4 to the Claims and Payments Regulations.

Regulation 3 amends the State Pension Credit Regulations so that the period in which entitlement to pension credit continues during a period of temporary absence abroad is increased to 13 weeks and makes consequential amendments to regulation 5 and Schedule 3 of those regulations.

Regulation 4 amends the Housing Benefit Regulations 2006. Regulation 4(2) amends regulation 83(12)(b) of those Regulations so as to enable a claim for housing benefit to be backdated for 3 months. Regulation 4(3) has the effect of limiting the period for which backdated claims to housing benefit may be made to 3 months beginning with the date of the backdated claim.

Regulation 5 amends the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Regulation 5(2) amends the time for claiming housing benefit from 12 months to 3 months. Regulations 5(4) and (5) have the effect of limiting the period for which backdated claims to housing benefit may be made to 3 months beginning with the date of the backdated claim.

Regulation 6 amends the Council Tax Benefit Regulations 2006. Regulation 6(2) amends regulation 69(14)(b) of those Regulations 2006 by substituting the words “the day 3 months” for “the day 52 weeks”. The amendment enables a claim for council tax benefit to be backdated for 3 months, instead of 52 weeks. Regulation 6(3) has the effect of limiting the period for which backdated claims to council tax benefit may be made to 3 months beginning with the date of the backdated claim.

Regulation 7 amends the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. Regulation 7(2) and (3) have the effect of limiting the period for which backdated claims to council tax benefit may be made to 3 months beginning with the date of the backdated claim. Regulations (4) to (6) amend the time for claiming council tax benefit from 12 months to 3 months.

A full impact assessment has not been published for this instrument as no impact on private or voluntary sectors is foreseen.

ADDENDUM TO THE EXPLANATORY MEMORANDUM

Estimated numbers and types of Pension Credit claims affected by the reduction in the time for claiming (backdating)

1. The Department has estimated the numbers of customers that could be affected by proposals to reduce the time for claiming Pension Credit from twelve to three months. These estimates are included in the table below:

Table 1: Estimate of the incidence of extending the time for claiming (known as backdating) in Pension Credit in 2006/7 by customer group

	Total successful claims for Pension Credit	Number of successful claims within the group that were backdated for 3 months or less	Number of successful claims within the group that were backdated for more than 3 months		Number of successful claims within the group that were backdated for 12 months	
	Number	Number	Number	% of successful claims	Number	% of successful claims
All successful claimants	276,610	170,000	110,000	40%	70,000	25%
Males	124,210	80,000	40,000	35%	30,000	20%
Females	152,400	90,000	60,000	40%	40,000	25%
Under 75	188,310	130,000	50,000	30%	30,000	15%
75+	88,300	40,000	50,000	60%	40,000	40%
In receipt of AA/DLA	112,200	70,000	40,000	40%	30,000	25%
Not in receipt of AA/DLA	164,410	100,000	60,000	35%	40,000	25%

Source: DWP experimental statistics on-flows onto Pension Credit in quarters May 2006 to February 2007

Notes:

- Total successful claims have been rounded to the nearest 10 cases.
- Estimates of the percentage of successful claims by period of backdating have been rounded to the nearest 5 percentage points.
- Estimates of the number of successful claims by period of backdating have been rounded to the nearest 10,000 cases.
- Due to rounding the numbers of successful claims by period of backdating may not sum to the total number of successful claims
- Care should be taken when interpreting the table. As the Department does not routinely collect information on Pension Credit backdating periods, these have been estimated by comparing the date entitlement starts and the date Pension Credit is put into payment. Estimated

backdating periods therefore include unknown periods of time that are due to processing, evidence gathering and verification work which routinely accompany every claim for Pension Credit.

- On-flows measure the total number of spells on benefit that commenced within a quarter. They do not include flows where people have moved out of one area and into another while remaining on the benefit.

Estimated costs and savings of the changes

2. The proposals to reduce the time for claiming periods (referred to as backdating) for Pension Credit and Housing Benefit/Council Tax Benefit for pensioners, the backdating periods in Housing Benefit and Council Tax Benefit for those of working age, and the changes to Pension Credit rules on absence abroad, are part of a package of measures aimed at improving the claims process for pensioners and simplifying certain rules. These measures will enable claims for HB/CTB to be taken alongside claims for Pension Credit and forwarded directly to the Local Authority, and allow for the introduction of an indefinite Assessed Income Period for those Pension Credit customers aged 80 or over or who have an Assessed Income Period spanning their 80th birthday (benefiting most customers aged 75 or over). They also deliver simplified arrangements for Pension Service Staff and local authority staff to help deliver the improved service.
3. It is important that all of these initiatives are considered as key components of a wider set of pension measures, rather than individual changes. Other measures include the up-rating of the Pension Credit standard minimum guarantee this year by 4.2% (more than the earnings commitment made for Pension Credit over the long term) and the one-off additional amount with the Winter Fuel Payment for the winter of 2008/09.
4. The costs and savings associated with the wider set of pension measures along with the estimated savings produced by the time for claiming/backdating proposals and costs of the Pension Credit temporary absence abroad proposal, are set out in the table below:

Table 2: Estimates of costs/savings

	2008	2009	2010	2015	2020	2030	2040	2050
£ million, 2007/8 prices								
Total pension measures	575	-25	0	0	75	150	200	250
<i>Of which:</i>								
Pension Credit backdating	-55	-100	-95	-70	-65	-55	-45	-40
Housing Benefit / Council Tax Benefit backdating	-35	-70	-70	-70	-65	-70	-80	-110
Absence abroad	1.0	2.0	2.0	1.5	1.5	1.5	1.5	1.5

Source: DWP modelling

Notes:

- Negative figures represent net savings.
- The total set of wider pensions measures includes the simplification package and spending on other pension measures in 2008/09, 2009/10 and 2010/11.
- Figures relate to financial years.
- Estimates represent combined administrative and benefit costs/savings
- total estimates for the wider portfolio of pensions measures have been rounded to the nearest £25m.
- Estimates for individual measures have been rounded using the following convention: figures over £100 million have been rounded to the nearest £10 million, figures between £10m and £100m rounded to the nearest £5 million and figures less than £10 million have been rounded to the nearest £0.5 million.
- Other pension measures include the up-rating of the Pension Credit standard minimum guarantee this year by 4.2% (more than the earnings commitment made for Pension Credit over the long term, the relevant average earnings figure was 3.5%) and the one-off additional amount with the Winter Fuel Payment for the winter of 2008/09
- Simplification package includes the following measures: Automatic forwarding of Housing Benefit/Council Tax Benefit claim details taken alongside a Pension Credit claim to the Local Authority, without the need for a signed claim form; Reduction of the maximum Housing Benefit/Council Tax Benefit backdating period from 12 to 3 months; Reduction of the maximum Pension Credit time for claiming period from 12 to 3 months; Increasing the length of time Pension Credit recipients may be abroad without losing their entitlement from 4 to 13 consecutive weeks; and the introduction of an indefinite Assessed Income Period for those Pension Credit customers aged 80 or over or who have an Assessed Income Period spanning their 80th birthday (benefiting most customers aged 75 or over).
- Estimated costs and savings are consistent with the 2008 Budget settlement but it should be noted that they are based on a set of assumptions and are subject to change as new data becomes available.
- Estimated costs/savings of the Pension Credit backdating and absence abroad measures have been projected forward from 2011 in line with the growth in the long-run forecast of expenditure on Pension Credit.
- Estimates of the anticipated HB/CTB backdating savings are based on the Single HB Extract (HBSD-IAD scan)²¹. The backdating variable in the Single HB Extract was introduced relatively recently (April 2007) such that we have no means of corroborating the data's robustness against historical data. These concerns should be allayed with time as the scan data improves.
- Estimated savings from the Housing Benefit/Council Tax Benefit backdating measure have been projected forward from 2011 in line with the growth in the long-run forecast of expenditure on Housing Benefit and Council Tax Benefit.

²¹ HBSD-IAD scan is a case level dataset of HB/CTB claims, extracted directly from LA computer systems

APPENDIX 2

LIST OF RESPONDENTS TO THE CONSULTATION EXERCISE (in order of date received)

1. Edinburgh City Council
2. Citizens Advice Scotland
3. Roddons Housing Association
4. Severnvale Housing
5. Chevin Housing Association Ltd
6. Hertfordshire County Council
7. Howard Cottage
8. Spa Housing Association
9. Housing Hartlepool
10. Bristol Community Housing Foundation
11. Theshold – Homes
12. City and County of Swansea Council
13. People First Housing Association Ltd
14. Carol Wheeler
15. Salma Shah
16. Twin Valley Homes Ltd
17. Age Concern Nottingham and Nottinghamshire
18. The Low Incomes Tax Reform Group
19. St Vincent’s Housing Association Ltd
20. Aven Quest Homes
21. Scottish Borders Council
22. South Ayrshire Council
23. Hanover Housing Association
24. Longhurst Homes Ltd
25. St Albans District Council
26. Jill Anderson
27. North Norfolk District Council
28. Sanctuary Housing
29. Neil Bateman
30. Nottinghamshire County Council, Service Manager
31. New Charter Housing Trust Ltd
32. National Housing Federation
33. Sutton Borough Citizens Advice Bureau
34. Birmingham Benefit Service
35. BenX Review Group
36. Sunderland City Council Benefits & Assessment Team
37. Stockport Welfare Rights Unit
38. Cambridge City Council
39. Lesley Clifford
40. Mr Steve Triner (Sutton Citizens Advice Bureaux)
41. Leicestershire County Council
42. Bradford Metropolitan District Council - Home
43. Penwith District Council
44. Tameside Metropolitan Borough Council

45. Circle Anglia Ltd (Alexandra Nicolaou)
46. Lister Housing Co-operative Ltd)
47. Citizens Advice
48. RBT Connect
49. Hounslow Council
50. Leicester City Council
51. Pembrokeshire Housing Association Ltd
52. Lancashire County Council
53. Shelter Cymru
54. Shelter (Old Street, London)
55. Carers UK
56. Mind (Croydon)
57. Durham County Council
58. Age Concern (England)
59. Queens Cross Housing Association
60. Child Poverty Action Group
61. Rachel Smith
62. East Ayrshire Council
63. Enfield Homes
64. Derbyshire County Council
65. Circle Anglia Ltd (Tracy Brahaj)
66. Scottish Federation of Housing Associations
67. Law Centre (NI)
68. Royal National Institute of Blind People
69. Dunedin Canmore Housing Association
70. Homeless Link
71. NAWRA
72. Helena Housing
73. Crisis
74. Institute of Revenues Rating and Valuation
75. Centrepoint

APPENDIX 3

This appendix provides examples of the cases which have been presented to us. There are many, many more in the evidence we received. These are illustrative of those provided to us and whilst we recognise that they are anecdotal evidence rather than being systematically collected, they represent some of our very real concerns.

Some of the detailed evidence can be read through the links in Appendix 4.

Our respondents have anonymised the cases and in some cases we have edited further to protect the identity of the citizen.

The sorts of cases presented were:

Mental health problems

'Claimant had been in receipt of Income Support as a lone parent. She is almost completely unable to leave her home due to agoraphobia. Her Income Support claim ended when she failed to attend a 'Work Focused Interview' and due to her mental illness, she failed to give reasons for this and to try to rearrange it. Instead she survived on her Child Tax Credits and Child Benefit alone. Her Housing Benefit claim was ended in June 07 when the local authority was notified that her Income Support ended. The landlord attempted to contact her on many occasions to discuss this, but it was only when court proceedings for eviction were commenced in December 07 that she made contact (in January 08). An application for Housing Benefit was then submitted with a request for backdating. Supporting evidence from her GP enabled this to be awarded back to June 07 and she was left with only a small amount of historical arrears to pay.'

'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 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, 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 claimant was now being pursued through the courts for rent arrears and was in danger of being evicted from his home of 30 years. As a result of successful intervention by an In Court Advisor 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.'

Learning and language difficulties

'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.'

'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.'

'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.'

Experienced a traumatic life event

'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.'

'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.'

Experienced domestic violence

'Mary worked part time and made an application for HB but did not provide all of the required documentation. During the first six months she engaged only intermittently with staff. After about four months Mary started to trust one member of staff and told her that she had been subjected to sexual abuse and found it very difficult to build new relationships. She told staff that her father (who had abused her) had kept the documents (passport, bank statements etc) she needed to progress her HB application. It took two months to get these documents posted to Mary's new home address. At this point we helped her make a successful claim for HB for the previous six months.'

Been on remand in prison

'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.'

Been hospitalised

'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.'

'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.'

APPENDIX 4

Listed below are some of the responses to our consultation, which can be found on the web.

Age Concern

http://www.ageconcern.org.uk/AgeConcern/Documents/Ref1308SSACresponse_May_2008.pdf

Citizens Advice

http://www.citizensadvice.org.uk/press_20080527
Press release

Citizens Advice Scotland

<http://www.cas.org.uk/benefitbackdating.aspx>

Child Poverty Action Group

http://www.cpag.org.uk/cro/Briefings/CPAG_submission_hbackdating_ssac_0508.pdf

Homeless Link

<http://www.homeless.org.uk/policyandinfo/briefings/policybriefing/june08#poverty-and-social-exclusion>

Low Income Tax Reform Group

<http://www.litr.org.uk/news/latest.cfm?id=478>
Press release

Shelter

http://england.shelter.org.uk/professional_resources/policy_library/policy_library_folder/response_-_ssac_housing_benefit_and_council_tax_benefit_backdating



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