

# Freedom of Information request 1875/2014

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## Information request

- 1) Under the applicable law and regulations, how should the date a decision was made in respect of a change in a claimants future Housing Benefit entitlement be determined...for example, would it be the date of a letter notifying a claimant of a change, or the date of posting a letter notifying a claimant of such a future change, or the date a claimant recieved a letter notifying a future change in Housing benefit entitlement, or something else?
- 2) what specific law or regulation(s) are applicable in respect of your response to 1) above?
- 3) Apart from a future uprating of another relevant benefit a claimant is currently recieving which would be considered as income under the applicable laws and regulations, and a future increase in rent charges which has been notified to a local authority in advance by the claimant or another relevant person, do Housing benefit regulations (or any other applicable law or regulations), permit a local authority to make a lawful decision in respect of a claimant's future entitlement to housing benefit, by making an outcome decision in consideration of any amendment(s) to the regulations which has been based on the application of sections of the amendment(s) as if they were in force at the time of the decision, although the commencement order in respect of the sections of the amendments(s) had not (at the time of the decision) taken effect. And then notifying a claimant of an outcome decision made in that way?
- 4) what laws and regulations are applicable in respect of your response to 3) above?

## DWP response

In law a change in a claimant's Housing Benefit entitlement/award will usually come about because of a change in their circumstances. Where this occurs the decision which supports the existing award is superseded – see regulation 7 in the first link below. But as you'll see this regulation also provides that a decision may be superseded for a whole number of reasons, for example, this could include the award of another benefit, or a change in the law. These are the known as the grounds for supersession.

Once a decision maker has a ground his next consideration is to identify the date from which the superseding decision is to have effect. These are provided in regulation 8 in the same link. You will see that this cross-refers to the Housing Benefit Regulations – see the second link below. Further you'll see at regulation 8(2) that the date can be in the future.

Whatever the ground and date, this information will be explained in the decision notice. This will also explain what a claimant can do should he wish to dispute the decision. The key date here is the date on the decision notice as this is the start date for the time-limited period during which an appeal can be made. Even where the effective date of the supersession is some time ahead, any dispute must be made within one month of the date of the decision notice; it is not tied to the effective date of the decision itself. This date is provided for in Sch 1 of The Tribunal Procedure Rules – the third link below.

<http://www.dwp.gov.uk/docs/a8-2321.pdf>

<http://www.dwp.gov.uk/docs/a8-2501.pdf>

<http://www.justice.gov.uk/downloads/tribunals/general/consolidated-sec-rules-6-april-2014.pdf>

If I have understood your third question, it is this: can the local authority make a decision today based on a future law amendment which has yet to be commenced but will have been commenced by the time that the decision becomes effective. The answer is yes. Essentially this can be looked on as a standard supersession decision – as if at the time of the decision the amendment had been made and commenced. The legislation of course does not reflect this sequence of events but has to be read as if everything was in place at the time of the decision. That legislation is as above in the same links.