

Stroud District Council

Policy on Backdating of Housing Benefit claims

Purpose

This policy contributes to the implementation of Stroud District Council's corporate aims of working with others to make the district a better place to live and work, which incorporates the objective of helping those in particular need.

Stroud District Council is committed to working with partners to publicise the existence and availability of the housing benefit and council tax benefit schemes and to encourage customers to claim them at the earliest possible point, thus avoiding the need for backdating claims. The council recognises however that in some cases people fail to claim their entitlement early enough and that claims for backdating can arise.

A major purpose of this policy is to outline the Council's basic approach for employees of Revenue and Benefit Services. The Council requires staff working on benefits to follow the DWP regulations and guidance manual as well as the more general guidelines of this Policy. A further purpose of this policy is to enable the public, partner organisations, and stakeholders such as landlords, to understand the council's attitude to backdating of benefit claims.

Unless otherwise specified, the word "benefit" in this policy refers to housing benefit or council tax benefit or both.

Legislative framework

Stroud District Council expects and requires its officers to exercise their powers in accordance with the appropriate legislation.

The management of the Revenue and Benefit Service shall ensure that all officers who work on the assessment of HB/CTB claims are trained to understand and apply the regulations.

Decisions on claims for backdating

In any case where a claimant or his/her appointee or representative makes a claim for backdating, officers shall consider fairly and sympathetically whether there is evidence of continuous good cause for not being able to make the claim any earlier. Officers will make recommendations for backdating to the Benefit Manager with accordance with advice given by the Audit Commission. The Benefit Manager shall make decisions on claims for backdating in accordance with the evidence and the principles of natural justice

If no evidence of good cause is presented, officers shall request it before a decision on the claim for backdating is made.

If the evidence and information available is sufficient for a decision on the claim, other than the backdating question, officers shall make that decision with effect from the regular entitlement start date. Officers should not delay the whole decision while waiting for evidence in connection with the claim for backdating.

In any backdating case where a customer is claiming both housing benefit and council tax benefit officers shall encourage them to consider making a claim for backdating on both benefits, if the same circumstances apply.

In deciding on a claim for backdating, the Benefit Manager shall take account of all the known circumstances of each particular case. This policy does not impose any blanket rule on Benefit Officers and does not seek to fetter their discretion.

For the purposes of the customer's appeal rights, a decision to backdate or not to backdate is a first decision on a claim for backdating and should not be classed as reconsideration. This policy ensures that the customer has the fullest rights of reconsideration and appeal.

Officers shall consider any claim for backdating with a sympathetic understanding of any difficulties in the claimant's circumstances, while acting within the legislation. In order to ensure equality of opportunities for all customers, officers shall take into account any factors, which can be expected to affect the particular customer's ability to make a claim on time.

Officers shall co-operate with voluntary sector agencies and welfare rights advisers in seeking to maximise the income and benefit entitlement of all customers in the Stroud District, within the constraints of the legislation and subject to the existence of sufficient evidence for any decision to satisfy both internal and external auditors.

The management of the Revenue and Benefit Services shall provide training to all officers whose work involves dealing with benefit claimants. Such training shall make the backdating rules clear and shall emphasise the importance of correctly recording any backdated period of benefit payment.

Officers dealing with benefit claims shall be fully trained on the difference between a claim for backdating and a lost claim allegation and shall be made aware of the respective effects on subsidy payable. The subsidy effect of a decision shall not influence the granting or refusal of backdating.

Officers shall be aware of the fact that a third party can provide the evidence of continuous good cause in cases where the claimant is unable to do so.

Commitment

All of our customers will be treated in a fair and equitable manner having particular regard to the Human Rights Act, Race Relations Act and any other legislation or Policies, which may have an impact.