

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

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HB/CTB A18/2006

ADJUDICATION AND OPERATIONS CIRCULAR

WHO SHOULD READ	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For information and action if appropriate
SUBJECT	New options for making claims electronically, amendments and change of circumstance notifications by telephone or electronically

Guidance Manual

The information in this circular does affect the content of the HB/CTB Guidance Manual. Please annotate this circular number against *Part A, paragraph 2.30, 2.32, 2.100, 2.120, W2.190, W4.150* and *Part B 2.60, 2.62, 2.64, 2.66, 2.100, 2.190*.

Queries

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New options for making claims, amendments and change of circumstance notifications by telephone or electronically

Introduction

- 1 This circular provides guidance on new options for the method of making claims and reporting changes of circumstance that are being made available to claimants and authorities from 20 December 2006.
- 2 Existing arrangements are unaffected by these changes, which are purely optional and are not being funded by central government.

Background

- 3 Earlier this year, the Department consulted local authorities (LAs) on its proposals to enable HB and CTB claims and changes of circumstance notifications to be made electronically, with or without a signature. Although some concerns were raised, there was sufficient interest and support to enable us to proceed with this work, which also includes facilitating claims by telephone and removing the automatic requirement for a signature. These changes will be brought into effect through
 - the Housing Benefit and Council Tax Benefit (Amendment) (No 6) Regulations 2006
 - The Housing Benefit and Council Tax Benefit (Electronic Communications) Order 2006, and
 - any Direction made by an LA's Chief Executive under the Order
- 4 These measures take effect from 20 December 2006
- 5 We have not provided the usual six months lead in time for these proposals since they are entirely voluntary and may be implemented by individual authorities at a pace to suit them.

Effect of the changes

- 6 Taken together, the legislative changes enable
 - claims, amendments of claims and changes of circumstance notifications to be made electronically or by telephone, without the automatic need for written confirmation and
 - LAs which accept telephone claims to require that claimants subsequently check for accuracy a written summary of the claim
 - change of circumstance notifications to be made in person – to an LA visiting officer or counter clerk without the automatic need for written confirmation

- 7 An LA which e-enables its business will also be able to issue its decision notices electronically, but only in circumstances where the claimant has requested or agreed to this. Such arrangements do not extend beyond this to communications connected with appeals.
- 8 We are also clarifying that signatures, whether hand-written or electronic, are not explicitly required in the legislation and it is for LAs to decide whether to require them on claims, amendments to claims or change of circumstances notifications.
- 9 Authorities, including their contractors, may take claims, amendments and change notifications by phone immediately, but for electronic means to be used an LA's Chief Executive will first need to make a Direction to this effect.
- 10 These changes also apply to claims and amendment of claims made to DWP.

Note: By 'Amendments' we mean changes to claims prior to the initial decision on an award of benefit.

Claims, amendments and change of circumstance notifications made by telephone

- 11 In future, authorities may accept the following by telephone
- a claim to HB or CTB
 - an amendment to a claim
 - a change of circumstances notification
- Note:** A claim can already be withdrawn by telephone and generally without the need for written communication, for example, on a visit or at the reception counter.
- 12 LAs can choose whether to accept a claim amendment by telephone on a case by case basis or as a general rule. This includes claims made to DWP via this method.
- 13 LAs can choose whether to accept a change of circumstance notification by telephone or in person on a case by case basis or as a general rule. This includes claims made to DWP via this method.

What do we mean by telephone claiming?

- 14 For the purposes of this circular we mean an LA administrator interviewing the claimant by telephone and populating a claim form or statement from that interview, ie a 'tele-claim'.

- 15 This differs in nature from a claim made via Jobcentre Plus's Customer Management System because although the claim is initially made by telephone, a claim form (or customer statement) is always subsequently generated for the claimant to sign.
- 16 Although under the new rules being introduced an LA will be able to require the claimant to approve a statement of their claim details, this is not an automatic requirement.

Procedure for offering telephone claiming

- 17 The regulations require that an LA wanting to offer telephone claiming must publish a number for claimants to ring for this purpose. This effectively constitutes an LA's control on whether to offer this route for claiming – no number = no option to tele-claim.
- 18 LAs should consider the scope for either offering a freephone number or using a call-back system along the lines offered by DWP for its tele-claims.
- 19 If during the interview the claimant cannot provide all the details required, the claim will be defective. In these circumstances the LA must provide the claimant with the opportunity to remedy matters. Normal deadlines for remedying defective claims apply.
- 20 When an application has been made by telephone, the LA may require that the claimant approve a generated statement of their circumstances before a claim is treated as actually having been made. LAs may require this in all cases, in none, or just in those cases where risk profiling suggests that it would be prudent. When the claimant is required to approve the claim, a box should be provided for them to tick to confirm that the details are correct. Alternatively, if there are inaccuracies, the claimant should amend the statement. In either case, the claimant must sign the form and return it to the LA.
- 21 A claimant who fails to sign and return a statement, on request, will not have made a valid claim and therefore no decision will be required.

Securing tele-claims

- 22 Security procedures such as recording telephone calls and the issuing of claim calculation or summary statements to claimants have removed the necessity for hand-written signatures as a means of signifying a person's 'ownership' of the claim and declaration of its accuracy on a claim form. If the LA already has details of a claimant on its system, it can also consider asking them security questions, the answers to which only they could be expected to know – this is a sound way to establish the person's identity.

- 23 The information and evidence needed to support or verify the claim details must be supplied via existing routes. By information and evidence, we mean documentation which verifies or clarifies information provided on the claim, including the identity of the claimant, for further information, see the *Housing Benefit Security Guidance Manual*.
- 24 Whilst LAs may accept telephone claims, amendments and change notifications without signatures immediately, these can only be received electronically **after** a Direction from the Chief Executive. This procedure is explained in more detail below, see *paragraph 52*.

What do we mean by electronic claiming?

- 25 Electronic claiming occurs when the claim is **completed and submitted** on-line, or via other electronic means such as a tablet which is signed with an electronic pen. The key word here is 'submitted'. Completing a claim on-line, then printing it off and sending it in to the LA by post is not classed as electronic claiming for the purposes of these changes.
- 26 Technically, electronic claims are still considered under the law as made in writing.
- 27 As with tele-claims, for security reasons evidence in support of electronic claims, including that needed to satisfy section 19 identity requirements, cannot be submitted electronically and existing rules around the provision of original documentation continue to apply.

Electronic signatures

- 28 Whilst this circular clarifies that signatures are not mandatory on any format of claim, if an electronic claim is made LAs still may require an electronic signature or a digital signature to validate the claim, in the same way that a written signature can still be required on a written claim.
- 29 In future, LAs may find advantages in using *Government Connect* as a method for managing and accepting electronic claims and other communications. Please go to the Government Connect website (www.govconnect.gov.uk) for further information including that specifically tailored to the needs of LAs.

Key considerations for LAs before deciding whether to e-enable

- 30 Opting to become e-enabled is not a decision to be taken lightly. Each LA *will* need to make a strategic decision if they wish to become e-enabled and must therefore fully understand the consequences of doing so.

- 31 As well as setting out which areas of business can be performed electronically (claims, amendments or change notifications), it is important to appreciate that an e-enabling Direction grants rights to claimants. It enables a claimant to use an electronic method to deal with an authority for those areas listed in the Direction. If for example the Chief Executive authorises electronic claims in the Direction, staff will not be able to pick and choose (for example on the basis of the risk profile of the claimant) which electronic claims to accept or which claims still require a hand-written signature.
- 32 Whilst claimants could continue to submit paper claims, if they chose to submit an electronic claim staff would have to accept that claim (but they would still be able to regard it as defective if it had not been properly completed).
- 33 LAs also need to be satisfied that record keeping for electronic communications will be of as good a standard as record keeping for non-electronic communications.
- 34 LAs may opt for a gradual migration to e-enablement, for example by initially only authorising it for changes of circumstance notifications. This could be a useful way for authorities to 'test the water' to see whether this method suits their arrangements and meets their administrative needs.
- 35 These considerations underline the importance of authorities working through all the consequences of opting for this way of doing business.
- 36 We strongly advise LAs that are considering this option to engage in a full and inclusive internal discussion. E-enabling the administration may offer advantages in terms of speeding up some processing times, but authorities should above all be satisfied that they have adequate checks in place to guard against additional fraud and error entering the system.
- 37 There are certain evidential provisions (see *paragraphs 45 to 51* below), in the Order that are designed to assist authorities and these should be carefully considered when evaluating the risks versus advantages of e-enabling the administration and the possible risk of fraud and error.

Some possible advantages of partially or fully e-enabling claims or introducing tele-claims

- 38 Some possible advantages of partially or fully e-enabling claims or introducing tele-claims are
- HB/CTB claim process could be simplified and made more accessible as customers could access forms via local authority websites, complete them electronically and submit them without needing to print for a written signature
 - reporting changes of circumstance would be easier and so could help to reduce error
 - speed of processing could improve for both new claims and change in circumstances
 - potential for administrative savings
 - that this brings benefits into line with customer access across the economy and could increase social inclusion

Some possible disadvantages – and how to address them

- 39 Some possible disadvantages are
- **proving that a claimant made a false declaration in a prosecution case.** This may be more challenging when there is no signed form or the signature is electronic – this is recognised to be a particular issue in Scotland where the Procurator Fiscal's guidelines are stringent.

However, this can be partially mitigated by means such as recording 'tele-claim' calls and requiring claimants to check statements produced following a claim. Signatures are arguably a weak means to prove identity compared with some other means – for example by asking questions that only the genuine person could know the answer to
 - **electronic claiming may increase the risk of identity theft and hence obtaining benefit by deception.** The problems experienced by HM Revenue and Customs tax credits claim line are often quoted in this regard.

However, the subsequent verification checks carried out by LAs, and the arrangements for paying benefit, should in most cases ensure that claims made via stolen identities are not a major issue. Where the LA already holds records on the person purporting to make the claim, further checks to validate identity can be made by asking questions that only the genuine person would know

- 40 Additionally, LAs which e-enable will have considerable freedom in deciding which methods and forms of communication are acceptable. LAs must approve the method of
- making an electronic claim, claim amendment or change of circumstance notification
 - authenticating the above
 - authenticating the identity of the sender of any of the above
 - submitting a claim or notification
- 41 The claim, amendment or notification must also be in a form acceptable to the LA.
- 42 LAs can stipulate through the Direction that a claimant keeps records of their communications with the LA in either written or electronic form. Failure to do so could weaken their defence in any potential overpayment recovery or prosecution scenario.
- 43 Unless the Chief Executive's Direction specifies otherwise, a claim or notification should be regarded as having been received on the day that all the conditions laid down by the LA are met.
- 44 A claim or notification received at an LA that
- does **not** conform to any of the above standards will be invalid
 - **does** conform to the above standards but which is not, for whatever reason, accepted by an LA's computer system, is **not** regarded as having been delivered

Evidential provisions

Proof of identity of the sender

- 45 The Order offers certain safeguards to prosecutors by stating a presumption, for the purposes of legal proceedings, that the identity of the sender of an electronic claim or other communication is the person whose name is recorded on the LA's computer system.

Proof of delivery of the information

- 46 The Order presumes that a claim or other electronically-communicated document has been received at the LA's office if it is recorded on the computer system, with the date of receipt being the date recorded on the system. If there is no record of receipt, the presumption is that the document was not received.
- 47 Authorities should consider putting in place arrangements to notify the claimant that their claim has been received.

Proof of content of the information

- 48 The presumption is that the content of the electronic communication is that which is recorded on the LA's computer system.
- 49 All these tests put the onus on the accused to prove the alternative case. The Department's lawyers advise that the evidential presumptions are useful but it will be for the court to determine as a fact whether a notification was made but more importantly whether the defendant was dishonest and that a criminal offence is made out.
- 50 There is currently a Home Office-sponsored Fraud Bill going through Parliament and if this becomes law the provisions are likely to be of use in pursuing cases of false representation, both generally and specifically in relation to electronic claims because it includes representations made to a 'system or device'.
- 51 The Department will be issuing further advice on the implications for LAs of the Fraud Bill if and when it becomes law.

Process for becoming an e-enabled authority

- 52 An LA that wishes to fully or partially e-enable its HB/CTB administration under the terms of the Order will need to make a Direction to this effect. The Direction must be personally authorised by the Chief Executive and clearly set out which areas of administration may use electronic means, for example the receipt of claims, the receipt of claim amendments or the receipt of changes of circumstance notifications, or any combination of these.
- 53 A Direction may be withdrawn or amended by authority of the Chief Executive at any time by means of a further Direction. A sample Direction is attached, see *Appendix A*, but LAs are not bound by this format and can draft their own from scratch if desired.
- 54 Once a Direction is approved, the Direction or details of it should be made available to the public on websites so that claimants and other interested parties are made aware of the new opportunities.
- 55 The Department has written to Chief Executives to inform them of their role in making a Direction.

Continuation of traditional methods for making claims

- 56 Whilst telephone or electronic claiming may be offered as methods of claiming, LAs **must** continue to offer customers the option of making a traditional, written claim. This is to safeguard those customers who may not have access to information technology or even a telephone.

Telephone and electronic claims made via DWP

- 57 A majority of HB and CTB claims are now made either wholly or partly via Jobcentre Plus or The Pension Service. The changes described in this circular mean that claims for HB and CTB made via The Pension Service at the same time as a claim for Pension Credit may also now be made entirely by telephone. This is different to Jobcentre Plus' Customer Management System gateway, as although claim details are provided by telephone, there is still a requirement that a written statement is subsequently signed.
- 58 If an LA opts to become e-enabled, its general obligation to accept a claim made electronically would include electronic HB/CTB claims made through or via the Department (although this method is not currently used by DWP), providing these claims were made in a manner acceptable to each LA. Where an LA has not e-enabled, electronic claims made to DWP will not be valid claims.

Date of claim

- 59 There are no changes to the date of claim rules as a result of these new options for claiming. Telephone claims are deemed to have been received on the date of the tele-claim and electronic claims on the date of receipt by the LA's computer system or DWP's computer system when made to the Department.

Appeals and revisions

- 60 Appeal and revision applications and all other related communications must continue to be made in writing. The Department will keep the position under review, having regard to the law and practice in the DWP-administered benefits.

Impact on new claims and change of circumstances performance measures

New claims

Electronic claims

- 61 LAs are already using web based electronic claiming methods. We understand that currently LAs may be adopting different approaches on how they measure processing times for claims received electronically. Some measure processing times from the date the electronic claim form is received others appear to be waiting for the signed version to arrive in the LA. Currently an electronic claim which is unsigned is no different to a paper claim form which lacks a signature. It is a defective claim but nevertheless

the time taken to process the claim starts with the date the defective claim is received and ends on the day the LA makes a decision on the claim.

- 62 In future, where an LA has e-enabled its business a handwritten signature will no longer be required although an electronic signature may be. Again, the time taken to process a claim will start with the date the claim is electronically received (whether or not it is classed as defective) and will end on the day the LA makes a decision.

Tele-claims

- 63 In the case of claims made by telephone the time taken to process should be calculated from the date of the telephone call (regardless of whether the LA then requires a signed confirmation of the details) up to the date of decision.

NB. See *HB/CTB Circular A10/2005 paragraph 11* for claims made in advance.

Changes of circumstances

Changes notified electronically

- 64 We are not making any changes to the definition of what counts for the change of circumstances indicator. A change notified electronically is treated as a written notification. The time taken to process the change starts with the day the electronic notification is received and ends on the day the LA makes a decision.

Changes notified verbally (including by telephone)

- 65 A change notified verbally (including by telephone) is not a written notification and does not, therefore, fall to be counted in the change of circumstances performance measure. However, if the LA requests written confirmation or evidence, the change will count for the change of circumstances performance measure from the date the written notification or evidence is received.

NB. See *HB/CTB Circular A10/2005 paragraph 10* for changes notified in advance

Sample Direction

DIRECTION OF [] UNDER THE HOUSING BENEFIT AND COUNCIL TAX BENEFIT (ELECTRONIC COMMUNICATIONS) (MISCELLANEOUS BENEFITS) ORDER 2006

[], ('the Authority') in accordance with paragraph 2 of Schedule [] to the [] Regulations 2006 ('the 2006 Regulations'), hereby makes the following directions–

1. An individual who, in accordance with the 2006 Regulations makes a claim for Housing Benefit or Council Tax Benefit under the Social Security Contributions and Benefits Act 1992 is authorised to do so by an electronic communication, provided that the individual uses the method approved by the Authority in relation to the claim.

2. The methods and form set out, at the time of, and for the purposes of, the delivery of such a claim as referred to in paragraph 1, on the Authority's website, are respectively–

(a) the methods approved by the Authority for–

(i) authenticating the identity of the individual making the claim;

(ii) submitting the claim;

(iii) authenticating the claim delivered; and

(iv) electronic communication

(b) the form approved by the Authority in which the claim is to be delivered.

Signed by

2006

Chief Executive