

## *Guidance on good cause*

Note: Although the Adjudication Officers' Guide (AOG) is no longer current, the information in this annex, which is based on the AOG, provides a useful basis to establish whether good cause exists.

### *Meaning of good cause*

#### 2A.00 Good cause

- is not defined in legislation but a number of Commissioner's decisions deal with it
- includes any facts that would probably have caused a reasonable person to act as a claimant did, for example

*CS371/49(KL); R(SB) 6/83*

- the claimant's age, health, background and knowledge of the Social Security (SS) system
- information the claimant
  - ~ had received or
  - ~ could have obtained

#### 2A.01 It is for the claimant to show good cause unless there is an appointee. The claimant's explanation for the delay in claiming should be considered in the light of all the facts and circumstances.

*CS371/49(KL); SS (C&P) Regs, reg 33; R(G) 2/74*

#### 2A.02 Some of the circumstances which may cause delay and whether these circumstances can be accepted as good cause are looked at in AOG 11613.

### *Ignorance 'of itself'*

#### 2A.03 Good cause cannot be established by a claimant simply claiming to be ignorant of the

- 1 right to benefit or
- 2 time limit for claiming

*R(SB) 6/83; CS 35/48*

The question is whether the claimant's ignorance or mistaken belief was reasonable:

*CS 371/49 KL*

Annex A

2A.04 A plea of ignorance will not necessarily lead to disentitlement. You must always  
*R(S) 5/79; Walls Meat Co Ltd v Khan [1979]; CR52*

- 1 look at the reasons for the ignorance and
- 2 consider if it was reasonable for the claimant not to have enquired, or to think that there was nothing to enquire about

*R(P) 1/79*

### ***Failure to make enquiries***

2A.05 Claimants are expected to take reasonable steps to find out what their rights and duties are. Claimants should

*CWG 2/49; R(G) 3/53; R(P) 1/79; R(S) 8/81*

- 1 realize that they may be entitled to benefit and
- 2 find out how to claim by asking at an LO

You must look at the evidence and consider if the person has done what can be reasonably expected.

*CWG 2/40; CSG 9/49; R(1) 82/53; R(U) 35/56; R(P) 5/61; R(SB) 6/83*

2A.06 Failure to make enquiries will not on its own necessarily mean that good cause has not been shown. You should not expect claimants to make it their top priority to find out about SS legislation, on the chance they might be affected.

*R(S) 3/79*

Example

Reg Potter is a retired teacher receiving an occupational pension. Reg believed that being retired, there was no entitlement to IB and therefore made no enquiries. As Reg genuinely believed there was nothing to enquire about, and it was considered that this mistaken belief was reasonably held, good cause for the delay in claiming is accepted.

### ***New legislation***

2A.07 New legislation may change the conditions of entitlement or payability of an existing benefit. Claimants may become entitled under the new legislation if they had

- a claim for benefit disallowed or
- not claimed because it was clear there was no entitlement

2A.08 If the claimant was unaware of a publicity campaign designed to attract claims under the new legislation good cause may be accepted for delay in claiming. But you should consider if the delay was reasonable, if the claimant

*R(P) 1/79*

- saw the publicity or was aware of the new legislation, but
- did not make further enquiries

### ***Claimant abroad or recently arrived in GB***

2A.09 Claimants who are living or who have lived abroad, may be unaware of their entitlement. A person claiming benefit from outside GB is generally at a disadvantage in making enquiries. Good cause may be accepted

- while enquiries are being made and
- if a claim is made as soon as possible after enquiries are completed

*R(G) 3/53*

### ***Difficulty with language***

2A.10 Difficulty with language is not in itself good cause for delay in claiming but difficulty in communication may be. For example

1 a claimant who

1.1 has little or no understanding of English and

1.2 seeks advice from an interpreter at an LO

2 will be able to show good cause if the interpreter makes a mistake when passing on that advice

2A.11 Claimants are expected to seek help. Do not accept good cause unless there was no one who could have enquired on their behalf.

### ***Postal delays - benefits except IS, JSA, DWA and FC***

2A.12 Good cause should be accepted if there is a

- 1 normal post delay, that is the time taken for the delivery of post in normal circumstances or
- 2 unusual postal delay, that is any delay greater than in 1, or
- 3 general postal delay, for example brought about by industrial action

2A.13 If there has been any postal delay other than as in 1, you should consider if it was reasonable for the claimant not to have enquired about the progress of the claim.

Annex A

2A.14 For guidance on DLA and AA see AOG 11106.

***Staggered take-on***

2A.15 When arrangements have been made for claims to be received over a number of days because large numbers are expected within a short period, good cause should be accepted.

***Misled by official information***

2A.16 Good cause for the delay in claiming can be accepted from the day advice was given if a claimant

- 1 enquires at an LO
- 2 acts on the information or advice given, and
- 3 that advice was incorrect or misleading

2A.17 If the claimant tried to carry out official advice but acted wrongly through misunderstanding, good cause can be accepted unless the claimant acted unreasonably. Consider if the delay in claiming was due to a mistaken belief reasonably held.

*R(G) 1/75; R(P) 7/79; R(S) 8/81; R(SB) 6/85*

2A.18 A claimant could only reasonably expect advice about benefits which the LO deals with. Good cause may be accepted when

*CP 30/50; R(U) 3/60*

- 1 a claimant is
  - 1.1 not given advice or
  - 1.2 is given misleading advice and
- 2 it would be reasonable to expect advice to have been given and
- 3 the advice or lack of it contributed to the delay in claiming

***Misled by unofficial information***

2A.19 Claimants acting on unofficial advice, for example from colleagues, friends or relatives, will not normally be able to prove good cause. But good cause may be accepted where it was reasonable for the claimant to believe the advice was either official or reliable.

2A.20 Good cause may be accepted when the delay in claiming was due to the claimant relying on advice or information given by an organization which makes available claim forms or leaflets, for example

- POs
- hospitals
- LA welfare rights offices
- Citizens Advice Bureaux

*R(U) 9/74*

### ***Advice from a doctor***

2A.21 A person whose doctor gives incorrect advice about claiming benefit cannot show good cause unless

- special circumstances, for example the claimant's age, health or experience make it reasonable to rely on the doctor's advice, or

*R(S) 5/56*

- the claimant was acting on advice about a medical issue, for example whether pneumoconiosis could be diagnosed at the outset

*R(I) 40/59*

### ***Advice from a solicitor or accountant***

2A.22 Good cause may be accepted when a claimant relies on advice given by a solicitor or an accountant on a legal question regarding claims and entitlement to benefit.

*CS 50/50*

### ***Advice from an employer***

2A.23 It may be reasonable to accept good cause when

- 1 a claimant has acted on advice from an employer, for example when a claimant
  - 1.1 is or has been receiving SSP, and
  - 1.2 delays a claim for IB and
- 2 the delay was because of the advice given by the employer

### ***Deliberately does not claim***

2A.24 A person who deliberately does not claim may not be able to show good cause.

*CS 596/49; R(U) 34/51; CS 34/49; R(U) 5/59*

Annex A

2A.25 When a claimant deliberately does not claim you must decide if the delay was reasonable. Factors to be considered include

*R(U) 2/92*

- the length of the delay
- the claimant's actions during that period
- any previous claims for the particular benefit
- advice the claimant has sought or received

Example

Patrick Barrat did not know there was a time limit for claiming JSA. Patrick had always worked and had never claimed any benefit before. When it became clear he was not going to find work immediately, Patrick claimed JSA. Good cause for the delay was accepted in view of

- 1 Patrick's lack of experience of the benefit system and
- 2 the fact that he made it his priority to find a job and
- 3 the fact that he claimed benefit within a reasonable time

### ***Carelessness, thoughtlessness or indifference***

2A.26 Carelessness, thoughtlessness or indifference do not constitute good cause. For example when the claim form was

- obtained in time but mislaid or
- signed in time but not sent until the end of the claimant's holiday

*CS 15/48*

*CSG 6/48*

### ***Health***

2A.27 Always consider the claimant's health when looking at good cause

1 If a claimant was unable to claim on time because they

- 1.1 have a serious illness and
- 1.2 were unable to ask someone to claim on their behalf

2 the claimant may show good cause while they are ill

*CS 51/49*

2A.28 If, after a serious illness, the delay continues, good cause depends on whether the claimant has done all that could be reasonably expected in the circumstances.

*CG 207/49*

- 2A.29 A claimant who
- 1 is unable to
    - 1.1 complete a claim form or
    - 1.2 can complete a claim form but is unable to post or deliver it to the LO
  - 2 is expected to ask someone to complete, post or deliver it for them
- 2A.30 Do not accept good cause unless it would be unreasonable for them to do this.

*R(S) 21/54*

### ***Claim by appointee***

- 2A.31 It is the claimant's responsibility to claim unless there is an appointee.
- 2A.32 Claimants with personal good cause will not be affected by the delay of someone who makes a claim on their behalf, unless that person is the appointee.

*R(SB) 17/83; R(SB) 9/84*

- 2A.33 From the date of appointment
- the actions and inaction of an appointee are treated as those of the claimant
  - it is the appointee who has to show good cause

*R(S) 2/51; R(P) 1/56; R(A) 2/81; R(SB) 17/83; R(SB) 9/84; R(P) 2/85*

#### Example

A mentally disabled person claims IS on 16 February 1996. On 22 February 1996 the S of S appoints the claimant's mother to act for the claimant. On 12 April 1996 the appointee claims IS from 11 April 1988. The disabled person has good cause from 11 April 1988 to 21 February 1996 but the appointee does not show good cause continuously from 22 February 1996 to 11 April 1996 therefore the whole claim fails.

*R(SB) 9/84, R(S) 5/91*

Annex A

- 2A.34 If someone has been acting for the claimant before being appointed, the actions but not the inactions of that person may be taken into account when deciding good cause before the date of appointment.

*R(S) 2/51; R(P) 1/56; R(A) 2/81; R(SB) 17/83; R(SB) 9/84; R(P) 2/85*

**Example**

Maureen Kelly, a 78 year old widow was in poor health and housebound. She relied heavily on her daughter Kathleen Murphy. Kathleen was not the appointee.

A claim for IS had been refused on the grounds of income. AA was subsequently awarded which gave entitlement to an SDP, however a claim for IS with a request for backdating was not made until 2 years later. Although Kathleen had not shown good cause by failing to ask about possible entitlement to IS following the award of AA, Maureen, because of her age and health, had good reason to rely on her daughter and could therefore show good cause. The inaction of Kathleen was therefore disregarded and IS awarded from a date 12 months before the date of claim.

### ***Claim by person other than appointee***

- 2A.35 Accept good cause when a claimant

- 1 is able to claim personally but for convenience asks someone else to make the claim or  
*CU 78/49; CG 1/50; R(S) 25/52; R(P) 2/85*
- 2 is unable to claim, for example because of illness, and someone takes on that responsibility and  
*CWG 6/50; CS 100/49*
- 3 the claimant has done all that could be reasonably expected in the circumstances to ensure that the claim is made

### ***Youthful claimant***

- 2A.36 Whatever their age, claimants are still responsible for making their own claims. However the experience of young claimants may be limited and you should bear this in mind when deciding good cause. For example, it may be reasonable for young people to rely on their parents to deal with claims on their behalf.

*R(S) 4/52*

2A.37-2A.49

### ***Belief that solicitors or trade union would claim***

2A.50 Accept good cause

1 If a claimant

1.1 instructs a solicitor to make a claim or

1.2 hands over documents relating to a claim, and

2 the solicitor claims late

*R(G) 17/52*

2A.51 In these circumstances a claimant is entitled to rely on the solicitor to be aware of, and observe, the time limits for claiming.

2A.52 Good cause may be accepted when it was reasonable for a claimant to believe that their trades union or association would make the claim.

*CU 78/49 KL*

### ***Imprisonment***

2A.53 Imprisonment or detention in legal custody may provide good cause, but you should consider the question of disqualification (AOG 17001).

### ***Good cause for particular benefits***

#### ***IB - belief that the self-employed cannot claim***

2A.54 Self employed claimants who firmly believe that class 2 NI contributions do not count for IB, may be able to show good cause where that belief is reasonably held.

*R(S) 173; R(S) 8/81*

2A.55 It may not be appropriate to accept good cause when the claimant

- is uncertain about entitlement and has failed to make enquiries or
- has received information about the benefits available to the self employed. For example, the Contributions Agency issue a starter pack to the S/E entitled 'Working for Yourself'. This contains leaflets giving details of the benefits available to the self employed

Annex A

2A.56 You should

- 1 not accept that ignorance of entitlement, by itself, proves good cause for a delay in claiming, and
- 2 apply the tests of reasonableness set out in AOG 11609-11610 to the facts and circumstances of each case

Example 1

A self employed farmer claimed IB following advice from his accountant. The claimant believed that, being self employed, he was not entitled to IB. Good cause was accepted as the claimant truly believed he was not entitled.

Example 2

A self employed claimant who although believing there was no entitlement to IB, obtained a claim form but did not complete it. Obtaining a claim form might suggest the belief was not a firm one and that further enquiries should have been made. Good cause will not be accepted.

### ***IB and SDA - hospital in-patients***

2A.57 A claimant who has been discharged as a hospital in-patient, is treated as having shown good cause for delay in claiming for the shorter of

- 1 13 weeks starting of the day of admission or
- 2 the period starting on the day of admission and ending three weeks after discharge.

*SS (C&P) Regs, Sch 5 Para 2*

A claimant who has not been discharged is treated as having shown good cause for the period of 13 weeks starting on the day of admission.

*SS (C&P) Regs, Sch 5 Para 2*

2A.58 When deciding the date of admission, you should count any previous period in hospital, when the period out of hospital is three weeks or less.

*SS (C&P) Regs, Sch 5 Para 2*

Note For this purpose the terms used have the following meanings

Hospital - any institution for the reception and treatment of persons suffering from illness and any maternity home

*SS (C&P) Regs, Sch 5 Para 2*

Illness - includes mental disorder and any injury or disability requiring medical treatment or nursing

*SS (C&P) Regs, Sch 5 Para 2*

in-patient - person admitted to hospital to receive treatment by or under the direction of a registered medical practitioner. Does not include convalescence

*SS (C&P) Regs, Sch 5 Para 2(2)(a)*

week - period of seven consecutive days

*R(S) 3/56*

2A.59 If the whole period of delay is not covered by good cause, the claimant may show good cause for other reasons throughout the remainder of the period.

### ***IB and SDA - deemed incapacity for work***

2A.60 Ignorance of the provisions which enable a person in normal health to be deemed incapable of work should be accepted as good cause unless it was reasonable to expect the claimant to make enquiries. For example where no wages were paid during the period of absence from work.

*SS CB Act 92, sec 171A; SS (U.S & IB) Regs. reg 3; SS (SDA) Regs reg 7;  
SS (IW) (Gen) Regs. reg 11; R(S) 18/52*

## ***JSA***

2A.61 Good cause may be shown when the claimant

- 1 is unable to attend a Jobcentre through following up a genuine prospect of employment

*R(U) 20/56*

- 2 has made genuine efforts to find work and has delayed claiming due to a genuine belief that those efforts would succeed

- 3 is waiting for the result of an application for reinstatement and believes wages will be paid for the day in question if successful

*R(U) 23/52*

- 4 reasonably expected to receive pay in lieu of notice or wages

*R(U) 1/54*

This list is not exhaustive, the factors referred to in AOG 11607 should also be considered.

2A.62 Good cause should be accepted for the Saturday where

- 1 a person makes a claim on a Monday for an earlier date
- 2 the Jobcentre would have been closed on a Saturday and a claim could not be made

When there is evidence that a claim would not have been made on the Saturday even if the office had been open, good cause should not be considered.

2A.63 Good cause will not be shown when claimants

- 1 have been advised to continue claiming while unemployed and available for employment after having a claim disallowed
- 2 think their version of the circumstances in which they left employment will not be accepted

*R(U) 5/52*

## ***Dis B***

2A.64 Good cause may be accepted when there is evidence the claimant did not realise that

- 1 the effects of an injury were serious or
- 2 the injury resulted from the industrial accident or
- 3 there had been an industrial accident

*R(I) 51/54; R(I) 43/55*

Once the claimant is aware that the injury or incapacity results from an industrial accident a claim should be made within a reasonable time.

*F(I) 79/54*

2A.65 Good cause should not be accepted where the claimant did not realise the incapacity was a prescribed disease (PD), but was aware that it was caused by work.

*R(I) 82/53*

2A.66 However good cause should be accepted when, although suffering from the PD, it was reasonable for the claimant to have been unaware that this was the case. The claimant will not be able to show good cause where

*R(I) 6/54; R(I) 24/58*

1 the symptoms were clear and

*R(I) 25/56*

2 there were no other factors, such as medical advice that the PD could not be diagnosed, that may have delayed a claim

*R(I) 40/59*

### ***Increase for dependants***

2A.67 The time for claiming an increase for a dependant cannot be extended for good cause.

*SS A Act 92, sec 1(2); SS (C&P) Regs. reg 19\*4*

2A.68-2A.999

