

Bereavement Benefit Bulletin

Series No	17/05	Date	20 October 2005
On desk date	21 October 2005	Make Changes by	Immediate
Subject	Widowers Litigation cases (Challenges from men who lost their wives before April 2001)	Action	Managers Action 1 Please ensure that the contents of this bulletin are brought to the attention of all Bereavement Benefit staff 2 Retain copy in front of Volume 8 for reference
Contact	Advice Line 01253 848000		
To	Field Directors, DMs, All Bereavement Benefit Processing Staff, International Pension Centre, Pension Payments Section, Training Managers, Benefit Centres, Jobcentre & Jobcentre Plus Offices, Jobcentre Plus Business Assurance, Operations and Performance Improvement Team, All Pension Service Staff and Pension Centres, Customer Service Managers.		

The 20 day rule does not apply to this bulletin. This is for information only and does not change existing procedures

This bulletin will not be followed by a hard copy.

Widowers Litigation cases (Challenges from men who lost their wives before April 2001)

1.0 Background

Recent articles have appeared in the press quoting that the European Court has ordered payments to men whose wife died before 9th April 2001 and advising such widowers to make a claim for widowers' benefits by November 4th. These articles are incorrect as there has been no recent European Court of Human Rights (ECtHR) decision and there is still no basis in law to consider payments to widowers before the introduction of Bereavement Benefits.

1.1 Recent decisions by the Government

Bereavement Benefit Bulletin 13/05 explained that the Government is considering friendly settlements in respect of claims for Widows Payment and Widowed Mothers Allowance (but **not** Widows pension) on the grounds of discrimination, for cases currently registered with ECtHR. These applications must satisfy the qualifying conditions applicable to women in the same circumstances. Any application to the ECtHR must be within six months of a decision from the department to refuse a widowers benefit, otherwise they will be too late and the claim will not be accepted. For example; the man's wife died on 4 August 1997 and he contacted his local office on 12 August 1997. He was informed that no widows' benefits were available to men. He did not contact ECtHR before 12 February 1998 (i.e within 6 months), therefore his claim is out of time.

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Following the introduction of the Human Rights Act on 2nd October 2000, applicants making a claim had to exhaust their challenge in the domestic courts, The Court of Appeal, followed by House of Lords (HOLs) before proceeding to ECtHR if still dissatisfied with the outcome.

The recent cases of Hooper, Withey, Martin and Naylor met this condition, allowing other men to co-join these challenges by registering with firms of solicitors. The judgement given by the HOLs on 4 May 2005 went in favour of the Government.

For UK citizens who are still dissatisfied with the HOLs Hooper Judgement; these customers have until 4 November 2005 (6 months since the judgement) to lodge their claim to the ECtHR. Information on how this can be done is held on the following site www.echr.coe.int/echr.

1.2 Guidance for Staff

Any application for a Widows Payment and Widowed Mothers Allowance from a man, whose wife died before 9th April 2001 and who had not made an application either to the ECtHR or joined with the domestic challenge, will now be out of time. They must previously have lodged a formal claim to challenge the Government.

This means that any man whose wife died before 2/10/00 and did not submit an application to ECtHR is out of time. Any man whose wife died after 2/10/00 but before 9/4/01, and did not make a claim in the domestic courts (i.e. register with a firm of solicitors to co-join with Hooper) is also out of time. No settlement can be considered for discrimination as no challenge has been made.

This should be explained to them in a sensitive manner but as with other benefits, time limits are crucial and need to be strictly adhered to.

Domestic cases or their legal representative should be asked to forward a letter giving details of their name, NINo, address, deceased wife's name (maiden name), NINo and date of death to the following address:

Widowers Litigation, DR6 (Bereavement Benefit), Level 3, West Wing
Rockingham House, 123 West Street, SHEFFIELD, S1 4ER.

Under no circumstances should staff advise customers to contact Boston office or Disability and Rehabilitation Division direct. We do not have the resources to deal with enquiries. Local Offices should follow the advice in this bulletin and Bereavement Benefit Bulletin 13/05 to deal with customer enquiries.