

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: VTR 5655

18 December 2013

Dear Glenys Harriman,

Thank you for your Freedom of Information request received 2 December. You asked;

I have some questions relating to 3rd party deductions under UC, where there appear to be differences between guidance and regs, and/or differences from the 'legacy benefits' section, and/or confusing wording.

1. Under the legacy benefit rules, deductions can be made in respect of 'hostel charges' where the amount equivalent to the ineligible service charges such as fuel and meals can be deducted from the claimant's IS, JSA, or ESA and paid directly to the hostel provider.

This rule does not exist under UC, but will continue to exist under PC.

Just wondering if there were any plans to bring this rule under UC regs?

2. Under existing legacy benefit rules a debt of income tax arising from self-assessment can be paid to HMRC by deductions from benefit with the claimant's written consent.

This rule does not appear to exist under UC: just wondering if there were any plans to bring this rule under UC regs?

3. Where the claimant has a sanction equivalent to 100% or 40% of their standard allowance we understand that the only third party deductions that may be made are for housing costs, rent and service charges and fuel. Can you confirm what happens if the claimant was having deductions for hardship payments and /or a new claim advance, and / or a budgeting advance, and/or Child Support Maintenance before the sanction was imposed? - ie can these deductions continue if there is enough Universal Credit awarded or does the overriding 40% maximum rule apply, in which cases these deductions are suspended during the period of the sanction?

4. What is the maximum someone could have deducted from their UC award for hardship payments and /or a new claim advance, and / or a budgeting advance, and/or Child Support Maintenance assuming no other deductions / sanctions are being made and there is enough Universal Credit in payment?

5. The guidance on 3rd party deductions for rent arrears specifies that there must be 2 months' arrears before this can be implemented (putting landlords in a more difficult position than under the legacy benefit rules of 4 weeks' arrears where full rent not paid on 8 occasions). And it also contradicts the regs which do not specify an amount of arrears but leave it to the decision makers' discretion.

Please could you confirm if either the regs or the guidance are to be altered, or if not, explain how tie 2 can work together?

It may be helpful to know that "The Freedom of Information Act 2000 gives the public the right to request **data** held by public bodies". Public bodies are not required by the Act to provide an interpretation of data.

Section 21 of the Freedom of Information Act allows us to direct you to information which can be considered reasonably accessible to you. The the decision making guidance for deductions in UC is available in the public domain, and can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260707/adm8-13.pdf

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246144/Chapter_D2 - Third Party Deductions UC JSA and ESA.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246144/Chapter_D2_-_Third_Party_Deductions_UC_JSA_and_ESA.pdf)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260721/admd3.pdf

I will address each of your questions above in order.

1. We have simplified the third party deduction provisions in Universal Credit, so that some rules that are included in the legacy benefits' legislation are covered in guidance rather than in regulations. Apart from ongoing costs of gas, electricity and water, in Universal Credit the third party deduction scheme only covers arrears, not ongoing liabilities. However, Regulation 58 of the 'Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013' (see below) does allow for some or all of a claimant's Universal Credit award to be paid direct to a third party, such as a landlord/hostel provider, if it is in the best interests of the claimant and their family to do so. This would be in the form of an alternative payment arrangement, rather than a third party deduction.

Payment to another person on the claimant's behalf

The Secretary of State may direct that universal credit be paid wholly or in part to another person on the claimant's behalf if this appears to the Secretary of State necessary to protect the interests of—

(a) the claimant;

(b) their partner;

(c) a child or qualifying young person for whom the claimant or their partner or both are responsible; or

(d) a severely disabled person, where the calculation of the award of universal credit includes, by virtue of regulation 29 of the Universal Credit Regulations, an amount in respect of the fact that the claimant has regular and substantial caring responsibilities for that severely disabled person.

The Secretary of State may direct that personal independence payment be paid wholly to another person on the claimant's behalf if this appears to the Secretary of State necessary to protect the interests of the claimant.

2. The only debts that will be recoverable from Universal Credit on behalf of HMRC are overpayments of tax credits. There are no plans to widen this any further.

3. If a claimant is having a sanction applied to their Universal Credit award, which is amount equal to or more than 40% of their Standard Allowance, the only deductions that can be taken at the same time are Mortgage Interest arrears where the lender is not part of the Mortgage Interest Direct Scheme, Owner-occupier service charges arrears, Rent and service charges arrears, Gas arrears or Electricity arrears. This is aimed at protecting the claimant and their family from being made homeless or having their fuel disconnected. All other deductions would cease whilst the sanction was being applied. This would include deductions for a Recoverable Hardship Payment, Universal Credit Advance or Child Support Maintenance.

4. If someone was having no other deductions made, an amount equal to 40% of the claimant's Universal Credit Standard Allowance could be deducted to recover a Recoverable Hardship Payment. If other deductions were required, which were above Recoverable Hardship Payments on the priority order, the amount taken for the Recoverable Hardship Payment would reduce.

A Universal Credit Advance (New Claim) is normally recoverable over 6 months, although it can be repaid sooner if the claimant decides to repay it over a shorter period. The deductions are therefore normally 1/6th of the value of the Advance taken out. In exceptional circumstances, the deductions can therefore be over the overall 40% maximum deduction rate. Budgeting Advances are recoverable over 12 months. The deduction will normally therefore be set at 1/12th of the original Advance amount. The claimant can however repay a Budgeting Advance sooner, if they decide to repay it over a shorter period.

Old Scheme Child Maintenance is deducted at an amount equal to 5% of the claimant's Universal Credit Standard Allowance and Flat Rate Maintenance deductions are currently set at £5 a week (£21.67 a month). However, they are increasing from £5 to £7 a week for claimant's having deductions made under the 2012 Child Maintenance scheme.

5. We have tried to simplify the regulations relating to third party deductions in Universal Credit. Therefore some rules that are in the legacy benefits' legislation are only covered in guidance for Universal Credit. The "triggers" for the various deduction items is one of the rules that we decided it was better to include in guidance, so that we can easily change them if we find they are not set at the right level. Currently in Universal Credit, the trigger for a rent arrears deduction is that arrears have accrued of an amount equal to 2 months' rent. We have set it at that rate because that is when landlords can automatically commence eviction proceedings. If we identify that this trigger is not protecting claimants from being made

homeless, which is what it is set up to do, then we will review the policy and amend the trigger if necessary.

If you have any queries about this letter please contact me quoting the reference number above.

Yours sincerely,

DWP Central Fol Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dwp.gsi.gov.uk or by writing to DWP, Central Fol Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF www.ico.gov.uk