



Understanding UC third party deductions

Course outline

About us

At the Benefits Training Co. we believe learning should be fun and accessible to all, whether you are new to benefits or have many years experience.

We work hard to make sure our courses are the best they can be.

Our trainers work collaboratively, observe each other and share good practice so we can guarantee the highest standards.

You can find out more about us at <http://www.benefitstraining.co.uk/about>.

Aim

The aim of this one-hour session is to understand the rules behind third party deductions and how to help clients avoid further hardship when they are claiming UC and are already in debt. The session will also allow a short time for you to ask questions and share information on any other aspect of UC.

UC third party deductions

Third party deductions are higher in UC than in the old system of benefits and tax credits. You may be left with very little to live on because of the way the DWP use the rules. For almost every rule about deductions, there is at least one (or more) exception!

Maximum deduction rule

A maximum of 40% of the standard allowance (single or couple) can be deducted to be paid to a third party, together with other possible deductions for the DWP such as sanctions, recovery of payments on account (advance payments or budgeting advances), recovery of overpayments, and restrictions on UC payment following a fraud offence(1). The 40% is applied to the whole standard allowance for the claimant's age and situation, even if there are other reasons a claimant's benefit is reduced (such as the benefit cap).

However, there are two exceptions to this rule:

1. Deductions for on-going consumption of water/fuel do not count towards the 40%.
2. If the DWP thinks it is in the claimant's best interests, they can exceed the 40% for the purposes of owner-occupier housing costs debt (e.g. mortgage arrears – not ongoing payments), fuel and rent arrears (but only where the minimum 10% of the standard allowance is taken for rent arrears). If a client is in hardship because of deductions, they should be referred to debt management where there is any money owed to the DWP. If there is no money owed to the DWP, a decision maker should decide whether the deductions can be reduced. However, apart from rent arrears and fines, deductions have set rates.

What happens where there is more than one third party deduction

A maximum of three of the following third party deductions can be taken at a time(2):

- Housing costs debt for owner occupiers (this doesn't include ongoing mortgage interest payments. It could be service charge or mortgage interest arrears)
- Rent arrears
- Fuel debts
- Water charges
- Child support under 1993 scheme
- Repayment of not-for-profit loans (eg credit unions)
- Repayment of integration loans (paid to refugees and people granted humanitarian protection)
- Council tax arrears
- Court fines, court costs or compensation orders made by a court.

The exceptions are the many other deductions not in the list! Overpayments, sanctions, recovery of advance payments are not seen as 'third party' deductions. Overpayments of other benefits, including tax credits, may be deducted from UC, and claimants can find they are hit with deductions from very old DWP debts. Newer child support deductions (which apply to most non-resident parents now) are also not in the list.

1 Schedule 6, para 4, UC (Claims and Payments) Regs 2013 SI 380

2 Schedule 6, para 3 UC (Claims and Payments) Regs 2013 SI 380

This can mean there are more than three deductions when you look at all the amounts coming off UC. However, the 40% maximum should still apply, subject to the exceptions for that rule....

Liabilities in the above list are deducted from UC at 5% of the standard allowance – the exception is rent arrears which can be deducted at 10 to 20%, and court fines which can be higher – these are the deductions which a claimant can ask to be reduced. In practice the DWP often deduct for rent arrears at a standard 20%, and if this is causing hardship it should be challenged as they have the discretion to deduct at lower amounts, as long as the deduction is at least 10%.

Child maintenance is deducted at 5% of the UC standard allowance if the 1993 scheme applies. The deduction will be £5 a week under the 2003 rules, and £7 a week under the 2012 rules. In practice most 2003 cases should now have been transferred to the 2012 scheme, and so you are most likely to see a £7 deduction. The £5 or £7 can be *in addition* to the maximum 3 third party deductions from the above list (3).

Fines are deducted at a maximum rate of £108.35 per month and a minimum of 5% of the standard allowance (4). DWP guidance tells them that where there are other deduction(s) these reduce the maximum deduction pound for pound, to ensure that the overall 40% maximum deduction rate is not exceeded. However, this is guidance not law – a claimant can always ask for a lower deduction for court fines, as long as at least the minimum is taken.

The priority rules

In addition to the above rules, a claimant must be left with at least a penny of UC per assessment period (third party deductions can't be made if they would result in less than this).

If there is insufficient UC to meet all deductions (either because of the penny rule or the 40% rule), the following priority order is applied. The exception? Deductions for fraud penalties, sanctions for not meeting UC conditionality, and deductions to repay advance payments of UC, will be taken before the priority list is used.

1. Mortgage interest arrears and owner occupier service charges
2. Rent and service charges arrears where the deduction is 10% of the standard allowance
3. Gas and electricity arrears
4. Council tax arrears
5. Fines (at minimum deduction rate of 5%)
6. Water charges
7. 1993 scheme child maintenance
8. 2003 or 2012 child maintenance
9. Social fund loans
10. Recoverable hardship payments
11. HB and DWP administrative penalties for benefit offences
12. Repayment of HB and tax credit and DWP fraud overpayments
13. HB and DWP civil penalties (these can be applied where there are normal overpayments)
14. Repayment of HB, tax credit and DWP normal overpayments
15. Integration loan arrears (these are loans paid to refugees and those granted humanitarian protection)
16. Eligible loan arrears (this includes loans from credit unions, charities and community interest companies)
17. Rent arrears/service charges where the deduction is more than 10%
18. Fines (at more than the minimum deduction rate).

3 Paras 3 & 10, Schedule 6, and Schedule 7 UC (Claims and Payments) Regs 2013 SI 380

4 Reg 4 Fines (Deductions from Income Support) Regs 1992 SI 2182

Recovery of advances

Advances are usually recovered over a period of up to 12 months (from January 2018) at a recovery rate of 15% of your standard allowance if you have no earned income and 25% if you have earned income. This is a repayment to the DWP (so not seen as a 'third party' deduction), but it is subject to the 40% of the standard allowance limit on overall deductions from your UC. However, the 40% maximum deduction can be exceeded in some circumstances.

If a claimant is in hardship due to deductions

Here are some suggestions of how to manage a third party deduction where it is causing hardship:

1. Check the deductions can be made without the claimant's permission. Usually, they can – but not if the deductions are for fuel or water (arrears or on-going) and the total amount for these payments is more than 25% of the UC standard allowance and any child elements in the calculation (5).
2. Check whether the maximum amounts above are being exceeded and raise it with the DWP if they are. If this is being done because it is allowed in the claimant's 'best interests', explain why it is not in the claimant's interests. If DWP debt is involved, then the claimant should be referred to debt management (even if the deduction they want to be reduced is rent arrears). Remember that recovery of a short-term advance is an appealable decision (6). If there is no DWP debt, a DWP decision maker can make a decision about financial hardship – but this is not appealable.
3. If the rules allow for a deduction to be within a certain range but the DWP have chosen the maximum (for example, rent arrears), remind them this is a discretionary decision. They can deduct at anything from the minimum up. They should change the deduction if the claimant is in hardship.
4. UC is supposed to help people learn to manage their money so you can argue that lower deductions, within the rules above, may provide more scope to help with this. Budgeting support should be offered where appropriate.
5. You cannot appeal a lawful decision to make deductions and so if the DWP refuse to use its discretion within the rules you may have to complain. However, decisions about the recovery of short-term advances are appealable.
6. UC is paid monthly but claimants who are having difficult budgeting can have their UC paid more frequently, e.g. twice monthly, or exceptionally, four times a month. In Scotland, claimants in the full service can have twice monthly payments on request, unless the DWP think it is unreasonable.
7. In very exceptional circumstances UC can be split between two members of the household. The DWP will only consider these in cases of domestic violence or where financial abuse occurs and one partner mismanages the UC payment. Unlike appointee action, the claimant keeps full responsibility for their claim and any work related activity. Where a split payment is agreed, the larger percentage will be made to the partner with primary caring responsibilities.
8. If the UC claim includes the housing element, this can be paid to the landlord. In Scotland, for claimants in the full service, the housing element must be paid to the landlord when the

5 Para 3(3) Schedule 6, UC (Claims and Payments) Regs 2013 SI 380

6 Schedule 3, para 14 UC (Decision and Appeal) Regs 2013 SI 381

claimant requests this, unless the DWP think it is unreasonable. For other claimants, those moving from Housing Benefit who previously had this paid directly to a private landlord should be offered this option in UC. An MPTL (managed payment to landlord) isn't regarded as a deduction, so it doesn't form part of the 40% or maximum 3 deductions.

9. Some deductions have to stop if the claimant's earned income is higher than any work allowance which applies. This applies to owner occupier debt, rent arrears, fuel, and water rates. Some claimants do not have a work allowance so this route will only help those with children or limited capability for work.
 10. If there are deductions for overpayments, it is worth considering whether the claimant has been overpaid, and if so how it happened. UC overpayment recovery decisions are not appealable, but claimants can ask the DWP to exercise their discretion and waive recovery where there is financial hardship. If the request is unsuccessful and the overpayment is clearly the DWP's fault it is worth making a complaint about unreasonable recovery.
-

Exercise – deductions

Francis comes to see you about his Universal Credit. He is aged 33, unemployed, and considers that he is fit for work. He has 2 children from a previous relationship who live with their mother - he sees them occasionally, but they don't stay overnight. He has no income apart from his UC and a small amount of council tax reduction.

Francis is receiving only a fraction of his UC standard allowance. His UC award says that there are deductions, but he doesn't understand why they are so high - they come to a total of £134.12 per month.

You work out that he has a deduction for child support maintenance, one for rent arrears, one for council tax arrears, and one to repay the short-term advance payment he needed when he first claimed UC.

Francis also has an APA which pays his housing element direct to his housing association landlord.

- 1. Is it lawful for Francis to have more than three deductions from his UC?**
 - a. No
 - b. Yes because it is in Francis' best interest
 - c. Yes because child maintenance and advances are not included in the list of deductions subject to the limit.

- 2. The third party deductions alone (child support, rent arrears and council tax) come to £86.45 and the recovery of the advance is £47.67. Is this lawful?**
 - a. Yes because rent and council tax are priority debts.
 - b. No because overall he is losing more than 40% in deductions.
 - c. Yes because it is in Francis' best interest.

- 3. Which of the third party deductions could be negotiated downwards?**
 - a. Council tax
 - b. Child support
 - c. Rent arrears

- 4. Which of the deductions can't be changed unless Francis' circumstances change?**
 - a. Child maintenance
 - b. Advance payment recovery
 - c. Council tax

- 5. Which of the third party deductions probably can't be changed until the arrears are cleared?**
 - a. Council tax
 - b. Rent arrears
 - c. Child support

- 6. Francis' repayment of the short-term advance he had at the beginning of his UC claim is being made at 15% - £47.67 a month. Can he do anything about this?**

- a. No, that is the lowest rate of recovery.**
- b. No because it must be recovered within six months.**
- c. Yes because 15% is the maximum rate of recovery.**