

Overpayments

First published: 26 July 2016 (version 1)

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Introduction

Any payment of Universal Credit made in excess of entitlement is a recoverable overpayment, regardless of how the overpayment was caused. This includes those overpayments arising wholly as a result of official error. This is because there is a duty to protect public funds and an obligation, wherever possible, to make sure that an overpayment is recovered.

Overpayments caused by claimant error

Where the overpayment is caused by claimant error and is over £65, a Civil Penalty of £50 may also be considered. The penalty is in addition to the overpayment and [recovered](#) in the same way. A Civil Penalty may be considered and imposed if a claimant:

- negligently made an incorrect statement or gave incorrect information in connection with their Universal Credit claim / award without taking reasonable steps to correct the error
- failed, without reasonable excuse, to provide information as required
- failed, without reasonable excuse, to report a change of circumstances

Civil Penalties

A Decision Maker decides whether to impose a Civil Penalty.

Civil Penalties cannot be applied to a Corporate Appointee or Personal Acting Body, landlord or third party payee. It can only be applied to an individual, which can be an appointee.

If a Civil Penalty is applied to an appointee, the decision is separate to the claimant's overpayment decision. This is because the Civil Penalty applies to the appointee, not the claimant, and the appointee is responsible for payment. When the Civil Penalty is referred to Debt Management for recovery, it is important to make clear who it is to be recovered from.

A Civil Penalty cannot be applied to a fraud case if a claimant has been:

- charged with a benefit offence
- offered a caution or an [Administrative Penalty](#) as an alternative to prosecution

Joint claims

If a couple has made a joint claim for Universal Credit, only one Civil Penalty can be imposed in respect of the same overpayment. It can be imposed on either member of the joint claim.

However, this does not apply if one member of the couple was not, and could not reasonably be expected to have been aware of the other person's actions. A Civil Penalty could not then be imposed on the person not aware.

Right of appeal

The decision to impose a Civil Penalty is made at the same time as the overpayment decision. Claimants have the right to appeal the overpayment decision, Civil Penalty or both.

Overpayments caused by claimant fraud

If the overpayment arises because of fraud on the claimant's part, an [Administrative Penalty](#) may be considered as an alternative to prosecution for the offence. This is in addition to the overpayment recovery. The Fraud and Error Service decides whether to offer an Administrative Penalty and the amount to be paid.

Recovering overpayments

All overpayments are referred to Debt Management for recovery action unless they are small overpayments (SMOP).

SMOPs of £65 or under are not referred unless they arose from:

- fraud
- a direct payment made after death (between £25.01 and £65.00)

Non-fraud overpayments can be repaid by deducting 15% of the benefit unit's Universal Credit standard allowance. If the household earnings are above the level of the work allowance, an additional 10% of the standard allowance can be deducted. [See Work Allowance rates for 2016](#)

Fraud overpayments can be repaid by deducting 40% of the benefit unit's Universal Credit standard allowance

Universal Credit deductions are made in priority order. The maximum amount of deductions (including overpayments) that can be taken from a benefit unit's Universal Credit Standard Allowance is 40%. Deductions priority order guidance is currently in development.

Reducing deduction amounts

If the amount of overpayment deductions would cause hardship and the claimant cannot afford the proposed rate of recovery, Debt Management can consider reducing the amount of deductions.

Debt Management recoveries

Where an overpayment is still outstanding when a claimant is no longer entitled to Universal Credit, the claimant can arrange voluntary repayment to Debt Management.

Where the claimant has moved into employment and has not made alternative arrangements to repay the overpayment, Debt Management will seek to recover the debt through a Direct Earnings Attachment (DEA) with the employer.

A DEA cannot be sought if the claimant is:

- self-employed
- on a low wage (weekly net earnings under £100 or monthly net earnings under £430)
- in the Armed Forces
- working for a small employer with up to 9 staff

The maximum rates for a DEA are based on a percentage of the debtor's specified earnings. Debt Management can consider recovery at a rate below the maximum rate if the deductions would cause hardship.

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