

# **Prisoners**

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## **Prisoners**

If a claimant is a prisoner on the last day of their assessment period, they are not entitled to Universal Credit from the beginning of the assessment period in which they go into prison.

A prisoner is someone who is:

- detained in custody awaiting trial or sentence on conviction
- under a sentence imposed by a court
- on temporary release in accordance with the Prison Act 1952 or Prisons Act Scotland 1989

Their Universal Credit claim is closed, and any overpayment referred to Debt Management.

The exception to this is when a single claimant received housing costs as part of their Universal Credit award, and they retain entitlement where the period in custody is not expected to exceed 6 months.

Any work search and work-related requirements are switched-off whilst the claimant is in prison and in receipt of housing costs.

## **Eligibility for claimants in a secure unit**

Claimants who are detained for mental health reasons do not fall within the definition of a prisoner.

If a claimant is detained in a secure hospital or unit as a result of criminal court proceedings, we must always confirm which act they are detained under.

A claimant detained in this way is eligible for universal credit if they meet the basic conditions of entitlement and are not detained under any of the following:

- section 45A or 47 of the Mental Health Act 1983
- section 59A of the Criminal Procedure (Scotland) Act 1995
- section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003

A person who is transferred from prison to a hospital or secure unit under the above listed legislation is also **not** entitled to Universal Credit.

Those detained under sections 45A or 47 of the Mental Health Act 1983 can become entitled to Universal Credit once the sentence imposed by the court ends.

Whilst in law, the responsibility is on the claimant to tell us about any change in their circumstances, in this case it is likely that the department will receive the information from the prison or the secure unit (a third party). The agent must make the appropriate enquiries to determine the facts before any entitlement decision is made.

### **Housing costs and temporary absence**

A prisoner may continue to receive housing costs when the time spent in prison, or their expected date of release, is 6 months or less. See Temporary absences.

Housing costs are stopped from the outset when it is known the claimant is expected to spend more than 6 months in prison on a single claim.

Housing costs must be verified before any payment can be considered.

A claimant may declare housing costs before they go to prison, and without providing verification. If housing costs were declared in an assessment period which precedes the claimant's committal to prison, these must be verified and the Universal Credit award suspended until evidence has been obtained.

Reasonable steps must be taken to gather evidence of housing costs and this may include:

- contacting the landlord for evidence of liability to pay rent and occupation
- communicating with the prison work coach

If housing costs are applicable, the Universal Credit award must be revised and recalculated for the Housing element to be put into payment.

Whether a prisoner has eligible housing costs is determined by establishing if they:

- are being held on remand pending trial or sentencing, or
- have been sentenced with an expected date of release

### **Held on remand**

When a person is detained on remand, it may not be possible to determine how long they will remain in prison. In these cases, housing costs can continue until the 6-month period is reached (or stopped at the outset) if the information received shows the time spent in prison will be more than 6 months.

If further information indicates that a claimant will be in prison more than 6 months, the claimant will no longer be entitled to Housing Costs element of Universal Credit.

If the prisoner was held on remand and then sentenced, the overall time spent in detention will determine if housing costs can continue. If the time spent in prison on remand and the sentence to serve exceeds 6 months, the housing costs will stop at the point of sentencing.

### **Sentenced by a court**

Most prisoners will not spend the full length of their sentence in custody so those serving sentences in excess of 6 months may still be eligible to receive their housing costs.

Therefore, those sentenced for more than 6 months may be eligible for housing costs as the actual time spent in prison will be less than 6 months. Time spent in custody could be further reduced if the prisoner is eligible for early release through Home Detention Curfew (electronic tagging). The prison service will calculate an expected release date. This date can be used to determine whether the period in custody is not expected to exceed 6 months.

Any time spent in prison on remand prior to sentencing must be taken into consideration when determining if the time spent in detention will be 6 months or less.

## **Couple claims and temporary absence**

If the prisoner was part of a couple claim, they remain part of that assessment unit for the period of the temporary absence.

Any income and capital in respect of the prisoner is taken into account. They are also still included when calculating the room allocation for housing costs.

For further information, see [Ineligible partner](#).

## **Treatment of prisoner earnings**

Earnings from work carried out on day release and received through Real Time Information are taken into account when calculating the Universal Credit award. All other allowances or earnings received from work or tasks undertaken as a prisoner are disregarded.

## **Claimants incorrectly paid Universal Credit whilst in prison**

If it is discovered that a claimant incorrectly received Universal Credit whilst in prison (but is now released and the claim is still open), the assessment periods where the claimant was ineligible are reduced to nil.

Before an overpayment decision can be made, a closed period supersession decision is required for the period when the claimant was in prison.

The claim is not closed as the claimant is now entitled to Universal Credit.

## **New claims for prison leavers**

Because Universal Credit is a digital benefit, prison leavers cannot make a claim in advance of their release. This is due to restrictions placed on the use of computers in prisons.

A short-term solution has been designed to ensure that prison leavers have a claim from day one of their release.

Prison work coaches will support prison leavers to make a claim on release by:

- giving advice on what evidence is required to make a claim (for example, verifiable identity, bank account and email address)
- ensuring that prison leavers are aware that they must complete an online claim as soon as possible on release and before the date of the initial appointment
- booking an initial appointment at the relevant jobcentre within 7 days of release

In most cases, the prison work coach books the initial appointment, but if this is not the case, the prison leaver must arrange this in the usual way when they make an online claim on release.

Universal Credit cannot be paid until the claimant's identity has been verified.

If all attempts to verify identity as outlined in the Identity verification and standards of evidence guidance fail, and a third party is needed, the prison can be asked to confirm the details on the claimant's release documents.

A bank or building society account is required for the claimant to receive their Universal Credit payments. The Community Rehabilitation Company will support prison leavers to get access to bank accounts on release

For the safety of customer facing staff, prison work coaches will check all prison leavers against the Unacceptable Customer Behaviour database before any initial appointment.

Prison leavers can apply for a Universal Credit Advance if they can't manage until their first Universal Credit payment. To claim an Advance they will need:

- online claim declaration
- identity verification
- verification of bank account

## **Flexible Support Fund**

Prisoners are now eligible for support from the Flexible Support Fund (pre-release) for training and associated tests, licenses and certificates such as the Construction Skills Certification Scheme (CSCS). This will help them to obtain or take up the offer of employment when released.

When considering an award, all other available prison support or Through the Gate funding must have been exhausted or not be available.

There is no set time limit for accessing the Flexible Support Fund, but it must be shown that assistance will increase employability prospects at the point of release with any training, licenses or certificates being relevant and valid at that point. Flexible Support Fund access for this group is not available for Barriers to Work support.

If there is a potential need to use the Flexible Support Fund to fund training for a prisoner pre-release, we should work with Employer and Partnership colleagues, District Provision Team and the Education & Skills Teams in prison to progress this.

For more information about help from the Flexible Support Fund for prisoners,  
see Prison work coach instructions