

Insolvency

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What is insolvency

Insolvency is when a person is unable to pay back debts and as a last resort, they apply to The Insolvency Service to become insolvent.

There are many types of insolvency orders, but for Universal Credit they are treated the same way. The most common ones are:

- Debt Relief Order
- Individual Voluntary Arrangement
- Bankruptcy
- Protected Trust Deed (Scotland)

The insolvency order will detail the type of insolvency, the start and end dates and which debts are included in the order.

All DWP debt recovery must be suspended when a claimant becomes insolvent regardless of whether DWP debts are included in the insolvency order.

Debt Management will make the decision whether to suspend recovery of all DWP debts except Universal Credit Advances. DWP debts may include for example, overpayments and Recoverable Hardship Payments.

Insolvency and Universal Credit Advances

The recovery of any Universal Credit Advances taken before the start of an insolvency order must be suspended until the end of the insolvency order.

A claimant can apply for any type of advance after the date their insolvency order began. This is recoverable in full as normal. It would not be included in the insolvency.

Insolvency and third-party deductions

Third party deductions remain the responsibility of the creditor for that debt, such as landlords for rent arrears, utility companies for fuel bill arrears or the courts for fines.

DWP **must not** assume these are included in the insolvency order and **must not** end deductions until instructed to do so by the creditor.

Debt Management are responsible for refunding any Advance recovery taken during an insolvency and the claimant must contact Debt Management for a refund to be made. However, this only applies to Advances taken out before insolvency.

Debt Management will also refund any deductions taken for RHPs, Tax credit overpayments, Housing Benefit overpayments and other DWP debts.

Insolvency and underpayments

Debt Management are responsible for refunding any Advance recovery taken during an insolvency and the claimant must contact Debt Management for a refund to be made. However, this only applies to Advances taken out before insolvency.

Insolvency in joint claims

How advances in joint claims are treated during an insolvency order depends on who is insolvent and the circumstances around the claim.

If a couple took a joint advance before the start date of one of them becoming insolvent, recovery of the advance would be suspended. At the end of the insolvency period recovery would restart for repayment of the advance.

If the couple separate during the insolvency period, the outstanding balance for the advance is split 50/50. Recovery for the split debt would remain suspended for the insolvent person as they are still in financial hardship but recovery would restart immediately for the solvent person.

If a couple took a joint advance **after** the start date of one of them becoming insolvent, recovery of the advance would continue as both claimants would be liable for repayments.

If recovery of an advance is suspended due to insolvency before two single claimants join, it remains suspended after they have joined until the insolvency period ends.

If recovery of an advance is suspended due to insolvency before a split, it remains suspended after the split for the insolvent claimant.