Financial help for families fleeing domestic abuse

April 2017

Child Poverty Action Group works on behalf of the one in four children in Scotland growing up in poverty. It doesn’t have to be like this. We use our understanding of what causes poverty and the impact it has on children’s lives to campaign for policies that will prevent and solve poverty – for good.

We provide training, advice and information to make sure hard-up families get the financial support they need.

*Financial help for families fleeing domestic abuse* is one of a series of Child Poverty Action Group in Scotland leaflets giving guidance to advisers and those working with families in Scotland about aspects of the tax credit system of particular concern.

**Introduction**

If you are experiencing domestic abuse, the financial implications should not be a barrier to making yourself and your children safe. There are special social security rules that are aimed at helping you in this situation.

Refuges can always provide support in an emergency, regardless of your income or resources, and can help you sort out your finances in the longer term.

Under UK social security legislation, the term ‘domestic violence’ is used and defined as any incident or pattern of incidents of controlling behaviour, violence or abuse, including physical, sexual, psychological, financial or emotional abuse, by a partner, former partner or family member, regardless of your gender or sexuality.

This leaflet gives a brief overview of what benefits you may be able to get if you have to flee your home due to domestic abuse. It is not a full statement of the law and you should seek specialist advice in your individual circumstances.
What financial help is available if you need to flee your home due to domestic violence?

Scottish Welfare Fund
You can apply for a Crisis Grant for living expenses if you need to leave your home in an emergency. You can also apply for a Community Care Grant for other needs such as travelling expenses or household items if you are moving into a new home, and are facing exceptional pressures due to domestic violence. You should be on a low income and are normally expected to be getting certain benefits but this is not essential. You should apply to your local authority for a Crisis Grant and/or Community Care Grant from the Scottish Welfare Fund. You should also claim any benefits you are eligible for and request a short term benefit advance.

Income Support (IS)
If you have a child under the age of 5, you can claim income support as a lone parent as soon as you have left your former partner. You do not have to look for work or be available for work until your youngest child reaches the age of 5.

If your child is at least one, you may be required to attend a work-focused interview, but this may be waived if it is not appropriate in the circumstances.

If your child is aged 3 or 4, you may be required to undertake work-related activity such as a skills assessment, but this should only be required while your child is being looked after by someone else, and must be reasonable in the circumstances.

If you are sanctioned for failing to attend a work-focused interview or undertake work-related activity, you should challenge the decision on the grounds that you had good reason due to your circumstances.

Jobseeker’s allowance (JSA)
If you have a child aged 5 or over, you will usually have to claim jobseeker’s allowance. You do not have to look for work or be available for work if you have experienced, or been threatened with, domestic violence within the last 26 weeks. This exception applies for four weeks from the date you notify the Department for Work & Pensions (DWP), and can be extended to 13 weeks if you provide evidence from a person acting in an official capacity, such as police or social worker. This exception can only be applied once in any 12-month period. You can get a form (DV1) to apply for this on the Scottish Women’s Aid website, or ask at the Job Centre.

After this 4 or 13 week period, you must be looking for work and available for work for at least 16 hours a week. If you have a child under 13, you only have to be available for work during school hours. If you have a child under 16, you do not have to be available for work during the school holidays if it unreasonable for you to make other arrangements. It is important to inform your personal adviser at the job centre of your circumstances and childcare needs, and make sure the information is included in your jobseeker’s agreement (also known as claimant commitment).
If you are sanctioned for failing to meet your commitments, you can challenge the decision if you have good reason. For example, you should not be sanctioned for failing to apply for a job that would have placed you at risk of meeting your former partner.

There are two types of jobseeker’s allowance; one is based on your national insurance contributions and is usually only payable for 6 months. The other is income-based and can be paid indefinitely (but it may be time-limited for some European nationals).

*Employment and support allowance (ESA)*

If you are unable to work because of illness or disability, including due to the physical or psychological effects of domestic violence, you may be entitled to employment and support allowance. You need to have a medical certificate provided by your GP or other doctor, and pass an assessment of your capability for work.

If your child is aged 3 or over, you may be required to undertake work-related activity such as a skills assessment, but this cannot include applying for jobs and must be reasonable in your circumstances. If you are placed in the support group for the more severely disabled, you are not required to undertake work-related activity.

There are two types of ESA; one is based on your national insurance contributions and is only payable for one year, or longer if you are placed in the support group. You may also be entitled to the other type which is income-related and can be paid for longer.

*Housing benefit*

If you have fled your home due to fear of violence but intend to return, for example when your former partner has been excluded or convicted, you can continue to receive housing benefit for up to 52 weeks of a temporary absence. In this situation, you can also receive housing benefit on another home, for example if you are liable for rent in temporary accommodation.

Housing benefit can be reduced if your total from benefits including IS, JSA, child benefit, child tax credit and housing benefit is more than the ‘benefit cap’, currently around £500 a week for a lone parent. This is most likely to affect you if you have a large family or are living in accommodation with a high rent. If you are staying in a refuge, this type of accommodation is usually exempt from the benefit cap, so your housing benefit can cover the higher charges usually associated with the additional support and security provided. If you are getting housing benefit on two homes under the rule described above, you may be affected by the benefit cap.

Housing benefit may not cover your rent in full if it is considered that the property is too large for your family’s needs or the rent is too high. The ‘bedroom tax’ does not usually apply if you are in a refuge but these rules may affect you if have had to find other accommodation in an emergency and not been able to shop around in the private sector or to wait for another offer from a housing association or council.
If housing benefit does not cover your rent in full for any reason, you should apply for a discretionary housing payment (DHP) from your local authority and explain your circumstances. DHP guidance refers to families fleeing domestic violence several times.

**Child tax credit**
You must claim tax credits as a single person if you have separated from your partner. You are eligible for child tax credit if you are responsible for a child who is normally living with you. You may also be eligible for working tax credit as a lone parent and help with childcare costs if you are working at least 16 hours a week. Your new single claim is based on your individual income, and is not affected by your former partner’s income. Spousal and child maintenance is ignored. Property is ignored but income derived from it counts as income.

If you were getting tax credits as a couple, your joint claim can be ended and your new single claim can be made in the same telephone call to the Tax credits Helpline, with a target to make payments quickly. You will still receive an annual review form about your old joint claim at the end of the tax year, usually issued between April and July. Both former partners must usually declare their income for the whole tax year and a final decision is made on entitlement up to the date of separation.

If there was an overpayment in your old joint tax credits claim with your partner, you will be asked to repay no more than 50% of the overpayment.

If you report that you have been affected by domestic violence, your case should be handled by a dedicated team who must ensure that your claim is dealt with appropriately, for example that you are not asked to provide information that could put your safety at risk.

**Child benefit**
Child benefit is usually paid to the person responsible for the child. If you were not the child benefit claimant before fleeing domestic violence, you should make a new claim for a child or children you are responsible for. It can take several weeks to change claimants, unless your former partner agrees to withdraw his/her claim.

If you had opted not to receive child benefit due to the ‘high income tax charge’ because your former partner’s income was over £50,000, you should ask for payment to be reinstated once you have separated.

**Pension credit**
If you are over the qualifying age (currently around 64, rising to 65 by November 2018), you can claim pension credit as a single person. Pension credit is a means-tested benefit for older people. You are allowed more to live on and are not required to look for work, and cannot be sanctioned. If you have children, you should also claim child tax credit.
Universal credit

Universal credit (UC) is a new means-tested benefit, payable in or out of work, including amounts for children, childcare costs and housing. It replaces income support, income-based JSA, income-related ESA, housing benefit and tax credits. UC is being introduced gradually, for limited groups of claimants, depending where you live.

In some areas, new claims are accepted from all claimant groups, including people with children.

In most areas of Scotland, new UC claims are currently only accepted from single people without children, who are able to work. In these areas, you cannot currently make a new claim for UC if you are in temporary or supported accommodation, such as most refuges. If you get UC and then move into a refuge provided by a local authority, charity or voluntary organisation because you have left your home due to domestic violence, you continue to get UC for yourself, but your housing costs are met through housing benefit.

If you are in a group who cannot claim UC, you can still claim the old benefits and tax credits instead.

If you start claiming UC, and then your circumstances change, you stay on UC. So for example, if you have fled your partner but do not have your children living with you at the time, and are not in temporary accommodation (and meet a number of other conditions), you may have to claim UC in most areas of Scotland. If your children then start living with you, you will stay on UC with amounts for your children included, instead of claiming child tax credit.

There is usually a period of 7 ‘waiting days’ at the start of a UC claim, before your entitlement begins. If you have been affected by domestic violence within the six months before you claim, the 7 ‘waiting days’ at the start of your claim do not apply.

UC is usually only paid after a monthly assessment period, followed by another 7 days before the first payment. You can request a short-term advance if you are in financial hardship. UC is usually paid all in one monthly payment into your account. You can request an ‘alternative payment arrangement’ if you would prefer payment to be more frequent, or for rent to go direct to your landlord.

Most UC claimants are subject to work-related requirements, which include attending work-focused interviews if your youngest child is aged one, and preparing for work if your youngest child is aged two. If your youngest child is aged three or over, you are subject to all work-related requirements, but can agree limitations on hours of work. You are at risk of a sanction if you do not comply with your work-related requirements without good reason.

If you have been affected by domestic violence within the last six months, you should not be subject to any work-related requirements for a period of 13 weeks if you provide evidence of the abuse from a person acting in an official capacity, such as police or social worker. This exception can only be applied once in any 12-month period. If you have children, you should not have to be available for or look for work for a further 13 period of weeks, but may be required to attend work-focused interviews or prepare for work.
If you are responsible for a child who has been a victim of, or witness to, violence or abuse, or has been affected by the death of a family member in the last two years, and this has disrupted their school or childcare, you can be allowed a month in which you do not have to look for work or be available for work. This can be allowed once in each six month period in the two years following the event. However, if the incident is the same episode of domestic violence for which you have been allowed the period of 26 weeks described in the above paragraph, the month runs at the same time.

**Two child limit**

There is a two child limit in child tax credit and universal credit which can mean no child element is payable for some babies born on or after 6 April 2017 if you are already claiming for two or more other children. However, there is an exception if it is likely that the child was conceived as a result of rape or in a controlling or coercive relationship. You must not be living at the same address as the alleged perpetrator at the time the exception applies. A controlling or coercive relationship includes behaviour which causes you to fear on at least two occasions that violence will be used against you, or that causes you serious alarm or distress which has a substantial adverse effect on your day-to-day activities. You must provide evidence from an approved person that you had contact with them or another approved person about the rape or coercive or controlling relationship. A list of approved persons is set out in guidance and includes health care professional, police officer, social worker, registered counsellor, independent sexual violence adviser or other approved organisations such as specialist rape charities. Third party evidence is not required if there has been a conviction for the offence of rape or coercive controlling behaviour in the UK, or a similar offence abroad, or a Criminal Injuries Compensation award in respect of a sexual offence, physical abuse or mental injury, and it is likely that the offence or injury resulted in the conception.

For more information see:
**Means-tested benefits and your former partner, property or savings**

If you are claiming income support, income-based JSA, income-related ESA, housing benefit or a council tax reduction, your claim is not affected by your former partner’s income. Any payment of child maintenance is ignored. If you receive spousal maintenance, this counts as your income and does affect your claim.

If you have fled a property of which you were the owner or joint owner, the value of the property is ignored for at least 26 weeks following a relationship breakdown, or longer in other circumstances, for example if your former partner is a lone parent, or if you are taking legal advice to return to the property or take steps to sell your share.

If you had a joint account with your former partner, you will need to open an individual account in your own name to receive payments of benefits and tax credits. You may be treated as having a 50 per cent share of jointly held savings, but if you are unable to access a joint account due to domestic violence, you should argue that the value is nil for means-tested benefits. You should also seek legal advice on gaining access to your share and other financial issues.

**People from abroad**

European Economic Area (EEA) nationals may find that their rights to claim income support, income-based jobseeker’s allowance, income-related employment and support allowance and housing benefit are limited, depending on their circumstances, and should seek specialist advice.

People from abroad who entered the UK as the partner of a British citizen or settled person and have fled domestic violence may be entitled to claim benefits and tax credits under a special concession. If you have ‘no recourse to public funds’ as a condition on your stay in the UK, this concession allows you access to public funds so that you are not at risk. You can apply for a ‘Destitute Domestic Violence Concession’ from the Home Office to allow you limited access to benefits and tax credits for three months. You can download the application form from [www.gov.uk](http://www.gov.uk) but you must also apply for indefinite leave to remain in the UK and should seek specialist immigration advice.

People from outside the European Economic Area (EEA) who entered the UK as the partner of an EEA national and have fled domestic violence may also be able to obtain rights to claim benefits under European law.
Further information and advice

IN AN EMERGENCY CALL 999

Scotland Says No
Scotland Says No was set up and is administered by the Scottish Violence Reduction Unit on behalf of police forces across Scotland.

Domestic abuse Helpline: 0800 027 1234 (24 hours a day, 7 days a week)

Website: www.scotlandsaysno.org.uk/

Scottish Women’s Aid
Scottish Women’s Aid is the lead organisation in Scotland working towards the prevention of domestic abuse, and is the collective voice for 36 local member groups. Contact for your local group.

0131 226 6606

Website: www.scottishwomensaid.org.uk/

Child Poverty Action Group in Scotland
0141 552 0552 advice line for advisers on benefits and tax credits,
Monday to Thursday 10am to 4pm, Friday 10am to 12 noon

Email: advice@cpagscotland.org.uk
email advice for advisers on benefits and tax credits

Website: www.cpag.org.uk/scotland/taxcredits
for more tax credit leaflets from CPAG in Scotland

CPAG publishes the Welfare Benefits and Tax Credits Handbook, a comprehensive guide to benefits and tax credits for claimants and advisers.

CPAG in Scotland’s advice line is only for advisers. If you are having problems with your own tax credit or benefit claim and are in need of advice you should contact your citizens advice bureau or other local welfare rights service.

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