

# Prisoners and universal credit



July 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.

Your universal credit is affected if you are in prison. This factsheet describes how it can be affected if you or your partner are remanded in custody or serve a prison sentence. It provides information on what happens to your universal credit if you get a community-based sentence, and what happens when you are released from prison.

Universal credit is a benefit for people on a low income who are in or out of work. It replaces income support, income-based jobseeker's allowance, income-related employment and support allowance, housing benefit, child tax credit and working tax credit. It is being introduced gradually for new claimants, but eventually everyone on one of these means-tested benefits or tax credits will be transferred to universal credit.

Universal credit is paid based on your circumstances during an 'assessment period' of one month. A change which stops or reduces your universal credit during an assessment period usually takes effect from the beginning of that assessment period. This can mean that you get no, or reduced, universal credit for a whole month.

## 1. Remanded in custody

You may be 'remanded in custody' while you are waiting to appear in court, or waiting for trial or sentencing. Some of the rules about universal credit while you are remanded in custody are different from the rules that apply if you have received a prison sentence.

It is important to make sure that the DWP are told as soon as possible about changes which affect your entitlement to universal credit, such as being remanded in custody or receiving a prison sentence. If you do not, you may be overpaid universal credit and have to pay it back.

With the exception of help with housing costs, you cannot get universal credit while you are remanded in custody.

### **Paying for housing**

You can get help with your rent or mortgage interest only if a housing costs element was included in your universal credit before you were remanded in custody. This is payable for up to six months, for your normal home.

#### ***Example***

*Tom gets universal credit of £587.82 a month, made up of a standard allowance of £317.82 and a housing costs element of £270. His assessment period starts on the 9th of each month. He is remanded in custody, pending trial, on 12th July. His universal credit award is reduced to £270 a month with effect from 9th July – this means that the monthly payment for the month starting 9th July will only be £270. Universal credit is paid in arrears, so the next payment of universal credit after Tom has been remanded is the one which should be reduced. The housing costs element is payable because it was already included in his universal credit when he was remanded in custody.*

Even if you do not receive a custodial sentence, you cannot get a payment of universal credit (apart from housing costs) for the period you spent in prison on remand. You do not qualify for a payment of other elements of universal credit covering the time you were in prison.

## **2. After you are convicted or sentenced**

### **If you do not get a prison sentence**

If you are convicted of an offence, instead of getting a prison sentence you might be fined or receive a type of community order. There are no special benefit rules covering these circumstances. If the court decides to give you a community payback order this may include an 'unpaid work requirement'. This means that you have to do a certain number of hours of unpaid work within a period of time set by the court. Having unpaid work to do can raise questions about whether you meet the conditions for claiming universal credit.

When you claimed universal credit, you will have signed a 'claimant commitment' in which you agreed what you would do to look for or prepare for work. DWP guidance suggests that Jobcentre Plus staff should liaise with Criminal Justice Social Work staff (who will be supervising your unpaid work) to help avoid any problems which might arise because of your responsibilities under the Order.

Guidance also suggests that, if you receive a community order which requires you to be at home during the day, your work search requirements could involve activities such as writing letters, making phone calls and looking for work online or in newspapers.

Even if you are unwell and your claimant commitment does not require you to look for work, you might still get an unpaid work requirement from the court. The person organising this unpaid work should take account of any health problems that you have. Your unpaid work placement does not count as 'work' for universal credit purposes and so should not interfere with your entitlement to benefit.

## If you do get a prison sentence

If you are convicted of an offence and you receive a prison sentence, your universal credit benefits will be affected.

### Paying for housing

You can get help with your housing costs (whether rent or mortgage interest) through universal credit for up to 6 months. You do not have to meet any work-related requirements whilst you are in prison for this to continue. You must have had a housing costs element included in your universal credit immediately before you became a prisoner. Your absence from home must not be expected to exceed 6 months starting from the point at which you became a prisoner. So if you were on remand and then received a sentence of imprisonment, the time spent on remand is included in the 6 months.

When working out how long you are likely to be away from home, the DWP should take account of remission you are likely to get on your sentence - not simply the length of the sentence you receive. For example, you might be sentenced to four months in prison, but be likely to serve two months.

#### **Example**

*Arpad has been getting universal credit which includes housing costs (help with his rent). He is remanded in custody, pending trial, on 13th September. His trial takes place on 1st November and he is sentenced to 6 months in prison. He is told that he is likely to serve 3 months. This means that he is likely to be away from his home for 4 ½ months. He continues to be paid the housing costs element of his universal credit whilst he is a prisoner.*

If you have a partner who is still living in the home while you are in prison then they may be able to claim help with housing costs (rent or mortgage interest) in their own right during your absence. Your partner can be paid universal credit as a member of a couple for up to six months. S/he will be paid at the rate for a single person, but your income and capital will also be taken into account when working out how much universal credit is paid. The award can include help with housing costs. Your partner can also get help through universal credit with childcare costs while you are in prison, if s/he is working.

When you are detained (whether because you are remanded in custody or beginning a custodial sentence), universal credit is payable to your partner at the single person rate for the whole of that assessment period. When you are released, it is payable at the couple rate for the whole of that assessment period.

If you are imprisoned for more than 6 months, the couple claim ends, and your partner must make a claim as a single claimant.

Again, it is important to tell the DWP about your absence as soon as possible.

### What if you are detained in hospital?

Sometimes, even though you are in hospital, you count as being a prisoner and the rules set out above still apply to you. You still count as a prisoner if, following a conviction, you are ordered by court to be detained under a 'hospital direction' (under section 59A of the Criminal Procedure

(Scotland) Act 1995) or you are sent to prison and then later you are transferred to hospital under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

### 3. Released after serving a prison sentence

When you are permanently released after serving a prison sentence you should claim any benefits - including universal credit - you may be entitled to, as soon as possible. The prison should give you a discharge form which may be helpful in proving your identity, but if you need to open a bank account you are likely to be asked for additional forms of identification. Seek advice from a CAB or other advice agency if this causes problems for you.

Even if you were getting universal credit before you went into prison, you still have to make a new claim if your award stopped because you became a prisoner. Some claimants have a waiting period of 7 days before entitlement begins. If you claim universal credit within one month of being released from prison, however, the waiting period does not apply.

You may be interviewed by a DWP liaison officer before leaving prison and, if so, they should tell you which benefits you should claim once you've been released. Some prisoners are able to make a claim for universal credit up to one month before release.

Universal credit is generally paid in arrears. You may be able to ask for a **short-term advance** while you are waiting for your benefit to start being paid.

#### Scottish Welfare Fund

The Scottish Welfare Fund can provide a crisis grant if you need help in an emergency or disaster and you have no other money to meet your immediate needs. The fund can also provide a community care grant for items such as furniture, clothing or removal expenses and is intended to help people re-establish themselves in the community or stay independent in the community. You may be able to get a community care grant following a period in prison. To get help from the Scottish Welfare Fund you must be on a low income. You should be treated as having a low income if you get certain means-tested benefits – income support, income-related employment and support allowance, income-based jobseeker's allowance, pension credit or universal credit, but you can be awarded a grant even if you do not get one of these benefits.

The Scottish Welfare Fund is administered by your local authority. Check for details of how to apply at <http://www.gov.scot/Topics/People/fairerscotland/scottishwelfarefund/howtoapplytothescottishwelfarefund>

For more information about the Scottish Welfare Fund see CPAG in Scotland's factsheet [The Scottish Welfare Fund](#)

For more information on any of the issues covered in this factsheet please see CPAG's *Welfare benefits and tax credits handbook*, or contact our advice line for advisers on 0141 552 0552 (Monday to Thursday 10am to 4pm, Friday 10am to 12 noon) or on [advice@cpagscotland.org.uk](mailto:advice@cpagscotland.org.uk)