

Rent arrears and universal credit

A problem area has been deductions being made from universal credit (UC) for rent arrears. Deductions can be made from UC if a client is in debt with their rent (including any water, service, or other charges included in it) and still occupies the premises to which the rent applies.

The Department for Work and Pensions (DWP) has been telling UC claimants that they cannot make direct deductions for rent arrears of less than 20% of the claimant's UC standard allowance, even where a court has decided that a repayment rate of £5 per week is reasonable. Unfortunately social security law provides for deductions at a rate higher than a court order.

Regulation 60 and Schedule 6 paragraph 7 of the UC, PIP, JSA & ESA (Claims & Payments) Regs 2013 (S.I. 2013/380) state that the DWP 'may' (not must) make deductions of between 10% and 20%. This implies it is discretionary and the DWP could decide not to make the deductions or to make them at the lower rate, if for example the client could show hardship. The decision about the rate of deduction should also carry a right of appeal as it isn't specifically listed under "Decisions against which no appeal lies."

Advisers should:

- Challenge the DWP's decision to impose a 20% UC deduction.
- Submit evidence of the client's personal circumstances such as other debts or details of extra expenditure due to disability needs*.
- Consider appealing the decision and making a complaint if the DWP appear to be acting unreasonably.

*DWP guidance suggests that hardship may be considered if client has expenses due to caring responsibilities, ill health/sickness, risks losing their home or job, has dependent children) or any other exceptional circumstances eg purchase of a washing machine on credit. If they have savings of £500 or more, and hardship is not due to ill health/sickness, the client will not meet the criteria.

Note: Deductions cannot be made if the claimant's earned income (or for joint claimants, their combined earned income) equals or exceeds the appropriate work allowance for the 3 previous monthly assessment periods.

