



Department
for Work &
Pensions

Ground Floor
Caxton House
Tothill Street
London
SW1A 9NH

30 July 2021

Emma Vincent Miller
Public Law Project
The Design Works
93-99 Goswell Road
London
EC1V 7EY

Dear Ms Vincent Miller

R (B) v Secretary of State for Work and Pensions CO/116/2020

I write further to the Public Law Project's letter dated 29th September 2020 in which you sought an explanation of the process and procedure for recoverable hardship payments. I can also confirm that the Secretary of State accepts that she has a discretion not to recover such payments, including where the amount of an award is reduced under section 26 or 27 of the Welfare Reform Act 2012. This letter explains the process for a claimant to request that discretion to be exercised.

As you may know, each Universal Credit claimant has an online Universal Credit account which they can sign into at any time. DWP agents can also access claimants' online accounts.

In the event that a Universal Credit claimant's award is reduced for a sanction, Universal Credit writes to the claimant to inform them of the details of the sanction. The letter (which is uploaded to a claimant's journal) also tells the claimant that they might be able to apply for a recoverable hardship payment if they need help paying bills and other living costs while their award is being reduced. The letter goes on to advise claimants that they can find out more about recoverable hardship payments by calling the Universal Credit helpline on 0800 328 5644.

If a claimant telephones the Universal Credit helpline, the agent who answers the call will access the claimant's online account and open the "Apply for a Recoverable

Hardship payment to-do". This to-do now includes a digital form, rather than the form that was previously called an "Agent Led Process" or ALP. The digital form replaces the ALP and is completed by the agent who inputs the answers given by the claimant. The form is intuitive and so the claimant's answer to a particular question will determine which question is shown next.

The first section of the digital form contains the eligibility criteria that a claimant must satisfy to be entitled to a hardship payment. If the claimant is eligible, the agent then explains to the claimant that:

- Universal Credit will start to recover the total amounts of a recoverable hardship payments made to them once all sanctions and fraud penalties no longer apply to their award;
- Universal Credit will suspend recovery if they start earning the amount where they (and their partner if they have one) are no longer required to look for more work or increase their earnings;
- the remaining amount of hardship will be written off once they earn this amount for a period, or periods totalling, six assessment periods without further sanction or penalty;
- a decision will be made within 48 hours of receiving the evidence required;
- where Universal Credit is reduced for more than one assessment period, the claimant will need to re-apply when they receive or would have received their payment for the next assessment period.

The next section of the form requires the agent to ask the claimant questions about their housing costs, food needs, heating requirements and expenses for hygiene products or services. Universal Credit does not expect the claimant to take on or increase debts, or sell their property, but we do expect claimants to investigate potential alternative avenues of support that may be available to help themselves and their household out of hardship. We also expect claimants to make efforts to reduce non-essential expenditure.

The agent will ask the claimant questions about each essential basic need and record the claimant's response. They are also asked if anyone else can support them and what they have already done to mitigate their circumstances. All information is recorded within the form. The agent then asks the claimant to agree that:

- the information they have given is complete and correct;
- they will promptly report any changes that affect their application;
- the information they have given here (or in other benefits claims) can be used to assess their application.

The claimant is warned they may be prosecuted or have to pay a penalty if they do not give complete and correct information, or do not report changes promptly.

The claimant, and their partner if they have one, must agree a declaration that if they get a recoverable hardship payment, they will repay it either:

- from future Universal Credit payments that are not reduced by sanction or penalty;
- from other benefits payments;
- through debt recovery.

If the claimant agrees, the agent ticks a box to record that the claimant has agreed and the information is passed to another agent to make a decision as to whether to award a recoverable hardship payment.

If a hardship payment is made to the claimant, they are sent a notice telling them how much has been awarded and the period it covers. The notice also explains that the payment is “recoverable”, which means it will be deducted from their Universal Credit once all sanctions and penalties have come to an end. Claimants are informed of the amount of any deduction in their monthly statement, which is issued about a week before their payment is made.

If a claimant cannot afford their recoverable hardship payment deductions, they should call DWP Debt Management on 0800 916 0647 and a decision will be made as to whether to reduce the amount of the deduction or, in exceptional circumstances, waive recovery of the debt. It is Government policy to recover all debt where it is reasonable and cost effective to do so. The guidance setting out the considerations that the Secretary of State takes into account when deciding whether to recover hardship payments is contained in the Benefit Overpayment Recovery Guide¹. This is not affected by the fact that a claimant has agreed a declaration that they will repay the hardship payment.

Yours sincerely

Government Legal Department

¹ <https://www.gov.uk/government/publications/benefit-overpayment-recovery-staff-guide/benefit-overpayment-recovery-guide>. See, in particular, paragraphs 5.83 to 5.85 and Chapter 8.