nawra

national association of welfare rights advisers

Work and Pensions Committee

Update on universal credit and deduction for debt

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This update on the current situation on deductions for debt from universal credit is informed by two workshops at our NAWRA conference held in Glasgow on 7 September 2018 and from a rightsnet discussion thread[1] (dated from 28 August 2018). As such it represents the current experiences of welfare rights advisers from across the UK.

Key issues raised by advisers

- Debt deductions generally start with no warning to the claimant so there is no opportunity to prepare or to budget, or to negotiate before the deductions have started. The first a claimant will know is either when they see a reduced payment in their bank account or an award notice with deductions on their online account.

- The information on the award notice does not always give sufficient information, for example it may just say 'DWP overpayment' with no further details.

- Where a claimant wants more information about the debts or to negotiate a lower repayment rate it can be difficult to make contact. Entries in the journal go unanswered and wait times on the helpline can be excessive – up to an hour is not unusual.

- On ringing the UC helpline, advisers report that it is difficult to get details of what the debts are, or if there are other debts outstanding that are waiting to be recovered. This makes it very hard for claimants to budget for the future.

- Recovery of advances, hardship payments, and overpayments are generally recovered at the maximum allowed (15% where earnings are less than the work allowance, 25% where earnings are at or above the work allowance, or 40% where there is fraud, a penalty agreed to, or for hardship payments) rather than assessing what the appropriate rate is.

- Where there is a universal credit overpayment, DWP continue to recover even when the overpayment is being challenged through the mandatory reconsideration and appeal process in contrast to the policy with all other DWP overpayments.[2]

- Claimants are frequently passed back and forward between the UC helpline and Debt Management if they want to try and negotiate their debts to DWP/HMRC. Where they do negotiate a reduction with Debt Management this is not always passed on to universal credit so the debt recovery continues at the original rate.

- The legislation allows for recovery of rent arrears to be taken at a rate between 10% and 20% of the standard allowance.[3] Generally this appears to be applied at the 20% rate without consulting with the claimant or advising them of the option to have

[1] https://www.rightsnet.org.uk/forums/viewthread/13317/

[2] paragraphs 4.5 and 4.6 of the Benefit overpayment recovery:staff guide

[3] Schedule 6 of the UC, PIP, JSA and ESA (Claims and Payment) Regulations 2013

it reduced. Even if it is reduced, the 10% is too high and is double the rate that is generally taken from legacy benefits or that a court would order. Some social landlords are making private arrangements with tenants to repay directly so that a lower amount can be agreed, but if the claimant has other debts they can find that the rent arrears payment is replaced by another debt repayment due to the 40% maximum rule - see below.

- The maximum recovery for a fine is set at £108.35 per month - this is well in excess of that which a court would set. Judges take into account of the person's finances when setting fine repayments and it is inappropriate for the DWP to then make deductions in excess of that.

- The 40% maximum for debt deductions is too often applied without consultation with the claimant about whether they can afford it. Although some advisers reported it being very difficult to negotiate to get it reduced, others said that they had found willingness to reduce the rate. It appears that there has been some improvement in this but it is not consistent across the board.

Key recommendations

Taking into account the above NAWRA recommends that –

- Prior to taking any deductions, DWP should contact the claimants to advise them what deductions are proposed, details of the debt (eg amount, who to, how and when it arose), and information about what to do if they are unable to pay at that level and their rights to negotiate. Guidance should be available in an accessible format for claimants.

- There should be clear and accessible guidance setting out what needs to be taken into account in setting debt repayment levels which safeguard against a claimant being left without enough to live on. Any voluntary arrangements for debt repayments that the claimant has set up should be taken into account before making direct deductions. Claimants with debt problems should be referred for personal budgeting support so that any debt repayment schedule can be set up as part of this and it forms part of a holistic overview of all the claimant's finances. The NAO in its recent report[4] highlighted the need for government to properly assess affordability of repayments.

- Award notices should clearly state what a deduction is for.

- Claimants should be able to easily get details of any alleged debts outstanding and the proposed schedule for repayment.

[4] https://www.nao.org.uk/press-release/tackling-problem-debt/

- Where an overpayment of universal credit is being challenged, recovery should be suspended until the appeal process has been exhausted.

- Where a claimant is challenging a sanction, recovery of any hardship payments claimed during the sanction should be suspended until the appeal process is exhausted as they will not be repayable if the appeal is successful.

- There needs to be effective communication between Debt Management and the universal credit processing centre so that any agreed reductions in debt recovery are implemented straight away.

- The 10% minimum on rent arrears payments should be removed, and the claimant should be consulted with about the level of recovery before deductions are commenced.

- The 40% maximum on debt deductions is far too high - it leaves the claimant with £190 per month for their living expenses if they are not in work. It is not realistic to expect a claimant to live at this level, particularly bearing in mind debt deductions can continue for a number of months, if not years. It is inevitable that the claimant will have to go without essentials or run up different debts. This is not a solution and is likely to have a detrimental effect on the person’s mental and physical health. Universal credit is supposed to support people into work. Leaving them living at well below subsistence level for long periods of time will not put them in a position where they are able to move into, or increase their hours of work.