

# Universal Credit and domestic and sexual abuse

July 2017

Factsheet 5

**There are some easements and exemptions within the Universal Credit rules for people who have experienced domestic or sexual abuse.**

1. Removal of conditionality rules.
2. Waiting days.
3. Housing costs for people aged 18-21.
4. Surplus earnings rules.
5. Alternative payment arrangements.
6. Exemption from the two child rules for children born as a result of rape.

The regulations and guidance to jobcentre staff mostly use the term 'domestic violence'. The definition they work to is contained in the 'Advice to Decision Makers' (also known as ADM), Chapter J3180. .

Domestic violence means any incident or pattern of controlling behaviour, coercive behaviour, violence or abuse including (but not limited) to:

1. Psychological abuse
2. Physical abuse
3. Sexual abuse
4. Emotional abuse
5. Financial abuse'

'A recent victim of domestic violence means a person who has had domestic violence

1. Threatened **or**
2. Inflicted upon them in the last six months'.

The rules for the different easements and exceptions differ; in some cases evidence of the abuse may be required and in some cases the perpetrator must no longer be living with the claimant.

## 1. Removal of conditionality rules

All Universal Credit claimants have to comply with some work search and availability rules unless they have circumstances that exempt them

People who are 'recent victims of domestic violence' are exempt from this work conditionality for up to 13 or 26 weeks from the date that they notify the jobcentre about the abuse. The 26 week limit applies where the person is responsible for a child under 16.

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To use this exemption:

- The abuse must have happened within the last six months;
- The perpetrator must not be living at the same address;
- Evidence from a 'person acting in an official capacity' is needed.

## **2. Waiting days**

Universal Credit is not usually paid for the first seven days of a claim. This period is referred to as 'waiting days'.

'Recent victims of domestic violence' do not have to serve the 'waiting days'. This means that eventually benefit including money to cover rent will be paid from the date the claim is made.

## **3. Housing costs for 18-21 year olds**

Housing costs for some 18-21 year olds will no longer be paid once Universal Credit 'full service' is introduced (Oct/Nov 2017 in Hove and Brighton).

Where the young person has been subject to 'domestic violence', their housing costs will still be paid.

## **4. Surplus earnings rules**

From April 2018, there will be new rules about earnings for some Universal Credit claimants. A Universal Credit claimant who takes a well-paid job for a period then needs to claim Universal Credit again within 6 months may have some of their earnings counted for that new claim. This could result in no or less benefit in the first month of the new claim.

These surplus earnings rules will not apply to a 'recent victim of domestic violence'.

## **5. Alternative payment arrangements**

Universal Credit will usually be paid once a calendar month, in arrears, to one bank account for a household. The payment will usually include the money for housing costs/rent; the money for children (currently child tax credit) and childcare (currently from working tax credit).

It is possible to request split payments so that the monthly payment is divided between two claimants in the household. The larger percentage of the payment can then go to the person with primary caring responsibilities for the children.

If a person receives a split payment, they should also be considered for a payment of the housing element of the payment to go direct to their landlord.

Split payments will normally be considered to prevent hardship. 'For example, if the Universal Credit claimant is not managing their financial affairs and not meeting their family's day to day needs. Split payments should be considered when:

- The claimant notifies DWP (Department for Work and Pensions) of financial mismanagement and/or financial abuse
- The claimant notifies DWP that there are domestic violence issues
- The claimant cannot or will not budget for their own or their family's basic day to day needs.

Domestic violence/abuse is also listed as a tier one factor leading to a highly likely/probable need for alternative payment arrangements.

This makes it possible, and it may be more practical, to request payments direct to landlord and more frequent payments, eg fortnightly rather than monthly.

The guidance about alternative payment arrangements is in a document on gov.uk intended for landlords. 'Personal Budgeting Support and Alternative Payment Arrangements' V7 March 2017.

## 6. Exemption from the two child rules for children conceived as a result of rape

From April 2017, rules about claiming benefit where there are more than two children in a household changed.

Under child tax credit rules, third or subsequent children in a household born after 6 April 2017 will not have a child element included in a tax credit award.

Under Universal Credit rules households with three or more children will usually only receive the child element for the first two children. This will apply regardless of when the third or subsequent children are born.

Where a household has more than three children and makes a new claim prior to 31 October 2018, they will be prevented from claiming Universal Credit and will be diverted to tax credits and the current system instead.

There is some protection for people who are already getting benefit for their third or subsequent children. There are also exceptions for certain circumstances.

One of the exceptions is for children conceived as a result of rape. The forms and guidance refer to children 'conceived without the claimant's consent, including rape, or while they were in a coercive or controlling relationship'.

The guidance states this exception 'applies where either:

- the claimant did not, or could not consent to the act that led to the conception of the child, or
- the claimant was in a coercive or controlling relationship with the other parent of the child at the time of the conception.

In either case the exception cannot apply if the claimant is still living with the other parent of the child.'

For the exception to apply evidence is required. Where there is evidence of either a conviction or a Criminal Injuries Compensation award, third party evidence may not be needed.

The conviction must be for:

- rape; or
- controlling or coercive behaviour in an intimate or family relationship under section 76 of the Serious Crime Act 2015.

A conviction abroad for an analogous offence would also apply.

An award from the Criminal Injuries Compensation Authority must be in respect of a relevant sexual offence, physical abuse or mental injury, where this relates to the conception of a child.

Where there is not evidence of a conviction or Criminal Injuries Compensation, evidence from a third party can be submitted. Third parties can be:

- a healthcare professional in a Sexual Assault Referral Centre
- other healthcare professional, eg doctor, nurse, midwife or health visitor
- a registered social worker
- a specialist worker from an approved organisation.

The list of approved organisations includes, The Survivors Trust, Rape Crisis and Rise.

The claimant is asked to complete a form with a section for the third party to complete where required. The third party is asked to confirm that they had contact with the claimant and that their circumstances are consistent with the child having been 'conceived without the claimant's consent, including rape, or while they were in a coercive or controlling relationship'.