

## Savings & Capital – Effect on Benefits

The rules about the treatment of capital and savings for means-tested benefits can be complicated; this is a brief guide to the rules, and should be enough for you to advise most clients in Tower Hamlets. If your client has more complex financial circumstances you should consider referring them to a specialist benefits adviser. In any case, claimants will have to provide detailed evidence of all savings and property to the benefits agency, and where they claim to hold the money on behalf of someone else who is the true owner (trusts) they will need to show proof that that is the case.

### What is capital

- Property/land – the person's own home that they live in is disregarded as capital. In some situations even a property not lived in could be exempt
- Savings – money in the bank, cash, stocks, shares, bonds etc.
- Earnings – once the period for which it was paid has ended, and all associated debts have been deducted
- Loans – may be treated as capital or income, except where the money is held on behalf of someone else
- Trusts – these belong to the beneficiary of the trust and not necessarily to the person holding the funds
- Arrears of benefit – generally disregarded for 52 weeks. It is good practice to advise clients about this potential effect on savings limits where they are likely to receive large sums as arrears.

### Notional capital

If a claimant is thought to have deliberately deprived themselves of capital in order to get or keep benefit, they can be treated as if they still had that capital. Over a period of time this 'notional capital' will be assumed to have reduced at a rate equal to the amount of benefit that would have been paid had notional capital not been taken into account (the 'diminishing capital' rule).

### Capital that can be disregarded

*For a more detailed list, see CPAG's Welfare benefits and Tax Credits Handbook*

1. Value of the home in which the person normally lives
2. For a certain period – six months for Universal Credit or 26 weeks for other benefits – the value of a home the person does not actually occupy can be disregarded:
  - Where the home has been left following a relationship breakdown
  - Where legal advice or proceedings are being taken in order to occupy a property
  - Where reasonable steps are being taken to dispose of a property

- Where essential repairs or alterations are being carried out in order to occupy a property
  - Where a property has been acquired but the person has not yet moved in
  - Where a property has been sold and it is intended to use the proceeds to buy another
  - Where the home has been damaged or lost
  - The value of money given or borrowed in order to carry out essential repairs or alterations can be disregarded in the same way
3. The home of a former partner or relative where the property is occupied by:
    - Someone over the qualifying age for Pension Credit or who has limited capability for work or is incapacitated, and who is a relative of the claimant, their partner or their dependent child, the claimant's spouse, cohabitee or civil partner who is treated as living in the same household as the claimant
    - For Universal Credit, a close relative who is over Pension Credit age or has limited capability for work
    - A former partner from whom the claimant is not estranged, but is living apart (e.g. in a care home)
    - An estranged former partner who is a lone parent
    - For 26 weeks only (six months for UC), an estranged partner who is not a lone parent
  4. Arrears of benefits and tax credits are normally ignored for 52 weeks (12 months for Universal Credit) or longer in some cases of official error.
  5. Payments in kind from a charity
  6. Personal injury payments for 52 weeks – unless the payment is held in trust when it can be ignored indefinitely
  7. Some special compensation schemes
  8. Personal possessions
  9. Business assets owned by a self-employed person provided they are still working in the business
  10. Personal pension schemes, insurance policies, annuity surrender schemes
  11. Some social services/community care payments

#### Claimants under pension credit age

- Where a person has over £16000 of capital or savings they will not be entitled to any means-tested benefits (i.e. Universal Credit, Income Support, income-based JSA, income-based ESA, Housing Benefit)
- Anything under the lower limit of £6000 is disregarded, unless the person is in a care home where the lower limit is £10000 except for Universal Credit.
- A person is assumed to have an income from any capital between the lower and upper limits – for benefits except Universal Credit this is called 'tariff income' and is £1 for every £250 of surplus capital; for Universal Credit it is called 'assumed monthly income' and is £4.50 per month for every £250.
- Partner's capital and savings are included, even where the partner is someone subject to immigration control

- Children's capital under £3000 is disregarded except in certain limited circumstances (where amounts of benefit for children are included in the claimant's applicable amount). Cases involving children's capital can be complex and it is recommended that you seek advice from a benefits specialist.

#### Claimants over pension credit age

- Capital under £10000 is ignored and there is no upper limit.
- Actual income from some types of capital (e.g. trusts) is treated as income, and this capital is ignored when working out the amount of 'deemed income'.
- 'Deemed income' is income the person is assumed to be receiving from capital and is £1 for every £500 above £10000.
- For Housing Benefit, the upper limit is £16000, unless the person is receiving PC guarantee credit and therefore passported to maximum housing benefit and all of their capital is ignored. Anyone else with over £16000 will not be entitled to HB, and if it is between £10000 and £16000, a 'deemed income' of £1 for every £500 will be applied.
- Partner's capital is counted but not that of any dependent child.

In any case where a client disagrees with a decision about capital, for example where they claim that some or all of the capital belongs to someone else, or where a decision has been made that they have 'notional capital', consider referring them to a benefits specialist as these cases can be very complex.