CPAG The Early Warning System collects evidence from advisers about how changes to the benefits system are affecting their clients. We use this data for campaigns, in discussions with government, and to produce advice resources.

**This month, we have heard a lot about universal credit overpayments due to official error**

* [**Claimants who do everything right but still get overpaid**](#one)
* [**Trying – and failing – to get an overpayment written off**](#two)
* [**The challenges of getting by on UC when you have deductions**](#three)

Read more about what advisers are saying and what CPAG is doing below.

**Call for evidence in May:** we want to hear about claimants who haven't been given ['reasonable adjustments'](http://ca.engagingnetworks.app/page/email/click/2010/5921904?email=egOFzEwxY99jey3%2FZwPFgKEcLEoGCkWZkd8Dle4TdN0=&campid=H3YaczdX%2BM%2BzFWMrHGgntg==). Anything from a client struggling with their online UC account, to a phone appointment being refused, to inappropriate work-related requirements.  Tell us about your cases by [completing an online form](http://ca.engagingnetworks.app/page/email/click/2010/5921905?email=egOFzEwxY99jey3%2FZwPFgKEcLEoGCkWZkd8Dle4TdN0=&campid=H3YaczdX%2BM%2BzFWMrHGgntg==) or [emailing the Early Warning System](mailto:ews@cpag.org.uk?subject=EWS%20e-bulletin%20May%202022).



**No-fault overpayments**

If you’re overpaid universal credit you can be asked to pay it back, no matter how the overpayment happened. This is yet another thing that sets universal credit apart from legacy benefits.

Since the start of 2022, we’ve heard about lots of cases in which a universal credit overpayment had to be paid back despite being 'DWP's fault'; ie, caused by an official error.

One mentally ill claimant ended up deep in debt because he was accidentally given too much help towards his rent (that is, the wrong Local Housing Allowance rate was applied).

Another claimant was overpaid UC because information about her work wasn't factored into her UC calculation. She now no longer claims UC because of the stress it has caused her – and is stuck with an attachment of earnings order reducing her income until the debt is repaid.

A third claimant noticed after a few months that the amount of UC arriving in his bank account was different from the entitlement shown on his UC statements. He had to repay the difference.

This can happen to anybody but the majority of the cases we hear about involve ill, vulnerable, or struggling claimants. They are the claimants who are least likely to spot an overpayment, and who might be worst affected by recovery action.

***The first step when you're advising somebody about an overpayment is to check that the claimant really has been overpaid, and that the calculation is right. If you're not convinced, you can challenge a decision through mandatory reconsideration and appeal in the normal way.***[***Chapter 53 of the CPAG Handbook***](http://ca.engagingnetworks.app/page/email/click/2010/5921906?email=egOFzEwxY99jey3%2FZwPFgKEcLEoGCkWZkd8Dle4TdN0=&campid=H3YaczdX%2BM%2BzFWMrHGgntg==) ***has more information on overpayments.***



**Asking the DWP to write off or 'waive' an overpayment**

The DWP has a discretion not to ask for a UC overpayment back. Its guidance indicates that it will only use this discretion in rare cases, and [only about 10 waiver requests were successful in 2020/21](http://ca.engagingnetworks.app/page/email/click/2010/5921907?email=egOFzEwxY99jey3%2FZwPFgKEcLEoGCkWZkd8Dle4TdN0=&campid=H3YaczdX%2BM%2BzFWMrHGgntg==), set against 337,000 new official error overpayments in the same period.

Nonetheless, the DWP's guidance on waivers was updated in February 2022 and now suggests a more holistic approach. In the [Benefit Overpayment Recovery Guide at paragraphs 8.3 - 8.6](http://ca.engagingnetworks.app/page/email/click/2010/5921908?email=egOFzEwxY99jey3%2FZwPFgKEcLEoGCkWZkd8Dle4TdN0=&campid=H3YaczdX%2BM%2BzFWMrHGgntg==), the DWP now promises to take all of the following (and more) into account when considering a request:

* Financial circumstances
* The impact of debt recovery on health
* **How the overpayment arose, eg, official error or poor DWP conduct**
* **The claimant's conduct, eg, whether they took steps to mitigate any overpayment and notify DWP**
* Whether the debtor has 'relied on the overpayment to their detriment'

The bold sections, which are new, are particularly relevant in official error cases. However, the guidance still suggests that financial circumstances and health will be the most important factors in DWP's decision-making.

Unfortunately, we continue to hear about unsuccessful write-off requests where the claimant has a strong argument and did not contribute to the overpayment. In one recent example, the DWP refused to waive an overpayment on health grounds because "there is no evidence to show that the customer’s health and wellbeing will ***only*** be improved by waiver of the overpayment." (emphasis added)

Claimants refused a waiver are often told to ask for reduced deductions instead. As we'll see [below](#three), this is not a long-term solution.

***If your client has made an unsuccessful waiver request, you can't appeal the decision, but might want to consider judicial review. We are aware of at least one case in the last year where recovery was waived after the claimant's advisers sent a pre-action protocol letter. CPAG has produced*** [***two template letters for advisers to use in this situation (JR60 and JR61)***](http://ca.engagingnetworks.app/page/email/click/2010/5921909?email=egOFzEwxY99jey3%2FZwPFgKEcLEoGCkWZkd8Dle4TdN0=&campid=H3YaczdX%2BM%2BzFWMrHGgntg==) ***and our Judicial Review Project is on hand to help you to adapt and use the templates.***



**Deductions**

Most UC overpayments are recovered through deductions. Deductions make it harder for UC claimants get by.

A couple with two pre-school children, one with disabilities, face a £600 overpayment because the DWP mistakenly stopped including their Carer’s Allowance income in their UC calculation. They are now left with a reduced UC award due to deductions, at a time when they are already under unexpected financial pressure because of the rising costs of energy and food.

It's true that the DWP can lower or suspend deductions for an overpayment, and it would be a good idea to call DWP Debt Management and explore both of these options if you're dealing with a case like this. However, these are only offered on a temporary basis and do nothing to reduce the debt to the DWP. The relevant guidance is in the [Benefit Overpayment Recovery Guide at paragraphs 5.71-5.79](https://www.gov.uk/government/publications/benefit-overpayment-recovery-staff-guide/benefit-overpayment-recovery-guide#chapter-5---how-do-we-recover).

***CPAG is looking at how reforms to the UC deductions system could help people with the rising cost of living, by increasing their incomes. We published*** [***this briefing***](http://ca.engagingnetworks.app/page/email/click/2010/5921910?email=egOFzEwxY99jey3%2FZwPFgKEcLEoGCkWZkd8Dle4TdN0=&campid=H3YaczdX%2BM%2BzFWMrHGgntg==)***earlier in May. Please***[***tell us about***](mailto:ews@cpag.org.uk?subject=EWS%20e-bulletin%20May%202022)***any cases in which your clients have deductions and are struggling financially, even where you think these are 'run of the mill' cases.***