STATE BENEFITS IN FINANCIAL REMEDY CASES

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UNIVERSAL CREDIT

Universal Credit is a payment to help with living costs.

Universal Credit is replacing the following benefits:

- Housing Benefit
- Income Support
- income-based Jobseeker's Allowance (JSA)
- income-related Employment and Support Allowance (ESA)

https://www.gov.uk/universal-credit/what-youll-get

Universal Credit is paid monthly. How much received depends on:

- A person's standard allowance
- any extra amounts that apply to them
- any money taken off their payment
- if their working, how much they earn

A person could get an extra amount for their children if they live with them. They would get the extra amount until the 31 August after their:

- 16th birthday
- 19th birthday, if they're in eligible education or training – for example, they're studying for GCSEs, A levels, BTECs, Scottish Highers and SVQs or NVQs up to level 3

They'll only get an extra amount for their first and second child. They will not get an extra amount for any more children unless:

- their children were born before 6 April 2017
- they were already claiming for 3 or more children before 6 April 2017
- other exceptions apply

Report a change of circumstances

Clients need to report changes to your circumstances as soon as they happen. Any delay may mean they receive too much money and will have to make a repayment.

Changes in circumstances can affect how much they are paid for the whole assessment period - not just from the date they are reported.

Changes can include (this is not exhaustive but more relevant for matrimonial finance):

- finding or finishing a job
- starting to care for a child or disabled person
- child stopping or restarting education or training, if they're aged 16 to 19
- rent going up or down
- changes to health condition
- changes to earnings (only if self-employed)
- **changes to savings, investments and how much money they have**

https://www.gov.uk/universal-credit/changes-of-circumstances

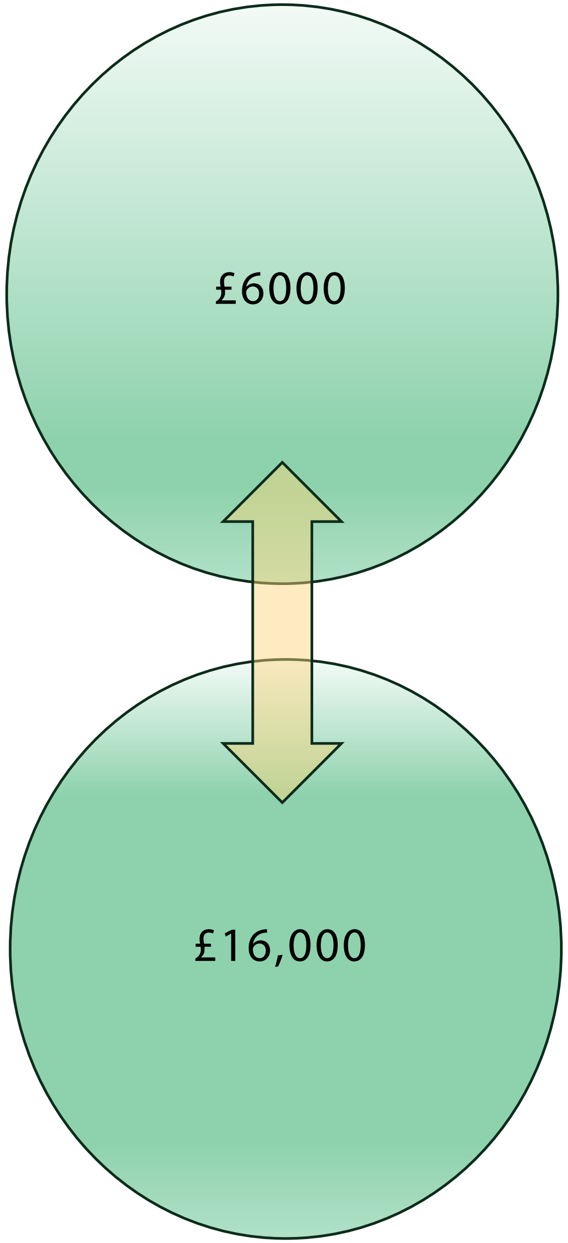
HOW CAPITAL AFFECTS UNIVERSAL CREDIT

The DWP must assess how much capital a person has when it calculates a claimant's entitlement to universal credit. (s.5 Welfare Reform Act 2012)

'Capital' is not defined in the universal credit regulations. Capital refers to lump-sums or one-off payments, and includes:

- savings
- property
- statutory redundancy payments
- inheritances
- compensation for financial loss

Capital belonging to the claimant affects their entitlement to universal credit



Capital limits

Claimants who are assessed as having less than £16,000 capital can be entitled to universal credit.

Capital below £6,000 is ignored and does not affect the award.

Capital between £6,000 and £16,000 is subject to a 'tariff income'. This means that the claimant's universal credit award will be reduced.

Claimants with capital of over £16,000 are not entitled to universal credit. *(reg 18 Universal Credit Regulations 2013/376)*

The capital limits are the same for single claimants and couples.

Some capital can be disregarded and is ignored when calculating entitlement to universal credit. *(reg 48 Universal Credit Regulations 2013/376)*

CALCULATING TARIFF INCOME FROM CAPITAL

Capital between £6,000 and £16,000 is subject to a 'tariff income'. This means that it is assumed to equate to an income of £4.35 per month for each £250 over £6,000.

The resulting tariff income is treated as unearned income for the purposes of calculating entitlement.

The sum is deducted pound for pound from the claimant's maximum universal credit, along with any other deductions.

For example, the calculation for a claimant who has been assessed as having £8110 capital is as follows:

Calculation step	Example result
1. Deduct £6000 from the total capital	£2110
2. Divide the remaining amount by £250	8.44
3. Round up the result to the nearest whole number	9
4. Multiply the result by £4.35	£39.15

DISREGARDED CAPITAL

Some capital can be disregarded if certain conditions are met.

The rules for when each type of capital can be disregarded are different, including the length of time that the disregard applies.

Disregarded capital can include: *(regs 48, 75-77 & sch 10 Universal Credit Regulations 2013/376)*

- **property**
- business assets
- the value of a personal pension scheme
- surrender values of life assurance policies and investments
- arrears and lump sums of benefits and tax credits
- personal injury and other compensation payments

This list is not exhaustive.

Compensation payments include Windrush payments, Grenfell Tower payments, Post Office payments or Ministry of Defence LGBT Financial Recognition Scheme payments

DISREGARDED CAPITAL

Property is disregarded for six months when the claimant:

- has acquired it but not moved in yet
- is taking steps to obtain possession of it

Money can be disregarded for six months when it has been acquired:

- to purchase a home, for example from the sale of the claimant's former home
- for essential repairs or alterations to the claimant's home, or a property they intend to occupy as their home
- from an insurance policy in connection with the loss or damage to the claimant's home or personal possessions

The DWP can use its discretion to extend the disregard period beyond six months where it is reasonable to do so in the circumstances. *(reg 48(2) Universal Credit Regulations 2013/376)*

DWP guidance gives examples of when it might be reasonable to disregard the property for longer. *(paras H2113 & H2116, Chapter H2: Capital Disregards, Advice for Decision Makers, DWP)*

HOW DOES DIVORCE IMPACT ELIGIBILITY AND CLAIMS FOR UNIVERSAL CREDIT?

- Affects means tested benefits
- If one party remains in the former matrimonial home, this may affect housing costs covered by UC, as this may include a housing element for rental costs. The person who moves out may need to submit a new claim reflecting their updated housing expenses.
- If children are involved, the primary caregiver may be eligible for the Child Element of UC
- Post-divorce, one or both individuals may need to seek employment or increase their hours to support themselves.
- Spousal maintenance is treated as **unearned income** and therefore counted against the claimant's UC award on a pound-for-pound basis.
- Child maintenance payments are not counted as income for UC purposes, meaning they do not reduce the UC entitlement.

TIPS FOR SETTLING/OFFERS

- Property
- Keeping £6000 - £16,000 in mind.
- Drafting orders
- Practical vs any advantage
- Online calculators: https://www.gov.uk/benefits-calculators
- Clients seeking specialist benefits advice before FDR
- Creative offers: pensions or paying off liabilities (although care should be taken to disclose any such arrangement to DWP to avoid difficulty).

THANK YOU

ANY QUESTIONS?