

# STOPPING UNWANTED PAYMENTS INTO DOMESTIC ABUSE SURVIVORS' BANK ACCOUNTS

March 2022

Child Poverty Action Group works on behalf of the more than one in four children in the UK growing up in poverty. It doesn't have to be like this. We work to understand what causes poverty and the impact it has on children's lives, and how it can be prevented and solved – for good.

We provide training, advice and information to make sure hard-up families get the financial support they need.

**Please contact [jrproject@cpag.org.uk](mailto:jrproject@cpag.org.uk) for assistance with this issue. CPAG may be able to contact DWP on your behalf.**

## Introduction

In a number of cases reported to CPAG, survivors of domestic abuse leave abusive relationships and their ex-partner (the perpetrator of the abuse) continues or starts to have their social security benefits (often Universal Credit (“**UC**”), but also Personal Independence Payments) paid into the survivor's bank account; providing opportunity for further abuse including financial control. Survivors report that when they try to resolve this through the jobcentre, they are told:

*“As the UC account is not your name, you are not permitted to discuss it due to ‘Data Protection’”*

and when they contact their bank they are told:

*“we cannot stop the payments into your account”*

leaving the survivor unable to resolve the issue.

## What is the legal position?

The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 ("**UC (CP) Regs**") provide that the DWP have the discretion to pay, and therefore also to not pay, UC into a bank account nominated by a UC claimant:

*46.—(1) The Secretary of State may arrange for benefit to be paid by way of direct credit transfer into a bank or other account nominated by the person entitled to benefit, a person acting on their behalf under regulation 57(1) or a person referred to in regulation 57(2).*

The Regulations further provide that the DWP have discretion to pay UC into another person's account where it is in the interests of the UC claimant to do so:

*58.—(1) The Secretary of State may direct that universal credit be paid wholly or in part to another person on the claimant's behalf if this appears to the Secretary of State necessary to protect the interests of—*

*(a) the claimant;*

*(b) their partner;*

*(c) a child or qualifying young person for whom the claimant or their partner or both are responsible; or*

*(d) a severely disabled person, where the calculation of the award of universal credit includes, by virtue of regulation 29 of the Universal Credit Regulations, an amount in respect of the fact that the claimant has regular and substantial caring responsibilities for that severely disabled person.*

DWP guidance "Help available from the Department of Work and Pensions for people who are the victims of domestic violence and abuse" makes clear it is DWP policy to prevent domestic abuse and support those who have fled abuse:

*"The government is fully committed to the prevention of abuse and the Department for Work and Pensions (DWP) has a range of measures designed to support people who flee violent and abusive households."*

## What can you or your client do?

Contact [jrproject@cpag.org.uk](mailto:jrproject@cpag.org.uk) for assistance. DWP have indicated they are willing to resolve individual cases on contact from CPAG.

If you are an adviser and your client is not willing to be referred to CPAG, approach the DWP on your client's behalf in writing including the above legal position, your client's position, evidence of the effect of the payments on your client, and the following arguments (edits required if your client is male). If you are a claimant, please seek the assistance of an adviser to contact DWP:

The CPAG Survivors Welfare Advice Project are aware of several cases in which UC is being paid into a survivor of domestic abuse's bank account when the UC claimant is their ex-partner and the perpetrator of their abuse who has nominated the survivor's account and the DWP have refused the survivor's requests to stop the payments.

This suggests operation by the DWP of a blanket policy to exercise the discretion available to pay UC into an account nominated by the UC claimant without consideration of the relevant facts. It is unlawful to operate a 'blanket policy' when a discretion is available. In *R (S) v Secretary of State for the Home Department* [2007] EWCA Civ 546 the Court of Appeal summarised this principle when it stated:

*"[a] public authority may not adopt a policy which precludes it from considering individual cases on their merits".*

Our client has provided clear and compelling evidence that payment of her ex-partner's UC into her bank acts as a means for ex-partner to continue to exert control over and perpetrate abuse against her. It is impossible to see how discretion exercised in consideration of these facts could lead the DWP to conclude that this discretionary action is appropriate. It therefore appears that the decision to continue to pay into our client's account has unlawfully been reached without consideration of the relevant facts, or that the DWP have unlawfully not exercised discretion under reg 46(1) UC (CP) Regs at all.

By failing to exercise the discretion available to it, or take account of the circumstances and the relevant guidance, the DWP have acted unlawfully.

Further, for DWP to exercise discretion under reg 58(1)(a) UC (CP) Regs to continue to pay X's UC into our client's account, it must be 'necessary to protect the interests' of the UC claimant. Payment into the UC claimant's ex-partner's bank account cannot be seen as necessary to protect X's interests since:

- a) Given given the breakdown of the relationship between X and our client, our client may refuse to hand over the money to X or be unavailable to do so.
- b) Providing opportunity for the UC claimant to continue to perpetrate abuse against another cannot be seen as necessary to protect the UC claimant's interests.

Our client's only available option would seem to be to close her bank account and open another, something she should not be forced to do and may put her at further risk from her ex-partner. For our client to be required to make alternative banking arrangements as a consequence of the DWP's failure to stop payments, cannot be seen as a proportionate means of the DWP achieving a legitimate aim and amounts to indirect discrimination against a woman and a survivor of domestic abuse.

To continue to pay into our client's bank account when to do so is not necessary to protect the interests of the UC claimant and the effect is to allow the UC claimant to continue to perpetrate abuse against the holder of the bank account (unless, and potentially even if, the holder of the bank account makes alternative banking arrangements) is contrary to DWP's policy to prevent abuse and consequently irrational.

We ask that payments of X's UC into our client's account be stopped immediately, and for a response to this letter within 7 days. Should we receive no response, or a response which does not agree to stop payments, we will consider a judicial review pre-action letter to the DWP's legal department including the above arguments.

## Further information and advice on domestic abuse

**In an emergency call 999**

Women's Aid is a federation of frontline domestic abuse services, supporting women and children.

### **Women's Aid (England)**

Live online chat: [chat.womensaid.org.uk](https://chat.womensaid.org.uk) Monday- Friday 8am - 6pm, Saturday and Sunday 10am- 6pm

Email: [helpline@womensaid.org.uk](mailto:helpline@womensaid.org.uk) Website: [womensaid.org.uk](https://womensaid.org.uk)

### **Welsh Women's Aid**

Free 24-hour Helpline: 0808 80 10 800 Text 24 hour: 078600 77 333

Type Talk 18001 0808 80 10 800

Email: [info@livefearfreehelpline.wales](mailto:info@livefearfreehelpline.wales)

Website: [welshwomensaid.org.uk](https://welshwomensaid.org.uk)

### **Scottish Women's Aid**

Scottish Women's Aid is the lead organisation in Scotland working towards the prevention of domestic abuse, and is the collective voice for 36 local member groups. For your local group contact

0131 226 6606 or see [womensaid.scot/find-nearest-wa-group/](https://womensaid.scot/find-nearest-wa-group/) .

Website: [womensaid.scot](https://womensaid.scot)

### **Scotland's domestic abuse and forced marriage helpline**

0800 027 1234 (24 hours a day, 7 days a week)

Email: [helpline@sdafmh.org.uk](mailto:helpline@sdafmh.org.uk)

Website: [sdafmh.org.uk](https://sdafmh.org.uk)

Online chat: [sdafmh.org.uk/contact-us/Refuge](https://sdafmh.org.uk/contact-us/Refuge)

Help and support for all victims of domestic violence. Refuge can help you find a refuge vacancy for you and your children and support you to find local assistance.

Freephone 24-hour National Domestic Abuse Helpline: 0808 2000 247

Online chat: [nationaldahelpline.org.uk/Chat-to-us-online](https://nationaldahelpline.org.uk/Chat-to-us-online) Monday - Friday 3-10pm

British sign language helpline: [nationaldahelpline.org.uk/en/bsl](http://nationaldahelpline.org.uk/en/bsl) Monday - Friday 10am-6pm

Send a message: [nationaldahelpline.org.uk/Contact-us](http://nationaldahelpline.org.uk/Contact-us)

### **Respect Men's Advice Line**

Help and support for male victims of domestic violence.

Freephone helpline: 0808 801 0327 Monday - Friday 9am-8pm

Email: [info@mensadviceline.org.uk](mailto:info@mensadviceline.org.uk)

Website: [mensadviceline.org.uk](http://mensadviceline.org.uk)

Webchat: [mensadviceline.org.uk/contact-us/](http://mensadviceline.org.uk/contact-us/) Wednesday - Friday 10-11am and 3-4pm

### **Galop**

Help and support for LGBT+ people who have experienced domestic abuse.

Freephone helpline: 0800 999 5428 Mon - Fri 10am - 5pm, Wed - Thurs 10am - 8pm

Email: [help@galop.org.uk](mailto:help@galop.org.uk)

Webchat: [galop.org.uk/get-help/helplines/](http://galop.org.uk/get-help/helplines/) Wednesday and Thursday 5-8pm

Website: [galop.org.uk](http://galop.org.uk)

## **CPAG advice lines for advisers and support workers**

### **CPAG Advice Service for Advisers**

England, Wales and Northern Ireland

020 7812 5231 Monday to Friday, 10am to 12 noon and 2pm to 4pm.

Email [advice@cpag.org.uk](mailto:advice@cpag.org.uk) for universal credit, tax credit, or child benefit issues.

Scotland

0141 552 0552 Monday to Thursday, 10am to 4pm, Friday 10am to 12 noon.

Email: [advice@cpagscotland.org.uk](mailto:advice@cpagscotland.org.uk) for any benefit issue.

CPAG's advice lines are only for frontline workers. If you are having problems with your own universal credit claim and are in need of advice you should contact your local [Citizens Advice](#) or other local welfare rights service.

CPAG publishes the [\*Welfare Benefits and Tax Credits Handbook\*](#), a comprehensive guide to benefits and tax credits for claimants and advisers which is available [in print](#) or online by subscription to [AskCPAG](#).

## **CPAG Early Warning System**

The Early Warning System gathers information and case studies about how changes to the benefit system are affecting the wellbeing of children, families and the communities and services that support them. This helps us explain the impact on families and work for improvements in the system, to deliver better outcomes for children.

Find out more and how to get involved at [cpag.org.uk/early-warning-system](http://cpag.org.uk/early-warning-system), and in Scotland [cpag.org.uk/scotland/ews](http://cpag.org.uk/scotland/ews).

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