



Prison and benefits

April 2024

Child Poverty Action Group works on behalf of the one in four children in the UK growing up in poverty. It doesn't have to be like this. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty –for good. We provide training, advice and information to make sure hard-up families get the financial support they need.

Most benefits are affected if you go into prison. This factsheet provides information on the impact of prison on benefits – if you are remanded in custody and if you receive a custodial sentence.

1. Remanded in custody

You may be 'remanded in custody' while you are waiting to appear in court or waiting for trial or sentencing. Some of the rules about benefits while you are remanded in custody are different from the rules that apply if you are in prison, serving a prison sentence.

Paying for housing

How to keep paying for your normal home can be a huge worry if you are remanded in custody. If you have been getting help with your rent through the benefits system before you go into prison, then usually that help can continue for a period of time and this can help you avoid losing your home.

If you are getting universal credit housing costs element to help with rent or certain service charges for your normal home, this can continue to be paid for up to six months while you are remanded in custody. No other part of your universal credit is paid while you are remanded in custody.

Example

Tom gets Universal Credit of £793.45 a month, made up of a standard allowance of £393.45 and a housing costs element of £400. His assessment period starts on the 9th of each month. He is remanded in custody, pending trial, on 12th July. His universal credit award is reduced to £400 a month with effect from 9th July – this means that the monthly payment for the assessment period starting 9th July will only be £300. The housing costs element is payable because it was already included in his universal credit when he was remanded in custody.

If you are getting **housing benefit** to help with rent, this can continue to be paid for up to 52 weeks, providing you are unlikely to be away from home for more than 52 weeks, you intend to return to your home and you don't sub-let. In exceptional circumstances, you may be able to get housing benefit for 52 weeks, even if you are away from home for a slightly longer period.

If you are an owner-occupier and get help with housing costs (service charges and ground rent) in your **income support, income-related employment and support allowance** or **pension credit**, this can continue for up to 52 weeks, providing you are unlikely to be away from home for more than 52 weeks, you intend to return to your home and you don't sub-let. In exceptional circumstances, you may be able to get help with housing costs for 52 weeks, even if you are away from home for a slightly longer period.

Disability benefits

If you are on **adult disability payment (ADP)** or **personal independence payment (PIP)** you can keep getting it for four weeks while you are remanded in custody. After four weeks, ADP/PIP stops being paid. If you have more than one period in prison within a year they link together. This means that you might lose your ADP or PIP more quickly, or even as soon as you are remanded in custody. There is an exception for ADP if you are under 18 – in this situation you can keep getting the mobility component of ADP.

Example

Len is remanded in custody for two weeks pending a court appearance and is then released on bail. Six months later he is remanded in custody again, this time for six weeks. This time, his adult disability payment stops after two weeks because the two periods in prison link together and count as one period.

If you are on **disability living allowance** or **attendance allowance**, these benefits are suspended as soon as you are remanded in custody. This means that you should not receive any payment of them while remanded in custody. If you do not receive a prison sentence (for example, you are found not guilty or you receive a non-custodial sentence), you will be paid the benefit that has not been paid while you were in prison once you are released. **Child disability payment** care component is suspended after four weeks in prison, but the mobility component continues to be paid.

Other benefits and tax credits

If you are on **contributory employment and support allowance, carer's allowance, state retirement pension** or **bereavement benefits**, the benefit is suspended while you are remanded in custody. If you do not receive a prison sentence (for example, you are found not guilty or you receive a non-custodial sentence), then once you are released you will be paid the benefit you were entitled to which has not been paid while you were in prison.

With the exception of housing benefit and help with housing costs detailed above, means-tested benefits like **income support, income-based jobseeker's allowance, income-related employment and support allowance** and **pension credit** stop being paid while you are remanded in custody. Even if, in the end, you do not receive a custodial sentence you will not receive payment of these benefits for the period you spent in prison.

You can get **child benefit** while you are a prisoner as long as you continue to be responsible for the child and the money is being used to support the child. If you are in prison for some time, you may want to arrange for child benefit to be paid to the person looking after your child.

If your child becomes looked after by the local authority and, for example, is placed with foster carers or goes to live in a residential unit for eight weeks or more, you cannot continue to receive child benefit.

You can continue to get **child tax credit** while you are a prisoner but only if it is considered a temporary absence and that the child still normally lives with you. There is no set period of time that is considered temporary, but it depends on the circumstances. If your child becomes looked after by the local authority and, for example, is placed with foster carers or goes to stay in a residential unit you cannot continue to receive child tax credit.

2. If you are serving a prison sentence

If you are convicted of an offence and you receive a prison sentence, your social security benefits will be affected.

Paying for housing

If you have been getting help with your rent through the benefits system before you go into prison, it may be possible to continue to get help with rent, but this help is very limited.

If you are getting **universal credit** housing costs element to help with rent or certain service charges for your normal home, this can continue to be paid for up to six months, but only if your absence from home is not expected to exceed six months. The six-month period includes any time you were remanded in custody immediately before you were sentenced.

When working out how long you are likely to be away from home, the DWP should take account of remission you are likely to get on your sentence - not simply the length of the sentence you receive. For example, you might be sentenced to four months in prison, but be likely to serve two months.

Example

Arpad has been getting universal credit which includes housing costs (help with his rent). His trial takes place on 3rd November, and he is sentenced to 6 months in prison. He is told that he is likely to serve 3 months and be released in early February. This means that he is likely to be away from his home for 3 months. He continues to be paid the housing costs element of his universal credit whilst he is in prison.

However, if he had already been remanded in custody for four months immediately prior to being sentenced, his universal credit housing costs element would stop as soon as he was sentenced because he is likely to be away from home for more than 6 months in total.

You can get **housing benefit** during an absence from home of up to 13 weeks, provided you intend to return home and do not sublet. The absence from home must be unlikely to last for longer than 13 weeks, and if you are already remanded in custody before sentencing, this period of time counts towards the 13 weeks. When working out how long you are likely to be away from home, the local authority administering your housing benefit should take account of remission you are likely to get on your sentence. For example, if you are sentenced to four months in prison, but are likely to be released after two months.

If you are an owner-occupier getting help with some housing costs through income support, income-related ESA or pension credit, you can no longer receive this once you are serving a prison sentence.

If you have a partner who is still living in the home while you are in prison then they may be able to claim assistance with housing costs such as rent, but if they are under pension age this will usually have to be through universal credit.

Disability benefits

If you receive a prison sentence **adult disability payment (ADP) or personal independence payment (PIP)** will stop after four weeks in prison. If you have already been remanded in custody for more than four weeks before your trial or before being sentenced, your ADP or PIP should already have stopped. If you get **disability living allowance (DLA) or attendance allowance (AA)** it should stop immediately. If you have already been remanded in custody, DLA/AA should already have been suspended. Child disability payment care component is suspended after four weeks, but the mobility component continues to be paid. If you have already been remanded in custody for more than four weeks then the child disability payment care component should already have stopped.

Other benefits and tax credits

Most benefits are not payable while you are serving a prison sentence. For example, you cannot be paid **contributory employment and support allowance, carer's allowance, state retirement pension or bereavement benefits** while you are serving a prison sentence. You also cannot get any means-tested benefits like **income support, income-based jobseeker's allowance, income-related employment and support allowance** and **pension credit**.

You can get **child benefit** while you are a prisoner as long as you continue to be responsible for the child and the money is being used to support the child. If you are in prison for some time, you may want to arrange for child benefit to be paid to the person looking after your child. If your child becomes looked after by the local authority and, for example, is placed with foster carers or in a residential unit for 8 weeks or more, you cannot continue to receive child benefit.

You can continue to get **child tax credit** while you are a prisoner but only if it is considered a temporary absence and that the child still normally lives with you. There is no set period of time that is considered temporary, but it depends on the circumstances. If your child becomes looked after by the local authority and placed with foster carers or kinship carers or in a residential unit, you cannot continue to receive child tax credit for her/him.

You **can** continue to be entitled to **industrial injuries disablement benefit** while you are in prison, although you do not get paid the benefit until you are released and will only be paid a maximum of 12 months arrears of benefit when you are released.

Help with prison visits

The Help with Prison Visits Unit can help your partner or close relative (or someone else if they are your only visitor) with the cost of visiting you in prison, or with the cost of bringing your children to visit you. S/he must be getting one of the following benefits: universal credit, income support, income-based jobseeker's allowance, income-related employment and support allowance, pension credit, health benefits on the grounds of low income, child tax credit or working tax credit. If you are on universal credit or working tax credit your income has to be below a certain level to qualify. You apply online at [gov.uk/help-with-prison-visits](https://www.gov.uk/help-with-prison-visits). You can phone on 0300 063 2100 or email HelpwithPrisonVisits@justice.gov.uk if you have any queries or difficulties, or if you are unable to claim online.

3. Released after serving a prison sentence

When you are permanently released after serving a prison sentence you should claim any benefits you may be entitled to as soon as possible. The prison should give you a discharge form which may be helpful in proving your identity. You may be interviewed by a DWP liaison officer before leaving prison and, if so, they should tell you which benefits you should claim once you've been released.

If you were getting disability living allowance, attendance allowance, personal independence payment, adult disability payment or child disability payment before going into prison, payment should have only been suspended and you should not need to make a fresh claim – just let the Disability Benefits Centre (Social Security Scotland for adult disability payment or child disability payment) know that you have been released. The exception to this is if you had a time-limited award and it has run out while you have been in custody. In this situation you will have to make a new claim.

Means-tested benefits such as universal credit are generally paid in arrears. You may be able to ask for a **budgeting advance** or a **short-term advance** while you are waiting for your benefit to start being paid. You may be able to get some help from your local welfare assistance scheme (Discretionary Assistance Fund in Wales; Scottish Welfare Fund in Scotland).

Further information and advice

For more information on any of the issues covered in this factsheet please see CPAG's *Welfare Benefits and Tax Credits Handbook*

You can also contact our advice line for advisers:

In Scotland on 0141 552 0552 (Monday to Thursday 10am to 4pm, Friday 10am to 12 noon) or on advice@cpagscotland.org.uk

The rest of the UK on 0207812 5231 (Monday to Friday 10am to 12 noon and 2pm to 4pm).

CPAG's advice lines are only for advisers. If you having problems with your own benefits and need advice you should contact your local citizens advice bureau or other welfare rights service.