

Financial help for families affected by imprisonment



April 2024

Child Poverty Action Group works on behalf of the one in four children in Scotland 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.

Financial help for families affected by imprisonment is one of a series of Child Poverty Action Group in Scotland leaflets giving guidance to advisers and those working with families in Scotland about aspects of the social security system of particular concern.

Introduction

Children growing up in families affected by imprisonment are at increased risk of poverty. Research has shown that the impacts of poverty and imprisonment can have negative effects on families' relationships as well as on children's development, physical and mental health.

This leaflet gives a brief overview of the impact of imprisonment on family benefits, and the financial help available before, during and after a family member has been in prison. It is not a full statement of the law and you should seek advice in your individual circumstances.

Universal credit is a working age means-tested benefit, payable in or out of work, including amounts for children, childcare costs and housing. Universal credit replaces income support, income-based jobseeker's allowance, income-related employment and support allowance, housing benefit and tax credits for new claimants. If you are already getting one of these old benefits, you can continue to get them until you are notified that they are ending, and you need to claim universal credit by a specified date. If you need to make a new claim for benefit, in most cases you will have to claim universal credit, but get advice before claiming.

What to do if a child or young person goes into prison or detention

Child benefit

Child benefit is paid to a person responsible for a child (under 16 and up to 31st August following the 16th birthday) or a young person (aged under 20 in full-time non-advanced education or approved training). It is administered by HM Revenues & Customs (HMRC). Child benefit is not being replaced by universal credit.

You can continue to receive child benefit for a period of **eight weeks** for a child or young person in prison or detention.

If your child or young person has been detained in custody for more than 8 weeks but at the end of criminal proceedings is *not* sentenced to a term of imprisonment or detention, you can get child benefit paid for the period it stopped.

You can get child benefit again if the child or young person returns home to live with you for a week or more, or if s/he ordinarily lives with you for at least two nights a week. If s/he leaves prison and does not return to live with you, you can only continue to receive child benefit for her/him if you are using the money to support the child. You can continue to receive child benefit for a young person whose education or training has been interrupted for up to 6 months.

You must notify the Child Benefit Helpline 0300 200 3100 (Textphone: 0300 200 3103) if a child or young person is in prison or another form of detention for 8 weeks or more. You should also notify when s/he returns to live with you, to make sure payment starts again.

Universal credit

If you are getting universal credit for a child or young person, you cannot be paid a child element if s/he is in custody pending trial or sentence, or convicted under a sentence. You lose the child element for the whole monthly assessment period in which s/he is admitted to custody. When s/he is released, it is important to notify this straight away, and you can get the child element for the whole monthly assessment period in which s/he is normally living with you again. You are entitled to a child element for a child up to the 31st August after their 16th birthday, or for a young person up to the 31st August after their 19th birthday, as long as s/he is still in full-time non-advanced education or approved training.

Universal Credit Helpline: 0800 328 5644 (Textphone: 0800 328 1344) or report changes in your online journal www.gov.uk/universal-credit

Child tax credit

Child tax credit is paid to a lone parent or couple responsible for and normally living with a child (under 16 and up to 31st August following the 16th birthday) or a young person (aged under 20 in full-time non-advanced education or approved training). The amount of tax credit depends on income, and may also include working tax credit for families in work. It is administered by HMRC.

You cannot receive child tax credit for a child or young person who has been sentenced to custody of more than four months, or to a life or unlimited sentence. You must notify the Tax Credits Helpline 0345 300 3900 (textphone 0345 300 3909) if your child or young person is sentenced to more than four months in custody. You are no longer treated as responsible for the child or young person in this case. If you have other children, this reduces your tax credits. If you do not have any other children living with you, you are not entitled to child tax credit and your working tax credit may also end unless you are aged 60 or over, or are a disabled worker, or working at least 30 hours a week. If your previous child tax credit claim ended, you will usually have to claim universal credit instead when your child comes home.

Scottish child payment

You can continue to get Scottish child payment (£26.70 a week for a child under 16) as long as you are still getting universal credit, child tax credit or child benefit for the child.

Housing benefit

Housing benefit is help with rent that you can claim from your local authority. The amount of housing benefit depends on your income, the needs of your household and the type of property you live in.

A child or young person in custody is still treated as part of your household unless s/he does not intend to return to live with you or is likely to be absent for more than 52 weeks. If s/he is likely to be absent for more than 52 weeks, your housing benefit may be reduced. In this case, you can challenge the decision on the grounds that there are exceptional circumstances and the absence is unlikely to be substantially more than 52 weeks.

If the person in prison is an adult son or daughter who you no longer receive child benefit for, or another adult aged over 18 who was living with you, it may also affect your housing benefit if s/he is sentenced to more than 13 weeks, or on remand for more than 52 weeks awaiting trial or sentence. In some cases, this can mean that your housing benefit goes down because you are treated as having a spare room and may be affected by the 'bedroom tax', and in other cases it may go up because there is no deduction for another adult living with you. If you are severely disabled, you may also be entitled to an additional amount in other benefits because you do not have any other adults living with you.

You should notify the local authority that pays housing benefit if a member of your household is likely to be in prison for more than 13 weeks. It may also affect your council tax, as you may qualify for a single adult discount.

If housing benefit does not meet your rent in full because of the 'bedroom tax' or any other reason, you should apply for a discretionary housing payment from your local authority.

As long as you are still liable for rent in the same local authority area, changes of circumstances affecting other members of your household do not mean that you have to move onto universal credit – your housing benefit can continue.

What to do if your partner goes to prison

Universal credit

If you have been getting universal credit as a couple and your partner is detained in custody pending trial or sentence, or convicted under a sentence, your claim continues as single person, so the amount will be reduced to a single rate. As long as you have not separated and the absence is not expected to be more than six months, any income or savings in your partner's name still counts. If you are working, you might be able to get help with childcare costs. When s/he is released, it is important to notify that s/he is coming back to live with you, and the couple rate will be payable for the whole of the monthly assessment period in which s/he returns home.

Tax credits

Tax credits are claimed jointly by a couple. You are a couple if you are married/registered civil partners or living together. Your joint claim as a couple can continue if you are married/registered civil partners while your partner is in prison, unless the relationship has broken down and you believe that you have split up for good. If you were living together but are not married/registered civil partners, a couple claim can continue during a temporary absence, but there is no set length of time so it is advisable to notify the Tax Credits Helpline and explain the circumstances.

While your partner is in prison, you may become eligible for working tax credit and help with childcare costs if you are working at least 16 hours a week.

If you have separated permanently or are no longer living together as a couple, your joint award ends and you will have to make a new claim for universal credit as a single person in this situation.

Income Support, jobseeker's allowance and employment and support allowance

These benefits are administered by the Department for Work & Pensions (DWP). If you, or your partner, are getting any of these benefits, you should notify the DWP that your partner is in prison. You should also notify the local authority as it may affect your housing benefit and council tax. You no longer count as a couple while your partner is in prison. If the benefit is already in your name, this is a change in your circumstances and the benefit can continue as a single person. If the benefit was in your partner's name as the main claimant, you will need to make a new claim for universal credit as a single person.

What to do if you are responsible for a child or young person and you are facing a prison sentence

Child benefit

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 is taken into care by the local authority and placed with foster carers or kinship carers for 8 weeks or more, you cannot continue to receive child benefit.

Universal credit

You cannot get universal credit while you are detained in custody pending trial or sentence, or convicted under a sentence, except for the housing costs element for rent, which can continue to be paid for up to six months, if it was paid immediately before you went into prison and you are not expected to be in custody for more than six months. Someone else will have to take responsibility for your children and can claim for them if normally living with them. A young person aged 16 or over may be able to claim in their own right, and can be treated as responsible for younger siblings.

Child tax credit

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 you are in prison and the child is normally living with someone else, such as an older sibling aged at least 16, or another relative who has taken on responsibility for your children, that person may be able to claim child tax credit or universal credit for the child instead. If your child is taken into care by the local authority and placed with foster carers or kinship carers, you cannot continue to receive child tax credit.

Housing benefit and council tax reduction

You can get housing benefit and council tax reduction during a temporary absence not expected to exceed 13 weeks (or 52 weeks on remand), provided you intend to return home and do not sublet. Alternatively, someone else living in your home, such as an adult son or daughter, can be treated as liable for your rent and claim housing benefit or universal credit housing costs.

Young people in full-time non-advanced education

Child benefit and child tax credit as described above can continue for a young person aged 16 to 19 in full-time (more than 12 hours a week) non-advanced education (up to Highers, SVQ level 3 and below). Alternatively, if a young person aged 16 to 21 is left on their own while you are in prison, and the young person is in full-time non-advanced education, s/he may qualify for universal credit in their own right. Child benefit and child tax credit payable to you would stop in this case. If the young person is aged 21, they must have started the course or enrolled before reaching 21. S/he could also claim council tax reduction if your absence is longer than the period allowed.

Visiting someone in prison

The Assisted Prison Visits Unit can help with travel costs if you are visiting a partner, child or close relative in prison. It can also help with the cost of someone bringing your children to visit you in prison. The visitor must be getting one of the following benefits:

- Income support
- Income-based jobseeker's allowance
- Income-related employment and support allowance
- Pension credit
- Universal credit
- Child tax credit
- Working tax credit as a disabled worker
- Health benefits on low income grounds

You can get an application form from the prison, or download from gov.uk/assisted-prison-visits or contact the Assisted Prison Visits Unit (see Further information). Assistance is normally given towards one visit every two weeks, and up to 26 visits in a 12-month period. If you cannot travel to the prison and back home in one day, a contribution to the costs of an overnight stay will be considered. To get reimbursed, you should keep tickets and apply within 28 days of the visit. You can apply in advance for the cheapest rail tickets available. You must also get a Confirmation of Visit form stamped by the prison. You can also get help with the costs of childcare if you have to pay a registered childcare provider to look after your child while you are visiting the prisoner.

What to do if you are looking after someone on temporary release (licence)

Scottish Welfare Fund

You can apply for a Community Care Grant towards the living expenses of a prisoner or young offender who is staying with you on temporary release. You should be on a low income and are normally expected to be getting certain benefits but this is not essential. You should apply to your local authority for a Community Care Grant from the Scottish Welfare Fund.

There is no limit to the number of Community Care Grants you can get in a year. If it is refused or you are unhappy with the award, you should seek a review within 20 working days, and you have a right to a further independent review if still unhappy.

What to do when someone is released from prison

Scottish Welfare Fund

An adult being released from prison can apply for a Community Care Grant to help settle in the community. S/he can apply in advance and should apply to the local authority where s/he will be living (not the area where the prison is located). S/he should be on a low income. A grant can be given for essential household items. S/he can also apply for a Crisis Grant for living expenses if s/he has no other support, but should also claim any benefits s/he is eligible for and request an advance payment.

Child benefit

If your child or young person has returned to live with you, you should notify the Child Benefit Helpline and ask for payment to be reinstated. A young person under 20 should intend to return to full-time non-advanced education or approved training for child benefit to be payable.

Universal credit

If you are getting universal credit, it is important to notify straightaway when a family member returns to live with you. You are entitled to the additional amount as a couple, or for a child, for the whole of the monthly assessment period in which she returns to live with you.

In areas where universal credit has been fully introduced, a person released from prison will usually have to claim universal credit. If your partner or only child has been released and returns to live with you, you may have to claim universal credit. Universal credit must usually be claimed online. If you need help to claim online, ask the Universal Credit Helpline to arrange support locally and record the date of your telephone call as your date of claim. The first payment is usually made after one month and 7 days but an advance payment can be requested for people in financial hardship. Universal credit is usually paid in one monthly payment into a bank or similar account, including amounts for rent. In areas of Scotland where universal credit has been fully introduced, you have the choice to be paid twice monthly and to have the amount for your rent paid straight to your landlord.

If you are part of a couple and payment into one account may cause difficulties or put you at risk, you can ask for an alternative payment arrangement to split payments to two different accounts. This is at the DWP's discretion but can be considered for vulnerable groups, including ex-offenders. Alternative payment arrangements can be requested by a claimant, their representative (e.g. support worker) or a landlord if in rent arrears.

Child tax credit

If your child or young person has returned to live with you, you should notify the Tax Credits Helpline and ask for payment to be reinstated. A young person under 20 should intend to return to full-time non-advanced education or approved training for child tax credit to be payable. If you were getting tax credits as a single person while your partner was in prison, your single claim ends when s/he returns to live with you, and you must make a new joint claim for universal credit.

Other benefits

If you are receiving other benefits as a single person, you should notify that a partner or other member of your household has returned to live with you. If you are getting income support as a carer, jobseeker's allowance or employment and support allowance, your claim continues with your partner included. If you were getting income support as a lone parent, your claim will end and you will have to make a new claim for universal credit as a couple.

Further information and advice

Child Poverty Action Group in Scotland

0141 552 0552 advice line for advisers on benefits and tax credits,
Monday to Thursday 10am to 4pm, Friday 10am to 12 noon

Email: advice@cpagscotland.org.uk

email advice for advisers on benefits and tax credits

cpag.org.uk/welfare-rights/support-advisers/support-advisers-scotland *for more information*

CPAG publishes the *Welfare Benefits and Tax Credits Handbook*, a comprehensive guide to benefits and tax credits for claimants and advisers.

CPAG in Scotland's advice line is only for advisers. If you are having problems with your own tax credit or benefit claim and are in need of advice you should contact your citizens advice bureau or other local welfare rights service.

Families Outside

Families Outside is the only national charity in Scotland that works solely to support the families of people affected by imprisonment and to mitigate the effects of imprisonment on children and families – and consequently to reduce the likelihood of reoffending – through support and information for families and for the people who work with them.

Support & Information Helpline Freephone: 0800 254 0088

Email: support@familiesoutside.org.uk

Texting Service: 60777 Text FAMOUT then your message

Assisted Prison Visits Unit

PO Box 2152

Birmingham

B15 1SD

assisted.prison.visits@noms.gsi.gov.uk

Telephone: 0300 063 2100, Monday to Friday, 9am to 5pm



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