

# Chapter L1 – Hardship

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# Chapter L1: HARDSHIP

## Introduction

L1001 This chapter contains guidance on recoverable hardship payments for UC and includes

1. what is hardship
2. the basic conditions to be in hardship
3. deciding if the claimant is in hardship
4. the period and amount of hardship **and**
5. the recovery of hardship payments.

## What is hardship

### Background

L1002 Hardship is not defined in legislation. It is for the DM to consider whether the criteria set out in relevant legislation<sup>1</sup> are met so as to qualify the claimant as being in hardship. In addition in UC, hardship payments can only be made when certain conditions are met.

*1 UC Regs, reg 116(2)*

L1003 What constitutes hardship in UC is reflected in

1. the expectation that claimants investigate potential alternative avenues of support that may be available to help themselves and their household out of hardship
2. claimant's households are expected to make efforts to reduce non-essential expenditure
3. limiting the essential needs to be considered to accommodation, heating, food and hygiene needs only
4. a single fixed method to calculate the amount and duration of payment
5. a fixed period of payment requiring the claimant to continually demonstrate they are still in hardship by re-applying for continued payment each assessment period **and**
6. hardship payments being recoverable.

### What are recoverable hardship payments

L1004 A recoverable hardship payment is an additional payment of UC that provides financial protection for the household where the

1. amount of the claimant's award is reduced because of a
  - 1.1 sanction **or**
  - 1.2 fraud penalty (see L1010) **and**
2. claimant
  - 2.1 is **or**
  - 2.2 will bein hardship.

*1 WR Act 12, s 28; UC Regs, reg 116*

L1005 – L1009

## **Fraud and loss of benefit penalties**

- L1010 The guidance in this chapter on hardship will apply in the same way to reductions in benefit due to fraud or other penalties. For full guidance on loss of benefit penalties see ADM Chapter B2 – Restrictions on payment of benefit – benefit offences. Where reference is made to the UC regulations<sup>1</sup> please read the equivalent in the Social Security (Loss of Benefit) (Amendment) Regulations 2013.

*1 UC Regs, reg 116 – 119; UC Regs, reg 108*

## **Reconsideration and Appeals**

- L1011 A claimant may request a reconsideration or subsequent appeal of a decision not to pay hardship on the basis they are not in hardship but they cannot appeal the amount payable as this is prescribed in legislation.

L1012 – L1015

## **Conditions to be in hardship**

### **Single claimants**

- L1016 A claimant must meet all the following conditions to be considered for a recoverable hardship payment<sup>1</sup>
1. their most recent payment of UC has been reduced as a result of a sanction<sup>2</sup> (see note and L1020)
  2. they are aged 18 or over<sup>3</sup> (see L1021)
  3. they have met any compliance condition specified by the Secretary of State<sup>4</sup> (see L1022)
  4. they submit an approved application<sup>5</sup> (L1034)

5. they provide information and evidence as required to support their application<sup>6</sup> (L1036)
6. they accept that any hardship payments are recoverable<sup>7</sup> (see L1033)
7. they have complied with all the work-related requirements that they were required to comply with in the 7 days preceding the day on which they made an application for hardship<sup>8</sup> (see L1039)
8. the Secretary of State is satisfied that they are in hardship<sup>9</sup>
9. the daily reduction rate for each assessment period of UC applies to the sanction ( i.e. this means that hardship is only available where the sanction is 100% of the standard allowance of UC and not where the sanction is 40% of the standard allowance)<sup>10</sup>.

**Note:** Most recent payment has been reduced includes a reduced first payment.

*1 UC Regs, reg 116; 2 reg 116(1) (a); 3 reg 116(1)(a); 4 reg 116(1)(b); 5 reg 116(1)(c); 6 reg 116(1)(d); 7 reg 116(1)(e); 8 reg 116(1)(f); 9 reg 116(g); 10 reg 116(1)(h)*

## Joint-claim couples

L1017 Joint -claimants must meet all the following conditions to be considered for a recoverable hardship payment<sup>1</sup>

1. their most recent payment of UC has been reduced as a result of a sanction<sup>2</sup> (see L1016 1. and L1020)
2. the member of the couple who is sanctioned is aged 18 or over<sup>3</sup> (see L1021)
3. they both have met any compliance condition specified by the Secretary of State<sup>4</sup> (see L1022)
4. either one can submit an approved application<sup>5</sup> (L1034)
5. either one can provide information and evidence as required to support their application<sup>6</sup> (L1036)
6. they both accept that any hardship payments are recoverable<sup>7</sup> (see L1033)
7. they both have complied with all the work-related requirements that they were required to comply with in the 7 days preceding the day on which they made an application for hardship<sup>8</sup> (see L1038)
8. the Secretary of State is satisfied that they are both in hardship<sup>9</sup> (see L1039)
9. the daily reduction rate for each assessment period of UC applies to the sanction (i.e. this means that hardship is only available where the sanction is 100% of the standard allowance of UC and not where the sanction is 40% of the standard allowance)<sup>10</sup>.

*1 UC Regs, reg 116; 2 reg 116(1)(a); 3 reg 116(1)(a); 4 reg 116(1)(b); 5 reg 116(1)(c); 6 reg 116(1)(d); 7 reg 116(1)(e); 8 reg 116(1)(f); 9 reg 116(g); 10 reg 116(1)(h)*

## Conditions satisfied

L1018 When all the criteria at L1016 or L1017 are met the DM then has to be satisfied that a single claimant or joint claimants are in hardship<sup>1</sup> by considering whether the claimant or each joint claimant

1. are in hardship only because they cannot meet
  - 1.1 their immediate, essential and most basic needs **or**
  - 1.2 the immediate, essential and most basic needs of a child or qualifying young person for whom they are responsible<sup>2</sup>as a result of the sanction or fraud penalty having reduced their award
2. have made every effort to access alternative sources of support to meet or partially meet such needs<sup>3</sup>
3. have made every effort to cease to incur expenditure which does not relate to such needs<sup>4</sup>.

*1 UC regs, reg 116(1)(g); 2 reg 116(2)(a); 3 reg 116(2)(b); 4 reg 116(2)(c)*

L1019 Immediate, essential and most basic needs are defined as

1. accommodation (see L1061)
2. heating (see L1066)
3. food (see L1076) **and**
4. hygiene<sup>1</sup> (see L1081et seq).

*1 UC regs, reg 116(3)*

## Reduction in force

L1020 A claimant over 18 years old cannot be in hardship unless they have received a payment that is

1. subject to a higher, medium or lower level sanction<sup>1</sup> **or**
2. reduced by the equivalent reduction rate made for fraud or loss of benefit penalties<sup>2</sup>.

**Note:** 'Received' includes where no payment is made because the award is wholly reduced by a sanction or by the sanction in conjunction with other deductions such as earnings or income or is reduced because of fraud or loss of benefit penalties and where a first payment is reduced because a sanction is imposed before any UC is actually paid.

*1 UC regs, reg 116 (2)(a)(i); 2 SS (Loss of Benefit)(Amendment) Regs 2012; SS Fraud Act 2001*

L1021 A claimant whose UC is sanctioned for a lowest level failure such as failing to attend a WFI, cannot receive hardship. These claimants continue to receive 60% of their

standard allowance for the duration of the sanction and can have the open ended sanction brought to an end if they participate in the interview<sup>1</sup>.

**Note:** For guidance on lowest level sanctions see ADM Chapter K6 – Lowest- level sanctions.

*1 UC regs, reg 105*

## **16 and 17 year olds**

L1022 A claimant or member of a joint–claim couple who is aged 16 or 17 years old cannot receive hardship because all sanctions for these claimants are applied at a lower reduction rate and they continue to receive 60% of their personal allowance for the duration of the sanction.

**Note:** A sanctioned claimant may have access to hardship if they are aged 18 years or over and part of a joint-claim couple where their non –sanctioned partner is 16 or 17 years old.

## **Compliance conditions met**

L1023 To receive a recoverable hardship payment the

1. sanctioned claimant **or**
2. each of the joint-claimants in a couple

who is subject to a low level sanction must meet any compliance conditions set<sup>1</sup>

*1 UC Regs, reg 116(1)(b); reg104 (2)(a)(i)*

L1024 This will normally mean addressing the action or failure that led to the sanction. For example,

1. re-engaging with the WP
2. attending training they were required to undertake
3. attending a WFI

**Note:** If a claimant has not met their compliance condition they have not met one of the conditions for hardship<sup>1</sup> and so will not be entitled to a recoverable hardship payment.

*1 UC Regs, reg 116(1)(b)*

L1025 A claimant may have to undertake alternative activities that are specified where it is not feasible for the claimant to complete or address the original action. For example: where without good reason the claimant failed to attend a mandatory training course that is no longer available (see ADM Chapters K1 – K9 for guidance on sanctions).

L1026 It is up to the DM in each individual case to be satisfied the claimant or joint-claim couple have met a compliance condition<sup>1</sup>.

L1027 Apart from meeting the compliance condition in the cases of low level failures there is a separate requirement to have met all work-related requirements which relates specifically to the 7 days prior to making the application for a recoverable hardship payment (see L1039).

*1 WR Act 12, s 27*

L1028 – L1029

## **Application, information and evidence**

### **Application**

L1030 The claimant or either of the joint-claimants must complete an application for a recoverable hardship payment which is

1. approved by the Secretary of State or in such a form as he accepts is sufficient **and**
2. submitted in such a manner as the Secretary of State determines<sup>1</sup>

(also see L1032 and L1033).

*1 UC Regs, reg 116(1)(d)*

L1031 Initial contact is most likely to be

1. over the phone to the Contact Centre **or**
2. in person at the JCP office.

Claimants will then normally be required to attend an appointment at their local JCP office to provide further information and evidence in support of the application.

L1032

### **Joint-claim couples**

L1033 The DM must be satisfied that both members of the joint-claim couple have

1. complied with any work-related requirements as required<sup>1</sup> within 7 days before they submit the application (see L1039) **and**
2. met any compliance condition if relevant<sup>2</sup> (see L1022) **and**
3. acknowledged that any payment is recoverable<sup>3</sup>.

**Note:** see L1017 for conditions to be in hardship for joint-claim couples.

*1 UC Regs, reg 116(1)(f); 2 reg 116(1)(b); 3 reg 116(1)(e)*

L1034 - L1035

## Information and evidence

L1036 Supporting information and evidence will be required to validate the application for hardship<sup>1</sup>, which includes

1. general information on the household and what resources claimants have at their disposal to meet their basic needs
2. their efforts to support themselves and their household by seeking alternative help
3. steps taken to reduce costs in relation to non-essential costs **and**
4. the reason for the claimant being in hardship, i.e. which of the basic and essential needs they are unable to meet immediately.

**Note:** The information and evidence required from a joint-claim couple would need to relate to them both and the household but either one can provide it.

*1 UC Regs, reg 116(1)(d)*

L1037 – L1038

## Compliance with work- related requirements

L1039 To receive a recoverable hardship payment, in the seven days prior to the date of applying for hardship, a claimant or both members of a joint-claim couple must have met all the work-related requirements they are required to meet, as will usually be detailed in their Claimant Commitment<sup>1</sup>.

*1 UC Regs, reg 116(1)(f)*

L1040 A claimant cannot receive hardship if there is an outstanding doubt they have recently failed to meet their work-related requirements in the 7 day period prior to submission of the application.

**Note:** The outstanding decision should be prioritised so that if UC is reduced the hardship determination can be considered.

L1041 – L1044

## Deciding if the claimant is in hardship

### What the DM considers

L1045 Where a claimant, or both members of a joint-claim couple meet the criteria outlined at L1016 and L1017, the DM has to consider whether the claimant's circumstances mean they are unable to meet their immediate basic and essential needs<sup>1</sup>.

*1 UC Regs, reg 116(2)*

L1046 The only needs the DM takes into account as placing a claimant or their household at risk of being unable to meet their immediate basic and essential needs are

1. accommodation costs (see L1061)
2. heating costs (see L1066)
3. food costs (see L1076) **or**
4. hygiene needs (see L1081)<sup>1</sup>.

**Note:** These are the basic and essential needs. What varies is what an individual may require in order for that need to be met, for example, a sick person may need more heating as they may have more complex and more expensive needs.

*1 UC Regs, reg 116(3)*

L1047 Immediate means that the claimant, or both members of a joint-claim couple, are unable to satisfy their households basic and essential needs at the point of application. Where the claimant has children, immediate will be interpreted to mean within a week, i.e. for the next 7 days. This prevents the claimant from worrying, for example, that they won't have sufficient food to feed their children the next day.

**Note:** If a claimant cannot demonstrate hardship at the point of application (allowing for 7 days for those with children) then the application should fail and the claimant should be told to re-apply when they can demonstrate hardship.

L1048 All of the circumstances of the claimant and their household must be considered when deciding if the claimant is in hardship. Each case should be considered carefully and DMs should bear in mind that an item or expense that is not necessary for one individual to meet their basic and essential needs may be necessary for another, for example: person A's basic and essential heating may be met even though they have no heating because it is August but at the same time and under the same circumstances person B's heating needs are not met because they live in a draughty house and have a health condition.

L1049

### **Claimants less likely to suffer hardship**

L1050 Healthy adults may be at less risk of suffering hardship if they do not have sufficient essential needs for short periods of time but each case should be considered on its own merits.

#### **Example**

Des is a single man aged 25, who lives alone and has no health problems. He claims UC in August and the DM decides he left his previous job without good reason and so a sanction is imposed. UC is not paid. Des makes an application for a recoverable hardship payment. He heats his flat by gas and says he has no money

to put in his gas meter. He has an electric cooker. The DM considers that the lack of heating in August for a fit single man would not lead to Des being unable to meet his basic and essential needs. In other words, despite the gas heating being unavailable his heating needs are still met.

The DM considers if there are any other circumstances that may lead to hardship for accommodation, food or hygiene needs.

### **Claimants more likely to suffer hardship**

L1051 People who

1. have children in the family
2. have health problems
3. have caring responsibilities (the greater the caring responsibilities the greater the likelihood of hardship)
4. have disabilities
5. are pregnant **or**
6. are seriously or chronically ill (see L1053)

may be more likely to be unable to meet basic and essential needs as a result of a sanction as they may have more complex and more expensive needs.

#### **Example**

Marilyn claims UC. She is a single parent with two children aged 9 and 11. She has a part-time job which pays her £20 per week. The DM decides that Marilyn failed to comply with her requirements without good reason by failing to register with a national employment agency as part of her work search requirement by the day before she is next due to attend the Jobcentre on 20.11.13 and so is sanctioned and her UC payment is reduced.

Marilyn makes an application for a recoverable hardship payment. The family's only income is CHB for the children and her part time earnings of £20 per week. She states she has sufficient food for a week in her freezer. The DM decides Marilyn has sufficient food for her family for a week. She will be able to buy fresh food such as bread and milk using her part time earnings. The CHB is disregarded when considering hardship. The family would not suffer hardship because of a lack of food until the end of a week.

See L1147 for guidance on how to calculate the period of hardship.

L1052 Most likely there will be overlap in which aspect of the four areas of needs a claimant is unable to meet. For example: while sanctions do not directly reduce the UC housing component, a claimant may have spent the benefit they did receive on ensuring they had food and are thus unable to pay the rent and risk falling into

arrears and may face eviction. In this situation the claimant may be considered to be in hardship. See also L1070 – L1072.

### **Seriously ill**

L1053 Seriously ill is not defined in legislation. The term is given its normal everyday meaning of being an important, significant or severe illness<sup>1</sup>.

*1 R(SB) 19/82*

L1054 Illnesses such as colds or coughs are not normally serious but the DM should decide if an illness is serious for the individual person concerned and whether this impacts on any of the four areas of basic and essential needs. For example someone who is seriously ill may have more complex and more expensive needs and require more heating or have increased hygiene costs.

L1055 The DM must determine if a serious illness exists at the date of the application for hardship and not try to determine if a serious illness is likely to occur. The claimant can re apply if their condition appears to be worsening.

L1056 If the DM has doubts if a person in the household is seriously ill the claimant should be asked to provide evidence from a doctor or health care professional.

**Note:** If the sanctioned claimant is seriously ill then they might fall into the no work-related requirement conditionality group and sanctions may be reduced to nil. See ADM Chapter J2 for guidance on the conditionality groups for UC.

### **One member of joint-claim couple seriously ill**

L1057 Where one of a joint-claim couple is seriously ill but the other is subject to full work search requirements the benefit unit must continue to meet their labour market requirements (i.e. the normal conditions for receiving UC) in order to receive a recoverable hardship payment.

L1058 – L1060.

### **Accommodation costs**

L1061 Where the claimant or joint-claim couple state they are at risk of losing their accommodation, the DM should establish

1. the reason, e.g. rent arrears,
2. the cost of their current housing
3. any resources at their disposal including temporary arrangements with relatives and friends
4. what the housing element of their UC has been spent on **and**
5. the composition of the claimant's household, that might include

- 5.1 a person with a health condition or disability
- 5.2 dependant children
- 5.3 an adult for whom the claimant provides care **or**
- 5.4 a person who is pregnant.

**Note :** Claimants cannot show hardship in relation to accommodation costs because they have had an amount deducted for their housing element due to under occupancy (see ADM Chapter F2 – F4 on Housing Costs).

L1062 The appropriate evidence to support the claimant's situation and that they are unable to meet these costs might include

- 1. a rent book,
- 2. a letter from the landlord, letting agent or lender
- 3. the department's claim records
- 4. any supporting information or evidence on their available resources (see L1031)
- 5. any supporting evidence or information of their attempts to find other housing  
**or**
- 6. a doctor or healthcare professional's letter.

**Note:** See also guidance at L1089.

L1063 – L1065

## Heating costs

L1066 When the claimant or joint-claim couple state they are unable to cover costs for heating their home, the DM should establish

- 1. the method of supply and payment ( for example: monthly, quarterly, direct debit, budget plan, standing order, meter payment card etc)
- 2. when the last bill was paid and when the next is due
- 3. when the supply will exhaust or be cut-off if not paid
- 4. the composition of the claimant's household that might include
  - 4.1 a person with a health condition or disability
  - 4.2 dependant children
  - 4.3 an adult for whom the claimant provides care **or**
  - 4.4 a person who is pregnant.

L1067 The time of year must be considered as lack of heating is generally only likely to cause problems at certain times of the year, i.e. when the application for hardship is made

1. between November and March (although decisions should reflect local weather conditions) **or**
2. where there is an extended period of cold weather, i.e. the temperature is recorded as 0°C or below.

**Note:** The condition at **2.** is the trigger point for Cold Weather Payments.

L1068 If the application is made

1. during the summer months **or**
2. a period of warm weather

it may be difficult for the claimant to justify their assertion that they cannot meet their needs unless their household comprises of someone who has special needs or the condition of the dwelling is such that the inhabitants are more likely to suffer from a lack of heating despite prevailing weather conditions.

L1069 The appropriate evidence to support the claimant's situation and that they are unable to meet heating costs might include

1. the energy supplier's statements, bills or letter regarding the status of supply
2. a doctor or health care professional's letter verifying they need a particular level of heating
3. any supporting information or evidence on their available resources (see L1031)
4. the department's claim records, such as deductions for fuel arrears.

**Other fuel costs**

L1070 Other fuel costs may link to food or hygiene needs for example running electrical equipment such as a

1. washing machine **and**
2. cooker to cook raw food **or**
3. fridge or freezer to keep food cold or frozen until needed.

L1071 These needs may arise irrespective of weather conditions and are linked closely to

1. food costs (see L1076) **and**
2. hygiene costs (see L1081).

For example it is no use providing food if the claimant can't cook it or keep it cold or frozen until needed and it would not be easy for someone to keep their clothes and bedding clean with cold water.

L1072 Most likely there will be overlap in which aspect of the four criteria areas of needs a claimant is unable to meet. Each case should be determined on its own merits and all the individual circumstances taken into consideration regarding the four essential criteria which are the basic and essential needs.

L1073 – L1075

## **Food costs**

L1076 Regular basic nutrition is essential to maintain health. A claimant or joint-claim couple may state that as a consequence of a sanction being imposed on their UC they have no

1. food of their own **or**
2. access to any food **or**
3. the means to prepare and store it

to meet immediate basic nutritional needs for themselves and their household for the immediate future.

L1077 Where L1076 applies the DM should establish

1. when did the claimant last shop for food for the household
2. the period this shopping was designed to cover and any reasons for running out of food any earlier
3. the nature of any special dietary requirement of any member of the household because of a medical condition.

L1078 The claimant should be regarded as being in immediate hardship if they have insufficient resources to provide meals for the coming week where they

1. have responsibility for a child or qualifying young person
2. provide care for an adult
3. or someone in the household is pregnant **or**
4. have in the household a person with a health condition where a lack of food would cause suffering.

**Note:** Claimants are not expected to rely on food banks to meet their food needs (also see L1091).

L1079 Where possible the claimant should present receipts but in practical terms the claimant's testimony may be the only source of information available.

L1080.

## Hygiene costs

L1081 Where as a result of a sanction being imposed on a claimant or joint-claim couple's UC they assert they have no immediate resource to meet their or their households hygiene needs, the DM should establish

1. what products or services they require (for example: sanitary products, nappies, toilet paper, soap, detergents, laundry services, washing machine etc) **and**
2. whether these items or services are available free or via alternative sources (for example: immediate family, doctors or health centres etc).

L1082 Each case should be determined on its own merits and any special needs verified by a letter from the person's GP or health care professional unless this information is already available from the UC claim records.

L1083.

## Efforts to access alternative support to meet needs

L1084 Claimants are expected to investigate potential alternative avenues of support that may be available to help themselves and their household<sup>1</sup>. The DM has to consider

1. what is reasonable in the individual circumstances **and**
2. whether claimants have explored alternative support that might be open to them

to help them meet, or partially meet, their household's basic and essential needs.

*1 UC Regs, reg 116 (2)(b)*

L1085 What is regarded as reasonable for a claimant to do may well vary

1. in each individual case **and**
2. over time (see note).

Actions a claimant or joint-claim couple could be required to take could vary vastly from those they are able to take either because of what options are available to them locally or their own circumstances.

**Note:** This will be of particular significance for those making a sequence of hardship applications where the claimant can be required to take steps to investigate helping themselves out of hardship.

## What is considered reasonable

L1086 Examples of what may be considered reasonable include

1. asking their immediate families for assistance but see L1090
2. access to free help to meet hygiene needs, for example: where the claimant or member of the household has a medical condition
3. for those in work, asking their employer for an increase in hours
4. contacting local charities, support groups and other organisations that may be able to help with immediate basic and essential needs, but see L1091,
5. the claimant serving notice in order to access savings or investments (see L1131).

This list is not exhaustive.

### **What is considered unreasonable**

L1087 It is not considered reasonable to expect a claimant to

1. sell or pawn items they own (also see L1088) **or**
2. have to find cheaper housing (also see L1089) **or**
3. increase their debts by seeking credit (see L1116) **or**
4. rely on charities (see L1091).

#### **Sell or pawn items**

L1088 Claimants cannot be required to

1. sell **or**
2. pawn

any items they, or their household, own in order to meet their basic and essential needs, with the exception of stocks and shares. However, where a claimant or joint-claim couple have taken this action of their own accord, any funds they have as a result of the sale must be considered as being available towards meeting their basic and essential needs.

#### **Seeking other accommodation**

L1089 If a claimant is at risk of losing their home they cannot be required to

1. seek an alternative dwelling that would not house their current household **or**
2. put the family at risk or their friends or family in hardship **or**
3. find cheaper housing.

**Note:** Claimants cannot be required to access or increase credit as actions to support themselves (also see L1116).

### **Help from family or friends**

L1090 It will not be reasonable in every case for claimants or joint-claim couples to expect assistance from close family or friends but it may be reasonable to expect some claimants to consider the possibility of asking. What is or isn't reasonable will depend on the individual's circumstances. For example it would not be reasonable where families and friends have

1. their own difficulties **or**
2. the request may put strain on relationships **or**
3. the request may have a risk of violence (especially for estranged relations) **or**
4. the person is not in the proximity to offer assistance.

### **Investigate help from charities**

L1091 Investigating what help may be available from charities will depend on what

1. is available locally **and**
2. steps claimants are prepared to take.

L1092 Claimants should not be expected to rely on support from charities. While claimants may be prepared to request such help there should be no requirement to do so and claimants should not be denied access to recoverable hardship payments if they don't. For example; claimants are not expected to rely on food banks to meet their food needs (also see L1078).

L1093 It will usually be reasonable to expect claimants to at least investigate and consider what help may be available to them, but not force them to accept any help if they choose not to.

L1094– L1095

### **Effort to reduce non-essential costs**

L1096 Claimants applying for hardship are expected to reduce expenditure that does not relate to the four essential needs<sup>1</sup> (see L1061 et seq).

*1 UC Regs, reg 116 (2)(c)*

L1097 It would be reasonable to expect a claimant to

1. cancel clubs and society memberships
2. serve contractual notice to cancel leisure services (see L1098) **and**
3. curtail entertainment activities.

L1098 The notice at L1097 cannot require the claimant to incur financial penalties, for example: cancelling a gym membership that carries a penalty for early cancellation. However, this might include the claimant giving any contractual notice to cancel such

a contract to reduce their commitments for potential further periods of hardship they might apply for.

### **Work search or preparation costs**

L1099 It would not be reasonable to expect claimants to cease outlay they needed to make to meet work search requirements, for example;

1. a mobile phone contract
2. broadband for internet
3. travel costs

as these are accepted as a means to search for work.

### **Children**

L1100 It would be reasonable to expect a claimant to cease outlay on any non essential expenditure relating to children as they would for themselves. However any expenditure which is to maintain access to education would be deemed essential.

L1101 Expenditure on school activities will only be reasonable if it is vital to education or safety although enquiries should be made for other sources of support as many local authorities provide free school meals, uniform, dinners and access to after school activities. For example:

1. sporting and after-school activities would be regarded as non essential but there may be access to local authority support for free activities
2. school uniforms may be deemed essential but not in any areas where there is a support scheme through the local authority to provide for free school uniforms
3. child care costs would depend on the reason they were incurred, for example if they relate to a claimants work search and they are reasonable in the circumstances, e.g. a parent had a job interview at 4pm and had to pay for a babysitter for an hour to attend the interview may be considered reasonable if no other family were available to help.

**Note:** A claimant must do what they can to access other sources of support. There should be no blanket exemption of costs relating to children and no cap on what level of financial expenditure is acceptable. It is for the DM to consider all the facts and circumstances of the individual case in determining what can be considered reasonable costs.

### **Medical costs**

L1102 Where any medical costs are not covered by pass-ported free prescriptions continuing costs to meet any household medical or well-being needs should not be regarded as reducible expenditure. However, it would not be unreasonable for the DM to seek a doctor or health care professional's verification of essential medical costs.

**Note:** See guidance at L1081 for guidance on hygiene costs.

### **Ineligible service charges for those in supported accommodation**

L1103 When considering whether a claimant has done all they reasonably can to reduce non-essential expenditure it would not be expected that a claimant reduce expenditure on ineligible service charges, for example those claimants who live in supported accommodation who have to pay ineligible service charges to avoid falling into arrears.

**Note:** These charges are ineligible for UC housing.

L1104 – L1105

### **What the DM considers**

L1106 DMs should, as far as is practical, ascertain

1. that the household has taken all reasonable steps to reduce household expenditure
2. whether there has been any irregular or large expenditure on non-essential items
3. the claimant has discussed alternative payment options with their creditor, service provider, landlord or lender or supplier.

### **Available resources**

L1107 The DM must consider whether the resources available to the claimant and their household are sufficient to meet their basic and essential needs.

L1108 'Resources' is not defined in legislation. The word should be given its normal everyday meaning<sup>1</sup> of the means available or a stock or supply that can be drawn upon.

*1 R(SB)19/82*

L1109 When considering resources that may be available to the household this includes resources that

1. are likely to be available to the claimant and their family **and**

2. that may be available from a member of the household who is not a member of the family.

L1110 This includes any

1. income **or**
2. capital **or**
3. other money

available to the household.

### **Example**

Lynn claims UC. She lives with her son Michael who is in F/T work. The DM decides Lynn has failed to comply without good reason in a work preparation requirement as required and imposes a sanction. She makes an application for hardship.

Lynn has no form of income but Michael contributes £50 a week towards household expenses. The DM considers the £50 from Michael when looking at available resources.

L1111 The DM should consider any resources that are available to the household including

1. earned and unearned income at the households disposal,
  - 1.1 when they will receive it **and**
  - 1.2 what is the gap between this and any potential recoverable hardship payment
2. capital or other money that can be
  - 2.1 accessed immediately **or**
  - 2.2 with notice **and**
3. what has any un-sanctioned UC received been spent on.

**Note:** When a sanction applies, the total UC award is not removed, it is reduced by an amount equal to the claimants standard allowance (although for some claimants, without additional elements of UC in payment, this may mean their award is reduced to zero or nearly zero).

L1112

### **Common Financial Statement**

L1113 If the claimant has a Common Financial Statement this could be evidence to validate a claimant's expenditure. A DM cannot insist that a claimant has such a statement but where a claimant has one it might help in assessing existing expenditure to calculate any expected reductions.

**Note:** A Common Financial Statement is a statement used by major banks, financial institutions and charities to assess an individual's debt levels against the income threshold they need to meet those commitments when they have difficulty making repayments.

L1114 – L1115

## **Credit facilities**

- L1116 Because credit facilities are liabilities rather than resources the claimant **cannot** be required or expected to
1. apply for credit facilities from banks, building societies and mutual/friendly organisations, pay-day advance firms and other financial institutions **or**
  2. use or extend any existing credit facilities they may have, for example: a credit card, loan or pay-day advance.
- L1117 Credit facilities include
1. credit cards
  2. overdraft facilities
  3. loans **and**
  4. arrangements with retailers.
- L1118 Money obtained from credit facilities should be considered as a resource if it is actually possessed by the claimant or a member of the family at the point of application.

### **Example 1**

Andrew has applied for a recoverable hardship payment. He has a credit card with a credit limit of £1500. £900 of the limit is available to Andrew.

When considering the amount of Andrew's resources the DM does not take account of the £900 available on the credit card.

### **Example 2**

Hazel has applied for a recoverable hardship payment. She states she has £200 which she got from her bank overdraft facility. Another £300 is available before she reaches her overdraft limit.

The DM decides that the £200 that Hazel possesses should be considered as part of her resources. The remaining £300 of her overdraft limit is not treated as resources.

- L1119 The DM should consider the amount by which the family's resources are less than the amount of hardship that would be paid.

L1120

## Universal Credit and other benefits as resources

L1121 When deciding whether the claimant is in hardship the DM should take into account any UC paid for the Assessment Period immediately prior to the application. That is, the amount remaining after a reduction for a sanction has been applied.

L1122 Any income and capital that is disregarded in the calculation of UC is taken into account when assessing the level of resources available to the claimant or joint-claim couple.

**Note:** Taking into account any sums that are disregarded aims to arrive at a fair assessment of what funds the claimant or joint-claim couple have at their disposal to arrive at a determination that they are in hardship<sup>1</sup>.

*1 UC Regs, reg 116(2)(a)*

L1123 This could include other benefits, but excluding CHB (see L1124), the

1. claimant
2. joint-claim couple **or**
3. member of the household

are receiving. This may include contribution-based benefits such as JSA(C) or ESA(C) that can be paid at the same time as UC

### Child Benefit

L1124 Payments of CHB should be disregarded from being a resource the claimant can be expected to rely on to go towards meeting their household's basic and essential needs.

L1125

## Periodic payments of income

L1126 Where claimants or members of their family receive periodic payments of earned or unearned income, the DM should work out the monthly amount the claimant, joint-claim couple or member of their household will receive. This is to determine the amount of resources available to the claimant and whether that is sufficient to meet their basic and essential needs. This should already have been undertaken as part of calculating the claimant's UC award.<sup>1</sup>

*1 UC Regs, reg 65 - 74*

### Example

Des and Mary have two children and receive insurance payments of £134.80 every four weeks on a Friday.

Des has been sanctioned for 91 days. He makes an application for a recoverable hardship payment. He has just received a payment of £134.80 insurance payment. Apart from that he has no other money or savings.

The DM calculates that the claimant's resources are £33.70 per week.

### **Are resources available immediately**

L1127 When deciding whether the claimant is in hardship, the DM should consider whether resources are available immediately. If they are, and are sufficient to meet the claimant's immediate needs then hardship will not apply. The claimant will need to re-apply when these funds are exhausted.

### **Income not available immediately**

L1128 The hardship application tests whether a claimant is in immediate risk of not being able to meet their basic needs. Where a claimant has an income that is not yet due to be paid this should only be taken into account for a potential subsequent application.

#### **Example**

Simon claims UC because he has recently lost his job. The DM decides Simon should be sanctioned because he left his job voluntarily without good reason. It is Simon's first failure at the higher level and a 91 day sanction applies.

Simon makes an application for a recoverable hardship payment. He has no other money but states he expects to receive a first payment from a personal pension in 4 weeks. The DM confirms that the pension company will take four weeks to process Simon's application to withdraw.

The DM determines that Simon will be in hardship until his first pension payment is received.

### **Capital not available immediately**

L1129 The claimant may have assets or savings that

1. cannot be cashed without giving a notice period **or**
2. would have to be sold to become available.

Examples of this include

- some Building Society accounts
- premium bonds
- stocks and shares
- unit trusts.

L1130 The DM should calculate the length of any delay before the asset or investment can be converted to cash. The claimant, joint-claim couple or household may suffer hardship in the period before the money becomes available.

L1131 When calculating the length of the delay the DM should consider

1. periods of notice set out by the investment company **or**
2. delays that may occur between any sale and receipt of money.

**Note:** The DM should assess whether the claimant has sufficient resource to meet their basic and essential needs. If they have sufficient resource to meet their immediate needs they cannot be in hardship until that resource is exhausted.

L1132 It would not be reasonable to expect a claimant to give notice to acquire an asset which will not materialise until after the reduction period has expired. However the claimant will need to demonstrate they are unable to access such a resource before the end of the reduction period.

**Note 1:** This will need to be reviewed each time the claimant applies for a recoverable hardship payment since they may incur additional sanctions that extend the total outstanding reduction period thus making it reasonable to serve notice. Claimants are not required to sell items or property.

**Note 2:** For detailed guidance on sanctions and reduction periods see ADM Chapters K1 and K8.

## **Fixed period investments**

L1133 The DM should bear in mind some types of fixed period investments can be cashed early at the discretion of the investment company. If the claimant states that a fixed period investment is held the DM should be satisfied that it cannot be cashed-in before the maturity date.

L1134 – L1135

## **Has the claimant taken reasonable steps to cash assets**

L1136 Where the claimant or joint-claim couple cannot access their resources immediately the DM should bear in mind that the claimant or joint-claim couple are required to take steps to help themselves meet or partially meet their basic and essential needs<sup>1</sup>.

**Note:** This means that while an initial hardship application might be granted, a subsequent application might fail if the claimant did not take prompt action to give the required notice to release available resources.

L1137 The DM should determine if the claimant or joint-claim couple has taken reasonable steps to cash any assets or investments when considering the resources that are likely to be available to the claimant or joint-claim couple. This includes taking prompt action to contact the financial institution.

#### **Example 1**

Jess lives alone and has no income. She has savings in an instant access building society account of £250.

Jess' UC is sanctioned for failing without good reason to apply for a particular job.

Jess makes an application for a recoverable hardship payment.

The DM determines that Jess' available savings mean she can meet her immediate needs and is not in hardship.

#### **Example 2**

Tommy lives alone and has no income. He has £1,000 in premium bonds but no other savings.

Tommy's UC is sanctioned for 182 days for a second failure without good reason to apply for a job vacancy. Tommy has no other form of income and applies for a recoverable hardship payment.

The DM determines that because Tommy's premium bonds cannot be cashed for three months he cannot meet his immediate basic needs.

However, Tommy is told that he will need to serve notice on his Premium Bonds to help himself meet his future essential needs.

#### **Example 3**

Jordan lives alone and has no income. She has a unit trust investment plan valued at £2,000 but no other savings.

She is sanctioned because she left her job without good reason. As this failure occurred within 52 weeks of a previous higher level sanction, the sanction runs for 182 days.

Jordan requests a recoverable hardship payment. The terms of her investment plan allow Jordan to cash her investment at any time. This has to be done by writing to the plan manager.

The plan manager will then forward a cheque within five working days of receiving Jordan's request.

The DM determines that Jordan's capital would not prevent her being in hardship until the cheque from her plan manager has cleared into her bank account. The DM estimates that this will take ten days, allowing time for postage and the cheque to be

processed. She will receive a recoverable hardship payment for that assessment period.

## **Accounts with penalties for early withdrawal**

- L1138 Claimants may have savings in accounts that impose penalties for early withdrawal. These resources will still be available to the claimant and should be considered when deciding if the claimant is in hardship.

### **Example**

Joanne has £2,500 in a 90 day notice account with a building society.

Under the terms of the account she must give 90 days notice of her intention to make a withdrawal. If she does not do this the building society will let her have her money straight away but will deduct 90 days interest from the amount withdrawn.

The DM decides that Joanne could withdraw the £2,500 less 90 days interest immediately to meet her needs. She is not in hardship.

## **Comparing resources with the amount of hardship**

- L1139 The DM should calculate the maximum amount of the recoverable hardship payment that is payable before determining if the claimant or joint-claim couples resources are adequate. See L1151 for guidance on calculating applicable amounts in hardship cases.
- L1140 The claimant is less likely to be in hardship, and able to meet their immediate needs, if their financial resources are equal to or more than the amount of hardship that can be paid (although consideration should be made of whether those resources are already accounted for). In these cases the claimant will need to re-apply when their resources are depleted.

## **Period and amount of hardship**

### **Period of hardship**

- L1141 When the DM agrees a claimant or joint-claim couple is in hardship, hardship is paid for the number of days from and including the start date to and including the end date.

### **Start date**

- L1142 A hardship payment begins with the date on which all the conditions of hardship are met<sup>1</sup> (see L1016 and L1017).

**Note:** The claimant must have completed and submitted an application for hardship (see L1030).

*1 UC Regs reg 117(1) (a)*

## End date

L1143 Subject to the provision in L1144, the period of hardship ends on the day before the normal payment date for the assessment period in which the application for hardship was made<sup>1</sup>.

**Note 1:** Normal payment date for an assessment period is the date on which the claimants regular payment of UC is expected to be made where payments are made monthly in arrears.

**Note 2:** Each hardship payment is made for a limited period and once each period expires a new application must be made.

*1 UC Regs, reg 117(1) (b)*

L1144 If the hardship period is 7 days or less, the period of hardship will end on the earlier of either

1. the day before the normal payment date for the next assessment period **or** 2. the last day on which the award is reduced (sanctioned)<sup>1</sup>.

**Note:** For the meaning of normal payment date see **Note 1. to** L1143.

*1 UC Regs, reg 117(2)*

L1145 The period in L1144 refers to the next assessment period to that in which the application for hardship is made which is a maximum of 38 days. In these circumstances, hardship can be paid for that following assessment period as long as the DM is satisfied that the claimant will still be in hardship in that next assessment period, i.e. their next UC payment will be reduced as a result of the sanction and their circumstances are not expected to change.

**Note:** Where the start date of the hardship period is later than the application date, for example because the criteria have not been met, see the guidance at L1147.

## Payment-due dates

L1146 UC payments are normally made within seven days after the end of an assessment period on a working day. Payments due at weekends or on public holidays are brought forward to the preceding working day. A period of hardship will end on the day before this, so a claimant can re-apply for hardship on their next relevant payment-due date.

### Example 1

Liam's assessment period runs from the 3<sup>rd</sup> of each month to the 2<sup>nd</sup> of the following month. He is in the all-work related requirement conditionality group.

The DM imposes a 91 day sanction and the total outstanding reduction period runs from 3.5.13 to 1.8.13.

Liam receives his first reduced payment on Friday 7.6.13 (as 7 days after 2.6.13 is a Sunday). He successfully applies for hardship on this day as he has insufficient resources to feed his child, has no access to other help and no other non-essential expenditure. As soon as he was notified of the sanction he undertook the work search his Claimant Commitment requires and has continued to meet his subsequent work search & preparation requirements.

His next UC payment is due Tuesday 9.7.13.

Liam's hardship period starts Friday 7.6.13 and ends Monday 8.7.13

The number of days are 32. The earliest Liam can make the next application for hardship is Tuesday 9.7.13.

### Example 2

Tanya receives a 14 days sanction on the UC payment for the assessment period from 5.8.13 to 18.8.13. She applies for hardship on Monday 16.9.13 so that she can buy food, having spent the UC she received on rent.

She attended an interview with her adviser on 25.8.13 at which she presented her updated CV and has complied with her other work search requirements. Tanya's next UC payment is due Friday 11.10.13.

Tanya's hardship period starts Monday 16.9.13 and ends Thursday 10.10.13. The number of days are 25. The earliest Tanya can make her next application for hardship is not applicable as her next payment of UC is not subject to sanction.

L1147 – L1150

## The amount of recoverable hardship payments

- L1151 The daily amount of hardship is calculated on the basis of the amount by which the sanction reduces the claimant's award in the assessment period. This is averaged to a daily amount as follows<sup>1</sup>

$$60\% \text{ of } \left( \frac{\text{total reduction in Assessment Period} \times 12}{365} \right)$$

where the assessment period is that immediately prior to that in which they make their hardship application, i.e. the period covered by the sanction.

The result is multiplied by the number of days in the hardship period to give the sum payable to the claimant or joint claim couple.

**Note:** Where the calculation of an amount results in a fraction of a penny, that fraction is to be disregarded if it is less than half a penny and otherwise it is to be treated as a penny<sup>2</sup> ( i.e. the rounding rule) except in the calculation of the daily rate for a reduction.

*1 UC Regs, reg 118; 2 reg 6(1); 3 reg 6(2)*

**Example:**

Liam's standard allowance is reduced by £10.20 for each day in the assessment period 3.4.13 to 2.5.13. This is 30 days giving a total of £306.00

His application for hardship on 9.5.13 means he receives

$$60\% \left( \frac{\pounds 306 \times 12}{365} \right) = \pounds 6.04 \text{ per day}$$

$$29 \text{ days at } \pounds 6.04 \text{ per day} = \pounds 175.16 \text{ total}$$

29 is the number of days in the hardship period, until 06.06.12 - the day before next UC payment is due to be received.

**Example 2**

Tanya's award is reduced by £142.80 for the 14 days she is sanctioned in the assessment period 5.8.13 to 4.9.13.

Her application for hardship on 16.9.13 means she receives

$$60\% \left( \frac{\pounds 142.80 \times 12}{365} \right) = \pounds 2.82 \text{ per day}$$

$$25 \text{ days at } \pounds 2.82 \text{ per day} = \pounds 70.50 \text{ total}$$

Had Tanya applied for hardship on 11.9.13 (as soon as she received a sanctioned payment) she could have received £84.30 (i.e. 60% of (£142.80 x 12)/365 X 30 days) assuming she met all the other conditions for hardship at the time. However, when deciding whether Tanya in hardship the DM will need to take into account she received a 14 day sanction so will still have been paid over half of her standard allowance.

## Frequency of payments

L1156 The amount of hardship calculated following the formula at L1151 is paid to the claimant once the DM accepts the claimant or joint-claim couple have met all the conditions for hardship and are unable to meet their basic and essential needs. Claimants who receive payments more frequently than once a month can receive the payment in instalments to help with their budgeting needs but the period will still be calculated as the number of days until the day before their normal UC payday.

L1157 – L1160

## Recovery of hardship

L1161 When recoverable hardship payments cease and sanctions no longer apply to the claim, the total amount paid to the claimant or joint-claim couple is recoverable<sup>1</sup>.

*1 UC Regs, reg 119 ; UC Regs, reg 108*

**Note:** For full guidance on the recovery of hardship payments see the Debt Management Guide).

### Claimant starts work

#### Recovery is suspended

L1162 As an incentive to claimants to move into work, recovery of hardship payments will be suspended where the claimant, and each joint-claimant, fall out of labour market conditionality because their individual or combined earnings take them above their earnings threshold<sup>1</sup>. In these cases recovery is suspended from the start of the assessment period in which the conditionality no longer applies.

**Note:** For detailed guidance on earnings thresholds see ADM Chapter J3 (Work-related requirements).

*1 UC Regs, reg 119(2)*

#### Balance written-off

L1163 Where the earnings of

1. single claimant's or
2. the combined joint claimants'

mean they have been out of labour market conditionality for a single period of, or periods that total, at least six assessment periods, any remaining un-recovered balance of hardship is written-off<sup>1</sup>.

*1 UC Regs, reg 119 (3)*

## Hardship payments cease to be recoverable in prescribed circumstances

L1164 Those claiming UC who are expected to work have an earnings threshold (CET) which is the amount they should be aiming to earn if working as many hours as they are able. Recoverable hardship payments are suspended in any Assessment Period in which the claimant is earning at or over their threshold (CET) and if repayment is suspended due to earnings for a period of 6 months, any outstanding hardship debt is written off<sup>1</sup> (see guidance in ADM Chapter K8).

*1 UC Regs, reg 109; reg 119(3)*

L1165 Some claimants are not expected to work because of their circumstances, for example those

1. caring for a child under age one
2. caring full time for a disabled adult
3. found not capable of work or work related activity.

As they are not required to work they do not have an earnings threshold (CET). This means these claimants are unable to write off their sanctions and hardship debt even if they choose to undertake a reasonable level of work.

L1166 From 25.7.16 provision is made so that hardship payments also cease to be recoverable for UC claimants who<sup>1</sup>

1. are not required to work or undertake any work-related activity **and**
2. choose to work **and**
3. earn a weekly amount equal to or over 16 hours per week at the NMW for a person of the same age converted to a monthly amount by multiplying by 52 and dividing by 12, for
  - 3.1 a period of 6 months or
  - 3.2 more than one period where the total of those periods amounts to at least 6 months.

**Note 1:** Only those claimants who choose to work will be affected. There will be no requirement for claimants to do any work in order to continue receiving UC payments whilst in this conditionality group.

**Note 2:** For guidance on NMW see ADM Chapter K8 – When a reduction is to have effect.

*1 UC Regs, reg 119(2)&(3)*

L1167 Where all the provisions in L1166 are met, recovery of hardship debt will be suspended and once the claimant has attained 6 assessment periods where their

earnings equal or exceed the required level, the remaining balance of any unrecovered hardship debt is written off.

## **Joint claims**

L1168 From 25.7.16 any hardship debt will cease to be recoverable where

1. one or both members of a joint claim are not required to work or undertake work-related activity **and**
2. the joint claimants have a combined monthly earnings that are equal to or exceed the amount that a person of the same age as the youngest of the joint claimants would be paid at the NMW equal to or over 16 hours, converted to a monthly amount by multiplying by 52 and dividing by 12, for
  - 2.1 a period of 6 months **or**
  - 2.2 more than one period where the total of those periods amounts to at least 6 months<sup>1</sup>.

**Note:** For guidance on NMW see ADM Chapter K8 – When a reduction is to have effect.

*1 UC Regs, reg 119(2)(c) & (3)(c)*

**The content of the examples in this document (including use of imagery) is for illustrative purposes only**