

Fraud & Error

**New Loss of Benefit
penalty regime**

from 1st April 2013

To support awareness

Background to Loss of Benefit

In July 2010 the Prime Minister commissioned a new and comprehensive fraud and error strategy to deliver a step change in performance. In October 2010 a joint strategy between the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC) was launched to tackle fraud and error in the benefits and tax credits system.

The strategy provided for significant new opportunities for increased joint working between DWP and HMRC in the run up to the introduction of Universal Credit (UC). In February 2012 this strategy was refreshed and updated through the joint report with the Cabinet Office and HMRC 'Tackling Fraud and Error in Government: A Report of the Fraud, Error and Debt Taskforce'. The strategy set out an ambitious programme of work to reduce financial loss due to fraud and error in the welfare system.

Part of this strategy includes changes to the existing Fraud & Error Loss of Benefit (LOB) penalties. The existing LOB penalties (pre April 2013) are commonly referred to as 'One and Two strike' cases.

The new penalties required amendments to existing primary legislation and new legislation is effective from 01/04/13.

Loss of Benefit – Key messages for staff

General for all staff:

- The vast majority of people are honest and do not defraud the welfare system.
- We are simplifying the welfare system to make it easier to identify fraudulent activity and reduce error. The changes to the Loss of Benefit regime will ensure we are tougher on fraud offences and that persistent offending will not be tolerated.
- DWP are working in partnership with other Government departments and Local Authorities to reduce fraud and error in the benefits and tax credits systems.
- From 1 April 2013 the current Loss of Benefit penalty regime has been extended to introduce a Loss of Benefit for 13 weeks; 26 weeks and 3¹ years, dependent on the number of previous benefit fraud offences in a set period, i.e. they apply within a linked period of 5 years of each new offence and where the latest offence results in a conviction.
- From 1 April 2013 an immediate 3¹ year Loss of Benefit penalty has been introduced for serious organised or identity benefit fraud cases.

¹ For the 3 year LOB there also needs to be a £50,000+ overpayment; or 1 year custodial sentence; or the offence lasted at least 2 years.

For staff with direct involvement

- The Loss of Benefit penalty legislation has been amended from 1 April 2013 to extend the current penalty regime.
- A new 13 week Loss of Benefit penalty will be imposed for the first convicted offence that occurs wholly on or after 1 April 2013.
- A new 26 week Loss of Benefit penalty will be imposed where there are two offences in a set time period and the second offence results in a conviction (for offences that occur wholly on or after 1 April 2013).
- A new 3 year Loss of Benefit penalty will be imposed where there are three offences in a set time period and the third offence results in a conviction (for offences that occur wholly on or after 1 April 2013).
- New Loss of Benefit legislation has been introduced from 1 April 2013 to include a 3 year Loss of Benefit penalty for serious organised or identity fraud cases (for offences that occur wholly on or after 1 April 2013).
- Offences which result in an Administrative Penalty or LA caution will continue to result in a Loss of Benefit of 4 weeks.
- DWP FIS staff will determine the LOB penalty to be imposed and notify LA's and other government departments as appropriate.

Loss of Benefit - Impacts

Dual running – Benefit fraud that began **before 1st April 13** remains liable for the current One Strike/Two Strike penalties, regardless of when the case is discovered; investigated; or convicted or a penalty as an alternative to prosecution is accepted. For example a fraud may have begun on 30 March 2013, be discovered in March 2014 and eventually convicted in 2015. This will result in a liability for a One Strike/Two Strike penalty, as appropriate.

The new LOB penalties do not link to the existing LOB penalties (One strike/ Two strikes) and the offence must have occurred wholly on or after 1st April 2013. Therefore, there will be a significant period of time when both the current and new LOB penalties regimes will run in parallel.

This change is different to most, in that although legislation changes on 01/04/2013, the impact at go live will be minimal. The volume of new LOB penalties is expected to be low in 2013/14 and will gradually increase over subsequent years.

Table showing escalation based on the number of offences				
	Offender 1	Offender 2	Offender 3	Offender 4
1st Offence	Ad Pen 4 weeks <i>(previously 4 weeks)</i>	Ad Pen 4 weeks <i>(previously 4 weeks)</i>	Conviction (1 st) 13 weeks <i>(previously 4 weeks)</i>	Conviction (1 st) 13 weeks <i>(previously 4 weeks)</i>
2nd Offence	Ad Pen 4 weeks <i>(previously 4 weeks)</i>	Conviction (1 st) 26 weeks <i>(previously 4 weeks)</i>	Conviction (2 nd) 26 weeks <i>(previously 13 weeks)</i>	Ad Pen 4 weeks <i>(previously 4 weeks)</i>
3rd Offence	Conviction (1 st) 3 years <i>(previously 4 weeks)</i>	Conviction (2 nd) 3 years <i>(previously 13 weeks)</i>	Conviction (3 rd) 3 years <i>(previously 13 weeks)</i>	Conviction (2 nd) 3 years <i>(previously 13 weeks)</i>

- The new Loss of benefit penalties allows for the disqualifying period to be escalated based on the number of offences.
- The offences must be committed within a 5 year time period of each offence.
- This focuses on the number of offences and captures repeated criminality.
- A conviction for serious organised benefit fraud or identity fraud in connection with benefit/tax credit will result **in an immediate 3 years** loss of benefit penalty.

Loss of Benefit

The following tables detail the list of Benefits / Credits and whether they are disqualifying or sanctionable covered by the Loss of Benefit legislation.

- Some benefits are disqualifying but not sanctionable (Column B) and others are both disqualifying and sanctionable (Column C).
- Accordingly, an offence may be committed against a disqualifying benefit but the sanction would be imposed on a different but sanctionable benefit.
- Most benefits are disqualifying, meaning that fraud against them would trigger the loss of benefit sanction to all sanctionable benefits the claimant is receiving.
- Some benefits are disqualifying but not sanctionable. The reason for this tends to be the reason why the benefit is paid – for example if paid to meet the extra costs of disability or retirement pension. The DWP sees these benefits as falling in categories of extra need, for the benefit of others, or protecting claimants that might be especially vulnerable to hardship.

A
Benefits/credits that are neither 'disqualifying' nor 'sanctionable'
Maternity Allowance
Statutory Maternity Pay
Statutory Sick Pay
Statutory Adoption Pay
Statutory Paternity Pay
Health in Pregnancy Grant
Pneumoconiosis (Workers' Compensation) 1979
2008 Diffuse Mesothelioma Scheme

B
Benefits/credits that are 'disqualifying' but not 'sanctionable'
State Pension
Jobseeker's Allowance (Joint claim couples) *
Graduated Retirement Benefit
Disability Living Allowance
Attendance Allowance
Child Benefit
Guardian's Allowance
Social Fund Payments
Christmas Bonus
Industrial Injuries (inc. Old Cases) Constant Attendance Allowance
Industrial Injuries Exceptionally Severe Disablement Allowance
War Pensions Exceptionally Severe Disablement Allowance
War Pensions Constant Attendance Allowance
War Pensions Mobility Supplement
Bereavement Payment
Linked Housing Benefit/Council Tax Benefit
Child Tax Credit
Personal Independence Payment

C
Benefits/credits that are both 'disqualifying' and 'sanctionable'
Income Support
Jobseeker's Allowance (single person and non joint claim couples) #
Standard Housing/Council Tax Benefit**
Incapacity Benefit #
Carer's Allowance #
War Pensions #
Widows Pension/Bereavement Allowance#
Widowed Mothers/Parents Allowance #
Industrial Injuries Disablement Benefit #
Industrial Death Benefit #
All other Industrial Injuries Scheme Benefits not covered elsewhere in the table #
State Pension Credit
Employment and Support Allowance (contributory)#
Employment and Support Allowance (Income Related)##
Severe Disablement Allowance #
Working Tax Credit
Universal Credit ##

* Section 8 Social Security Fraud Act 2001 – effect on joint claims applies.

** Whilst CTB remains a sanctionable benefit, as CTB will no longer exist from 1/4/13 and the new LOB levels come into force from 1/4/13, CTB will not be sanctioned following the introduction of the new Council Tax Support (referred to in DWP as Council Tax Local Scheme).

Payment withdrawn completely (other benefits are a reduced payment).

For claimants, partners or family members in receipt of ESA (IR) or UC their benefit may be completely withdrawn or reduced depending on the conditions for receipt of those benefits.