



Legal Aid
Agency

Working with others to achieve excellence in the delivery of legal aid

Civil Legal Help- Help Us Say Yes Webinar – Your Questions

CW1 form

March 2022

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Evidence of passported benefits

Q: Does a Universal Credit (UC) payment on a bank statement, in the calendar month before the signature on the form, count as sufficient proof? What about the UC screenshot if the assessment period falls short of the computation period, but the next payment due is within the period?

(Example: The client signed the CW1 form on 9 July and provided the UC screenshot showing the next payment is due 5 July 2022. The UC assessment period on the journal is 27 May to 26 June. The bank statement printed 2 July shows the last UC payment cleared on 4 June 2022. The payment on the UC Journal screenshot is within the computation period (10 June to 9 July), but the assessment period is before then.)

A: Evidence should relate to the calculation period but written evidence that does not refer directly to the calculation period itself may be accepted as confirmation of the client's statement of their income during that period, where it seems reasonable to do so.

Please refer to: Para 12.2.2 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk).

You should have the last award letter or a bank statement showing the named benefit where possible, but if you can only obtain a printout, then it should name the benefit and relate to the calculation period.

Please refer to: Para 12.2.5 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: If the bank statements show the passporting benefit in the computation period, but the bank statements do not cover the full computation period is this sufficient for an income assessment?

A: Yes, the evidence is likely to be sufficient if the passported benefit is named, and there is no reason to suppose the claim is not still in payment on the date of the application.

Please refer to: Para 12.2.5 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: Where the client receives payment of UC and contributions-based Employment and Support Allowance, can the UC payment be accepted as a passported benefit?

A: Yes, if UC is in payment at the date of application this would passport the client for income, notwithstanding any contribution-based benefit also being paid, though it appears unlikely that two such claims would **properly** be in payment at the same time. If there is

any doubt whether UC is properly in payment a full assessment of income should be carried out. A capital assessment would still be required.

Please refer to: Para 3.1.2 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: If a client has received notification from the DWP saying they have been accepted for UC, is this sufficient evidence of a passported benefit being in payment? Or would we need to wait for the first payment to have entered the client's account?

A: The benefit must be currently in payment (i.e. do not passport if the claim is suspended, or where a new claim has simply been acknowledged, or an advance paid prior to assessment of the claim).

Please refer to: Para 3.1.2 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: Is telephone confirmation from the DWP of the client's receipt of a passported benefit sufficient evidence on its own if we're unable to obtain written evidence of the payment?

A: Yes, a telephone call in the client's presence recording the details outlined in Para 12.2.4 would be sufficient.

Please refer to: Para 12.2.4 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: Can we have a link for the telephone proforma call to the DWP please?

A: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/825939/DWP_Tel_Conf_document_v1.1.docx

Partners

Q: When considering whether the income of a partner living abroad is accessible to the client, what information or evidence would the LAA expect us to collect in those circumstances?

A: There is no “one size fits all” answer to this. Each case would have to be considered on its own facts, and such evidence as can be obtained from the client, and if a decision is made not to aggregate this must be fully justified on the file.

Please refer to: Para 4.2.3 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: Should we aggregate the means of a long-term partner who does not live under the same roof through choice?

A: Evidence is required for housing costs, maintenance and childcare costs that exceed £500 per month. As evidence is not mandatory for Crown Court applications, we will complete an assessment limiting any outgoings over this amount to £500 per month. We will then issue an evidence request to confirm the actual amount. For Magistrates’ Court cases evidence must be provided unless the applicant is in court custody. Where a couple have been seeing each other over a long period but have never lived together, are financially independent of each other and do not pool resources, aggregation will probably not be necessary, but each case must be considered on its own facts. If there appears to be a greater degree of financial interrelationship (for example, the couple have a child together) then a decision not to aggregate is less likely to be justified

Please refer to: Section 4.2 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: What about a situation where a client has long-term partner, but they don’t live with each other, Do we have to consider the partners income?

A: Please see answer above.

Assessing income from employment

Q: What about wage slips which show a bonus payment - can you disregard it? When do you take an average of 13 weeks?

A: An annual bonus payment received during the computation period should be treated as capital. If a client is receiving bonuses throughout the year it is likely that any received during the computation period would need to be regarded as income. It is not appropriate to use a 13-week average for a controlled work assessment. The assessment should be based on income received during the computation period specified in Para 4.1.1 of the guidance, unless the exceptions indicated at Paras 5.2.7 or 5.3.1 apply

Please refer to: Para 5.2.1 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: If you are assessing a client's eligibility for Controlled Work during the middle of the month, is it sufficient to use the previous month's wage slip, or would you need to wait until the end of the month to obtain the wage slip which applies to that month?

A: The assessment should normally be based on income received during the previous calendar month, so the most recent monthly payslip would be acceptable if that relates to income received during the last month.

Please refer to: Para 4.1.1 and 12.2.5 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: Is a bonus payment on a wage slip included as income or capital?

A: An annual bonus received during the computation period should be treated as capital. If the client regularly receives bonuses during the year these would more properly be treated as income.

Please refer to: Para 5.2.1 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Capital disregards

Q: What is classed as disregarded capital - is this different for aged over 65 or trapped capital in a house that client has no residential benefit over?

A: There is a further allowance for pensioners agreed over 60, see section 7.5.

Please refer to: Para 7.1.3 for disregarded capital. [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

It would be each case on its merits. Obviously for legal help the provider makes the financial determination and must defend their position on audit, based on the Lord Chancellor's guidance.

Please refer to guidance on trapped capital in para 7.1.10-11, [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: If a client fled the former matrimonial home due to domestic abuse, and either went to a refuge or rented accommodation, is it correct that the client could not apply the 'main dwelling disregard'?

A: It would depend on the length of time they intend to be away from the home, if it was a temporary move and the client is seeking to return as soon as possible then it may still be reasonable to treat the former marital home as the client's "main home" for assessment purposes, but if it is was a longer-term move, say the client rented a further property, that approach is less likely to be appropriate. Only one property can be treated as client's "main home", so it would not be possible to claim both the main home disregard and a rent allowance on a new rented property.

Q: If the Subject Matter of Dispute disregard does not apply, do we need to enter zeros on each section of the CW1 form?

A: Generally speaking, we would advise that zeros/nil are entered throughout for avoidance of doubt – if it is not clear from the CW1 that capital has been fully and correctly addressed then a file is liable to be nil assessed on audit.

Property

Q: If a person is on a passporting benefit, and they say that their home is worth less than £100k, for example £78k, the £100k disregard would bring them into negative equity. Would you need proof of the value of the home, or should you accept what they tell you unless you reasonably suspect what they're saying doesn't add up? What about the scenario where a client part owns their home (e.g. housing association own 50% and client owns 50%) do you take into consideration the clients share only? Do you need evidence of this, even if the clients share is less than the disregard? Or as above, do you only need evidence if you have suspicions?

A: As you suggest you would only ask for evidence if there was any doubt.

Please refer to: Para 12.2.7 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

It would be the value the client owns, and you would only gather evidence if there doubts over the value. Regulation 37 allows for a deduction of any debt(s) secured by way of a charge on the property.

Please refer to: Para 7.3 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Remote advice

Q: If I am receiving instructions over the telephone, or reading a letter with a completed questionnaire, can I only charge / time record the time spent and advice given from when the client has signed the Legal Help form? Presumably, the telephone instructions will be under the Civil Contract Spec para 3:18 as advising, but what about the written request if we must action quickly and do work to preserve evidence such as CCTV etc? This is relevant in prison cases.

A: You may make a Claim for this work provided that the Client subsequently signs the Application Form and provides appropriate evidence in relation to their financial means and identity.

Please refer to: Para 3.18 [20154 Standard Civil Contract \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/421212/20154-Standard-Civil-Contract-2015-2018.pdf)

Q: We have a contract for our Cardiff office, during COVID we attended the client on the phone and via zoom. Does it matter where the client lives? If they are out of our Cardiff area can we still provide Legal Help?

A: Regarding remote advice, you would need to confirm with your Contract Manager how many matters starts could be used in this manner.

Please refer to: Para 3.18 [20154 Standard Civil Contract \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/421212/20154-Standard-Civil-Contract-2015-2018.pdf)

Q: Secondly, from what date can we claim the form, if we post it to them to sign? The date we spoke to them or the date it is signed?

A: If advice needs to be given before the form can be posted to the client for signature you may make a Claim for this work provided that the Client subsequently signs the Application Form and provides appropriate evidence in relation to their financial means and identity.

Please refer to: Para 3.18 [20154 Standard Civil Contract \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/421212/20154-Standard-Civil-Contract-2015-2018.pdf)

Bank statements

Q: Nowadays banking apps and online banking are commonly used which often means hard copy statements are not received nor easily available and screenshots may be presented by the client.

A: For passporting you should have the last award letter or a banks statement showing the named benefit where possible, but if you can only obtain a printout, then it should name the benefit and relate to the calculation period.

Please refer to: Para 12.2.5 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: In such cases and where bank statements are used to support financial eligibility, please confirm what format is acceptable and what information should be showing on a statement as a minimum.

A: Recent bank / building society statement, showing transactions during the calculation period –benefit type must be specified on the statement

Please refer to: Para 12.2.5 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Capital evidence

Q: You have a letter from the DWP within 6 months of the sign update confirming receipt of a passported benefit and therefore client is eligible on income. The client states they have no capital, the CW1 shows nil in the Capital sections and the client signs the CW1 to confirm. Is this sufficient without being evidenced by bank statements?

A: Yes, for capital, the client's statement and signature on the application form will normally be sufficient evidence, but other documentary evidence of disposable capital must be obtained in cases of doubt.

Please refer to: Para 12.2.7 [Guide to determining controlled work \(publishing.service.gov.uk\)](#)

Evidence when client lacks capacity

Q: If a client is detained in hospital under the Mental Health Act and they do not receive benefits (for example, they are a transferred prisoner), would we need a hospital statement covering the last three months in the same ways as if they were a prisoner?

A It will often be impracticable to obtain evidence of income from patients with mental health problems who are in hospital (for example, those detained under the Mental Health Act). Providers should however attempt to obtain oral or written confirmation of the position (for example, type of benefit received) from the ward manager or social worker where practicable. The assessment should be based on income received during the last calendar month, not the previous three months (Please refer to guidance: Para 4.1.1).

Please refer to: Para 12.2.11 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Self-employment

Q: For clients who are self-employed but do not keep formal books, what sort of evidence of income would you look for? Would bank statements be acceptable?

A: Regarding assessment and acceptable forms of evidence for self-employed clients, which indicate bank statements may be acceptable.

Please refer to: Paras 5.3.6, 12.2.3 and 12.2.5 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Assessing dependents

Q: Can the dependants' allowances be capped? For example, if a client has five or more children can they claim the allowance for all children?

A: There is no mention of a cap for dependants. Note however that allowance is made only for dependants “living in the same household”

Please refer to: Section 6.1 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Assessing housing costs

Q: Do you need written evidence of the amount outstanding on the client's mortgage? Or is the client's best estimate acceptable?

A: You would only obtain evidence if there is doubt over the figures, you would accept the client's estimate where it appears reasonable to do so.

Please refer to: Para 12.2.7 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Q: Does the client need to provide a copy of their most recent mortgage statement?

A: For the capital assessment which indicates you would only obtain evidence if there is doubt over the figures. For income, evidence may be required of housing costs paid if these exceed one-third of client's income (see guidance para 6.4.7)

Please refer to: Para 12.2.7 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Assessing capital

Q: For the 'savings' section of the CW1 form, should you enter the amount in the client's bank account on the date the form was signed? Or, if they don't consider they have savings (because all the money goes to meet their basic expenses) can you put zero?

Savings or capital should record any amounts the client has which are not disregarded including amounts in bank accounts.

Please refer to: Paras 7.1.2 and 7.1.3 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

Assessing childcare costs

Q: If the client works part-time and their childcare costs cover the cost of their part-time hours of work, do you still pro-rata the costs? For example, if the client works three days, their childcare costs are for three days, do you need to pro-rata or can you accept this?

A: You would include the actual figure. See para 6.5.4, you would pro-rata the amount to establish if it is more than £600 a month, then evidence of the expenditure would then be required.

Please refer to: Para 6.5 [Guide to determining controlled work \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Declarations

Q: If it is an Escaped Fee Case, do you sign the ECF declaration or only if it's related to an ECF matter?

A: You would only sign the 'Exceptional Funding declaration' on p.14 of the CW1 if the application is for Exceptional Case Funding: For example, for services which are normally outside scope of LASPO. This declaration is not required for in-scope matters where costs escape the fixed fee



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