Hello

I write on behalf of this claimant (she will put explicit consent in her UC journal giving permission to discuss with me) to complain about a failure to exercise discretion and follow the law when making a deduction for a fine, leading to significant financial hardship for my client. Miss Alvis has been repaying a court fine at high rate. She tells me she has repeatedly tried to get the deductions reduced by contacting UC and was repeatedly told that this was a matter for the court. She is on a low income and this has placed her in significant hardship.

The Fines (Deductions from Income Support) Regulations 1992 (1992 SI 2182) Regulation 4 (1B) say the amount that MAY be deducted from UC for a fine is between 5% of the standard allowance and £108.35. This therefore gives the Department a minimum and maximum amount for the fine deduction and does not stipulate that the maximum should be deducted in all cases. I see no reason why the Department cannot exercise their discretion and choose to deduct a lower amount.

Those Regulations state that the Department shall notify the claimant of their right of appeal against this decision (Reg 4 (5)), that any decision by the Department under Regulation 4 may be revised (Reg 9), and that any decision may be appealed to a tribunal (Reg 10). I am also aware that The Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Decisions and Appeals) Regulations 2013 (2013 SI 381) state that a decision under the Fines Regulations cannot be appealed (Sched. 3 para. 10).

If the decision cannot be appealed then the Department are still able to exercise their discretion and make deductions at a lower rate. Repeatedly sending my client to contact the Court when discretion lies with the DWP is, I regret, not helpful.

Please can you:
1. Reduce the fine deduction to the minimum, which is 5% of her standard allowance i.e. £12.59 pcm?
2. Comment on whether you consider that this is a decision which carries the right of appeal, and whether Miss Alvis has been advised of her appeal rights if so?
3. Issue an apology for the failure to advise her either on rights to appeal and/or the Department's discretionary ability to set the fine deduction at a lower rate as noted in the Regs.

Thanks