

Consent and Disclosure Bitesize - accessible version

Extracted from: Organisation / Universal Credit / Universal Learning / Complex Needs

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Introduction

DWP has a responsibility to ensure that we do the right thing for our claimants and provide extra support for those who need it.

We should always remember to put the claimant at the heart of what we do and by working with the claimant, and claimant representatives, this enables us to provide the best possible service.

Consent and disclosure is there to protect our claimants, yourselves and our organisation.

This Bitesize product aims to provide you with a greater understanding of when you can, or cannot disclose information to third parties. It will also provide when to engage with local provisions to help claimants who require extra support.

Types of consent

Claimants have full access to information held on their account. If claimants feel unable to find the information or understand more complex issues, they may ask a **representative** to contact DWP on their behalf to obtain the information.

Alternative enquiry

Alternative enquiry does not apply for Universal Credit Full Service.

As the service is fully online most of the information a third party will need is available via the claimants account. A claimant can decide to share it with a third party if they wish to do so.

Explicit consent

Explicit Consent is when an individual has an option to agree or disagree to the disclosure of their personal data to a third party.

Explicit Consent can be requested over the phone, in person or via the claimant's journal. The claimant has the right to withdraw explicit consent at any time.

Who is a representative?

A representative is any person or organisation acting on behalf of or making enquiries for the claimant. This can be at any stage of the claimant's Universal Credit Full Service claim.

3rd party relationships

Within DWP we engage with a wide range of external organisations; employers, partners, representatives and stakeholders, for lots of different reasons. Collaborative working is essential to achieving results for claimants, DWP and our employers and partners.

Engaging with the right people in the right way can make a big difference to the success of a particular project or relationship. However we must be mindful of what information we can disclose to different people.

Circumstances where consent to disclose is not required

Police

Information can be disclosed where it is clear that a claimant with complex needs or a child faces clear and significant risks to their welfare or safety.

Only information that is directly relevant to the issue of concern should be volunteered to the police, without the claimant's consent. However, Case conference with a Line Manager before disclosing information or refer directly to the National Disclosure Unit. For any mention of suicide or self-harm use the six point plan.

Social Services

Information can be disclosed where it is clear that a claimant with complex needs or a child faces clear and significant risks to their welfare or safety.

Only information that is directly applicable to the issue of concern should be volunteered to social services within the relevant district, without the claimant's consent.

Council

Information can be shared relating to Personal Budgeting Support and Universal Support with all local authorities across the UK when acting in a **welfare capacity**. Please click the guidance symbol if you require further information. Claimant consent is however required for the initial referral to Universal Support.

Social landlord

The following information can be shared with social landlords directly associated with the claimant without the need for explicit consent;

- Alternative Payment Arrangements and/or rent arrears deductions
- crime and disorder (social landlords may only receive information that is relevant to the prevention of crime and disorder, including anti-social behaviour or other behaviour adversely affecting the local area. They are not entitled to receive any personal data. All requests for information should be considered under the General Data Protection Regulations)

Member of Parliament

Any correspondence, (letter, email or phone enquiries) relating to Universal Credit will be answered directly to the MP without the need for the claimant's consent.

However, it is common practice for MPs to include explicit consent from the claimant when contacting the department in writing.

Members of Scottish Parliament and Assembly Members in Wales can still represent claimants using explicit consent.

Court orders

When a court sends a court order to DWP to disclose information, then we do not need to obtain the claimant's consent to disclose.

Private landlord

Private landlords may ask for their tenant's rent to be paid directly to them without the need for explicit consent. The claimant is informed about the request for Alternative Payment Arrangements (managed payment to the landlord) and/or rent arrears deductions through their journal. If the claimant is happy for the managed payment to go ahead, they do not need to reply to give their consent. The rent will automatically be paid to the landlord. If the claimant does not want the rent to be paid directly to the landlord, they can dispute this.

The following information can be shared with private landlords (who have a managed payment set up) without the need for explicit consent;

- Alternative Payment Arrangements and/or rent arrears deductions

Example of explicit consent

Karen. "Hi, I'm Karen Soper, I work for Citizens Advice in Sutton. I'm calling on behalf of Terry Cloud, I want to confirm a few details about the account please."

Question. What should we do next?

Remember to check the journal to see if explicit consent has already been given!

Answer. We need to pass security with the claimant. Failing to do so in this scenario is a security breach.

The Service will show you how to authenticate Terry using the Telephone ID check.

CM/WC. "Thank you for going through Security Terry! Are you happy for me to speak to Karen about your claim?"

Terry. "Yes, I am happy for you to speak to Karen."

Question. Should we now speak to Karen about Terry's claim (do we have valid explicit consent)?

Answer. No, for explicit consent to be valid the claimant must state:

- that they give consent for their personal information to be disclosed
 - what information they want to be disclosed
 - why the information is needed
 - the relationship
 - the name of the representative and/or the name of the organisation they belong to.
- As Terry has only provided part of this information, we need to ask him a few more questions before we have explicit consent to speak to Karen.

CM/WC. "What information would you like me to provide to Karen?"

Terry. "She is going to help me with my payments so payment details please."

CM/WC. "Thank you Terry, I will update your journal with this information. You can pass the phone to Karen."

We need to update both the profile and the journal. It is your responsibility to make sure you establish explicit consent.

Remember to check the [guidance section](#) for full information on how long explicit consent will last for!

Claimant profile entry

"Terry has given consent for Karen Soper from the Citizens Advice Bureau in Sutton to be provided with the following information about his Universal Credit claim:

- Payment details to help him with his finances

Consent expiry – (input appropriate expiry date)"

Journal entry

"Terry has given consent for Karen Soper from the Citizens Advice Bureau in Sutton to be provided with the following information about his Universal Credit claim;

- Payment details to help him with his finances"

CM/WC. "Hi Karen, Thank you for your patience, what payment details can I help with?"

Karen. "No Problem, I'm helping Terry manage his finances. I need to know how much he will be paid, when his payment date is and a breakdown of the costs?"

Question. Can we now share this information with Karen?

Answer. Yes. Terry has provided us with all the information we need for the consent to be valid.

Information disclosure

We can share the following information with Karen about Terry's claim:

- the date that Terry last received a Universal Credit payment.
 - details of any advances Terry is repaying
 - details about Terry's housing costs
- Remember to check the [guidance section](#) for the full list of information that should never be disclosed.

Best practice

Now we have resolved Karen and Terry's query, we should:

- delete the claimant profile note (If we could not fully resolve the query then we should leave the note and provide an appropriate expiry date according to the request. We should also make the claimant aware that they can withdraw their consent at any time).
- remember some information requests/queries may not require our assistance, we should promote self-service where appropriate as most information is available on a claimants online account.

You may at times receive resistance from claimants when giving explicit consent to a representative, but remember, the processes we have in place are to protect the claimants information (not to hinder claimants) and it is your job to provide the support and protection required.

"Put the claimant at the heart of what you do"

Proactive disclosure case study

Katie's social worker emailed the Jobcentre to arrange for Katie to go in, as she is struggling with her claim and has made several unsuccessful claims. The social worker was not able to provide any more information apart from this.

Katie attended her appointment with her young child but her social worker did not attend with her. Katie seemed distant and unfocused in her meeting; it appeared as though she needed to be somewhere else.

When asked about the online services, Katie seemed confused and required some support. As her commitments had not yet been accepted, her Work Coach encouraged her to accept them while she was in the Jobcentre as she would not get paid until she has done so.

Katie declined any further support, she said she would accept her commitments herself soon, even though Katie does not have a computer at home. Katie reiterated that she needed to go and left the Jobcentre.

Question. You are concerned that Katie will not accept her commitments.

This will result in her claim not going into payment. Should you call Katie's Social Worker without Katie's consent?

Answer. Yes

Question. In this scenario, why are we allowed to contact the social worker without consent?

Answer. Information can be disclosed (without consent) when it is clear that a claimant with complex needs or a child faces clear and significant risks to their welfare or safety. As we are concerned that Katie may not accept her commitments (so the claim does not go into payment) this poses a risk to her child's welfare and safety. Also as Katie's social worker contacted us for support and she has had numerous unsuccessful claims, we can assume that she does require more assistance

Katie's Social Worker tells you that this is Katie's fifth UC claim and she has not been paid for 6 months. We could have prevented Katie making multiple claims if we:

- checked previous claims for reasons of non-compliance
- liaised with the Social Worker and arranged for them to attend with Katie
- built rapport with Katie to ensure correct support was offered

- contacted the Social Worker earlier and explained the next steps Katie needed to take
- ensured required actions are reasonable, based on Katie's circumstances, and taken whilst in the Jobcentre
- checked to see if Katie had complex needs before closing claim
- case conferenced with colleagues or a Team Leader

Proactive disclosure

There are circumstances when we can approach a 3rd party directly and disclose certain claimant information without their consent, this would be when it is clear that failing to do so may result in a claimant with complex needs or a child facing clear and significant risks to their welfare or safety. DWP staff are explicitly empowered to take any reasonable steps felt necessary in order to address these risks. This approach supports the department's considerations for the welfare of its customers.

When making the disclosure you must fully document your decision and the reasons for it in the claimant profile. This is essential in case of any challenge or dispute over information that has been disclosed and is for your protection and protects the department. Information disclosed to a third party should be the minimum required to ensure the claimant can be supported to take the required steps. This is absolutely vital to demonstrate our compliance to data protection.

As ever, each situation needs to be assessed on its individual circumstances. There is no defined list of when you can and cannot use proactive disclosure. The sort of judgements you will be involved with can be very subjective; it is often less about tangible evidence but more to do with your feelings or perceptions after spending time with the claimant and these feelings or perceptions need to be fully justified.

When considering proactive disclosure, any decision must be made with the health and wellbeing of the claimant and their family in mind. This includes children and vulnerable adults connected to the claimant.

Let's see some examples.

Examples

Have a look at these examples, to consider if you would have used proactive disclosure in each of the circumstances:

1. A claimant has communication difficulties and poor literacy and numeracy skills. A friend had been helping them with their claim process and journal. The claimant has disengaged from us. The Work Coach did not want to close the claim but they did not feel able to flag to any support teams that this claimant needed help. However, it was noted in the journal that the claimant was supported by the Local Authority Mental Health team but there was no explicit consent in place.

Our suggestion

There is clear evidence that the claimant has complex needs and faces risk to their welfare due to potential lack of payment. As a result, you should re-engage with the claimant through a third party. You would also have reasonable grounds to defer the claim closure action, pending direct contact with the Local Authority Mental Health support. You must have a clear audit trail for actions taken, so that the reasons for proactive disclosure can be justified.

Remember if in doubt consult your Line Manager

Proactive Disclosure appropriate!

2. A claimant called to address the fact he had two claims open, he lives in social housing. After agreeing to close one claim, the Work Coach tried to progress the other but the claimant declined to participate in the interview or agree a Claimant Commitment. He was advised that his lack of engagement would result in his claim being closed (resulting in no payment). He thanked the Work Coach and left the Job Centre. The Work Coach consulted their Team Leader as they had concerns regarding two advances on the claimants account. They did not feel able to contact the local social housing group about getting support from them to re-engage the claimant.

Our suggestion

This is an uncooperative claimant who doesn't want to engage with jobcentre staff or accept a Claimant Commitment. In this scenario the Work Coach and Team Leader agreed that the claimant did not present as having any complex needs and there was also no evidence to suggest this on the claimants account. You would close the claim after 7 days and refer the outstanding advances to debt management.

Proactive disclosure not appropriate!

Social housing landlord

"I am a social landlord and would like some information regarding Mr Smiths' Universal Credit Housing costs and his rent arrears payment. I have a managed payment set up (Managed Payment to Landlord (MPtL)) and payment of rent arrears, Can you confirm how much we will receive and when we will receive it please?"

Question. Can we share this information with a social landlord?

Answer. Yes. The following information can be shared with social landlords without the need for explicit consent:

- Alternative Payment Arrangements (managed payments to landlords) and/or rent arrears deduction
- crime and disorder (social landlords may only receive information that is relevant to the prevention of crime and disorder, including anti-social behaviour or other behaviour adversely affecting the local area. They are not entitled to receive any personal data. All requests for information should be considered under the General Data Protection Regulations)

Private housing landlord

"I am a private landlord and I would like to apply for an alternative payment arrangement (APA) as my tenant has accrued 2 months' rent arrears."

Question. Do we need the claimants consent before we put this in place?

Answer. No. private landlords may ask for their tenant's rent to be paid directly to them without the need for explicit consent from the claimant.

The claimant is informed about the request for a MPtL Alternative Payment Arrangement through the journal. If the claimant is happy for the managed payment to go ahead, they do not need to reply to give their consent. If the claimant does not want the rent to be paid directly to the landlord, they can dispute this and would have to provide evidence that they were not in arrears or were in an official dispute with their landlord.

Once an APA/Third Party Deduction for rent arrears is in place, the following information can be disclosed to the landlord, if they request:

- the date on which the universal credit claimant made a claim for or was awarded universal credit
- the date the next payment of Universal Credit is due to be paid
- whether the next payment is the first payment under the award
- the amount of housing costs/rent arrears in the next payment under the award
- we can confirm when an application for an APA/rent arrears Deduction has been received. We would not confirm if we were processing the application as that would let the landlord know that their tenant is on Universal Credit.

Confirming landlord identity

Some questions that could be asked are:

- claimants full name
- address of property for which a MPtL has been put in place
- monthly rental amount

This is not an exhaustive list and the landlord is not required to answer a set number of questions before you relay information relating to the MPtL/rent arrears query. Only disclose information if you are assured that you are speaking to the claimant's landlord.

Questions you would not ask:

Details that are personal to the claimant, for example:

- customer security questions
- national Insurance Number
- bank Account Details
- date of Birth
- employment Details

Summary

Remember:

- Make sure you gain valid explicit consent before you disclose information and document it accordingly.
- There is information that should never be disclosed
- There are times when we do not need to get the claimant's consent to disclose information to their landlord
- There will be times when you will need to be proactive with disclosure
- If you require support consult your Line Manager
- Be alert to claimants with complex needs and be proactive with support. Ensure there are close working links between Work Coach and Case Manager
- Appointee guidance is available