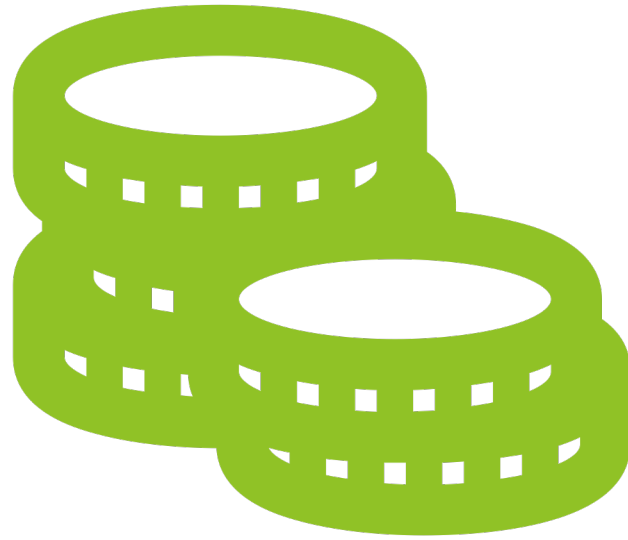




University of Strathclyde
LAW CLINIC



11B How financial compensation affects benefit entitlements

A guide for the general public

DISCLAIMER

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Our clients often ask us how agreeing a financial settlement will affect their entitlement to benefits. This slideshow aims to explain how a negotiated settlement or financial compensation awarded by the Employment Tribunal might affect your entitlement to benefits.

Outline

- ▶ Negotiated settlement
- ▶ Means-tested benefits
- ▶ Recoupment of Employment Tribunal award
- ▶ Further support

Negotiated settlement

A negotiated settlement is an agreement between you and your employer to resolve the case prior to the final hearing. It includes any agreement reached during judicial mediation (see slideshow 10F). As part of a negotiated settlement, your employer will probably agree to pay you a sum of money.

Unlike with Tribunal awards, there will be no deduction from the settlement to reflect the benefits you have received since leaving employment. However, being paid a large amount of money into your account at once is likely to affect your future entitlement to benefits.

Means-tested benefits

Receiving a lump sum in the form of a negotiated settlement can affect your entitlement to means tested benefits, these include:

- ▶ Income-based job-seekers allowance
- ▶ Income-related employment support allowance
- ▶ Housing benefit
- ▶ Income support
- ▶ Pension credit
- ▶ Universal credit

If you or your partner have £6,000 or less in savings after the lump sum is paid, your entitlement to these benefits will not be affected.

Savings between £6,000 and £16,000

If, after the lump sum has been paid to you, you or your partner have between £6,001 and £16,000 in benefits, the first £6,000 is ignored. The rest is treated as if it gives you a monthly income of £4.35 for each £250, or part of £250.

Example

You have £7,000 in a savings account
The first £6,000 of it is ignored

The remaining £1,000 is counted as giving you a monthly income of
£17.40

$$£1,000 \div £250 = 4$$

$$4 \times £4.35 = £17.40$$

£17.40 will be taken off your monthly Universal Credit payment.

Savings over £16,000

If, once the lump sum has been paid, you or your partner have over £16,000 in savings you will not be entitled to any of the means-tested benefits.

This means that if you are paid over £16,000 in a negotiated settlement or Tribunal award, you will not be entitled to the means-tested benefits until your savings drop below £16,000 again.

However, you may still be entitled to non-means-tested benefits.

Recoupment of award

It is important to point out that any financial compensation awarded by the Tribunal could be reduced if you received certain benefits prior to the final hearing. The relevant legislation that permits this is the Employment Protection (Recoupment of Benefits) Regulations 1996.

The Tribunal will issue a 'recoupment notice' directly to the Respondent after the judgment has been issued. This will order the employer to pay a specified amount directly to the benefits agency rather than to you, the Claimant.

The following slide will explain this by way of an example.

Recoupment notice example

A Claimant is successful in their claim. They are awarded £10,000 financial compensation. However, between the date they were dismissed and the date of the final hearing the Claimant received £3,000 in Employment Support Allowance. The Tribunal directs that the respondent pay the claimant £7,000 and pay the benefits agency £3,000.

The principle behind this is that any financial compensation awarded by the Tribunal aims to put the Claimant in the position they would have been in if the employer had not breached their rights. So, if the Claimant is owed £10,000 in lost wages, but they actually received £3,000 in ESA benefits, then awarding them the full £10,000 would make them £3,000 better off than they would have been if the employer had paid the wages.

Recoupment only applies where the award is made by the Employment Tribunal, it does not apply to negotiated settlements.

Further support

For further advice on benefit and money-related issues, please refer to the following organisations:

<https://www.citizensadvice.org.uk/scotland/benefits/help-if-on-a-low-income/>

<https://www.mygov.scot/benefits-support/>

<https://www.moneyadviceservice.org.uk/en/articles/how-do-savings-and-lump-sum-pay-outs-affect-benefits>

<https://www.moneyadviceservice.org.uk/en/articles/where-to-get-help-and-advice-about-benefits>

<https://www.stepchange.org/how-we-help/debt-advice-scotland.aspx>