Introduction to Welfare Benefits and Covid-19

Given by Roni Marsh

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Glossary

CB = Child Benefit

CRESA = Contribution Related Employment and Support Allowance

CTC = Child Tax Credit

CTS = Council Tax Support

CTR = Council Tax Reduction

ESA = Employment and Support Allowance

HB = Housing Benefit

IBJSA = Income Based Job Seeker’s Allowance

IRESA = Income Related Employment and Support Allowance

IS = Income Support

JSA = Job Seeker’s Allowance

LCW = Limited Capability for Work

LCWWRA = Limited Capability for Work and Work Related Activity

MA = Maternity Allowance

NSJSA = New Style Job Seeker’s Allowance

NSESA = New Style Employment and Support Allowance

PC = Pension Credit

SAP = Statutory Adoption Pay

SMP = Statutory Maternity Pay

SP = State Pension

SPP = Statutory Paternity Pay

SSP = Statutory Sick Pay

UC = Universal Credit

WTC = Working Tax Credit

Aims and Objectives

Aims

To give delegates an overview of the benefit system

Objectives

By the end of the course delegates should be able to understand:

- the basic types of benefits including universal credit
- the rules around each of the benefits
- which benefits their clients might be able to claim
- problems which might arise claiming benefits or with existing claims
- the changes have been brought in since Covid-19

Benefit administration

Welfare benefits are administered by a number of different agencies.

The Department for Work and Pensions (DWP) consists of three main bodies who pay benefits to different groups. These are:

Jobcentre Plus – pays benefits to working age people (e.g. jobseeker's allowance and Universal Credit)

Pension Service – pays benefits to those above pension age (e.g. pension credit and state pension)

Disability and Carer's Service – pays benefits to people who are disabled or caring for a disabled person (e.g. personal independence payments and carer's allowance)

Her Majesty's Revenue and Customs (HMRC) are responsible for paying benefits for children (e.g. child benefit and child tax credit) although in full universal credit areas, amounts for children in means tested benefits (i.e. not child benefit) are paid through universal credit (JCP) instead.

Local authorities are responsible for paying housing benefits (rent) and council tax support.

Department of Health through the Health Costs Division are responsible for paying health cost benefits (e.g. free prescriptions and help with dental costs)

Contact details for main benefit offices

Benefit	**Contact**
Bereavement benefits Incapacity benefit Income support Maternity allowance Job Seeker's Allowance Employment and Support Allowance	Bereavement Benefit Helpline: 0800 731 0469 Rest New claims: 0800 055 6688 Existing claims: 0800 169 0310
Child benefit Guardian's allowance	Child Benefit Office (or Guardian's Allowance Office) PO Box 1, Newcastle Upon Tyne, NE88 1AA Child benefit: 0300 200 3100 Guardian's allowance: 0300 200 3101 Intermediaries line: 0300 200 3102
Working tax credit Child tax credit	Tax Credit Office, Preston, PR1 4AT New and existing claims: 0345 300 3900
Personal independence payments	Personal Independence Payment Post handling site B, Wolverhampton, WV99 1AH New claims: 0800 917 2222 Existing claims: 0345 850 3322
Attendance allowance	Disability Benefits Centre, Warbreck House, Warbreck Hill, Blackpool, FY2 0YJ New and existing claims: 0800 731 0122
Disability Living Allowance	Disability Benefits Centre, Warbreck House Warbreck Hill, Blackpool, FY2 0YJ New and existing claims: 0800 121 4600
Carer's allowance	Carer's Allowance Unit Palentine House Lancaster Road Preston, PR1 1HB New claims: Online application only www.gov.uk Existing claims: 0800 731 0297
Pension credit	New and existing claims: 0800 99 1234
State Pension	New and existing claims: 0800 731 7898
Universal Credit	New and existing Claims: 0800 328 5644

The hierarchy of the benefit system

There is a hierarchy to the benefit system, which means that some benefits will be paid in preference to others. What this means in practice is that employer benefits (those paid by an employer to an employee) are paid first, then if there is still an entitlement to benefits paid on the basis of national insurance contributions (contributory benefits) these are paid next. Only after the position of employer and contributory benefits has been looked at do means tested benefits get considered.

Employee benefits	**Contributory benefits**	**Means tested benefits**	**Non contributory benefits**
Statutory sick pay	New Style Jobseeker's allowance	Income support	Maternity allowance
Statutory maternity pay	New Style Employment and support allowance	Income based jobseeker's allowance	Personal independence payments
Statutory paternity pay	State pension	Income related employment and support allowance	Attendance allowance
Statutory adoption pay	Industrial injuries benefit	Pension credit	Disability living allowance
		Child tax credit	Child benefit
		Working tax credit	
		Housing benefit	
		Council tax support	
		Maternity and funeral grants	
		Universal credit	

Employer Benefits

Statutory Sick Pay (SSP)

This is paid to employees. If the claimant's average weekly earnings are below the national insurance lower earnings limit (£120 per week for 2020/21) then they are not entitled to SSP.

SSP can be paid for a maximum of 28 weeks although the first 3 qualifying days. Whilst SSP is being paid, the claimant is treated as being in work for working tax credit purposes. Some employers will pay contractual sick pay on top of the SSP.

The employer should not demand a medical certificate for the "self-certification period". If the employer refuses to pay SSP or stops paying SSP, they should notify the claimant on form SSP1 at which point the claimant should consider applying for other benefits.

Statutory Maternity Pay (SMP)

This is paid to employees who have been employed for the same employer for at least 26 weeks by the 15th week before the baby is due (i.e. approximately 2 weeks before the pregnancy began). It is paid at 90% of average earnings for the first 6 weeks and then a flat rate for the remaining 33 weeks (paid for 39 weeks in total). Some employers will pay contractual maternity pay too.

Statutory Adoption Pay (SAP)

This is similar to statutory maternity pay but paid to the primary adoptive parent rather than the mother.

Statutory Paternity Pay (SPP)

This is paid to both men and women to allow partners time off to care for their child at the birth or adoption. The claimant must have been employed for the same employer for at least 26 weeks by the 15th week before the baby is due (i.e. 2 weeks before the pregnancy began). It is paid for a maximum of 2 weeks at a flat rate (some employers may pay contractual leave).

From April 2015 parents have been able to share the parental leave (and maternity pay) where both are eligible for SMP and SPP. For example if a mother ends her maternity leave after 20 weeks, there are 32 weeks of maternity leave left (although only 19 of these are paid), which the parents can share between them. Each can take up to 3 periods of leave.

Disputes about statutory benefits can be referred to HMRC's Statutory Disputes Team, Room BP2301, Benton Park View, Longbenton, NE98 1YS for a decision.

Contributory Benefits

Contributory benefits are those that are paid on the basis of having made national insurance contributions. All require some payment of national insurance contribution but can be topped up with credits of national insurance awarded whilst claiming some state benefits (such as JSA, ESA or carer's allowance).

National insurance contributions are paid at different rates and in different circumstances. Class 1 contributions are paid by employees (1A by employers) based upon level of earnings. Class 2 contributions are paid at a flat rate and are paid by the self-employed. Class 3 national insurance contributions are voluntary contributions of national insurance paid by people to help them qualify for a larger state pension. Class 4 national insurance contributions are just a tax on the earnings of the self-employed.

New Style Jobseeker's Allowance (NSJSA)

This was formally known as Contribution Based Job Seeker's Allowance. The benefit itself is the same for new and existing claims. The total length of payment is a maximum of 182 days.

This is paid to people who have paid (or paid and been credited with) sufficient national insurance in the relevant tax years (usually the last 2 complete ones before January in which the claim is made). They need to be unemployed or underemployed, have earnings below a set level, be actively seeking employment and available for work. JSA paid on the basis of national insurance lasts for 6 months and is paid for the claimant only. It is paid irrespective of savings or partner's income. However, if the claimant has income from a pension the first £50 per week is ignored and then their JSA is reduced pound for pound. Self-employed people may not be able to claim contributory JSA because they do not pay class 1 insurance.

If someone becomes unwell whilst claiming JSA they can continue to get it so long as their period of sickness does not exceed: (1) two periods of sickness of up to 14 days in any claim (or 12 month period if the claim is longer than 12 months; or (2) a third or longer period of sickness of up to 13 weeks in any 12 month period. Sickness of longer than 2 weeks needs to be supported by a doctor's fit note.

If someone has lost their job through misconduct, or left their job voluntarily, their benefit could be sanctioned depending upon the circumstances. If the claim for JSA starts after a job has ended the final wage, any payment in lieu of notice, and holiday pay are ignored. Statutory redundancy pay is also ignored, but any contractual redundancy pay over the statutory level is treated as earnings for benefit purposes.

Contribution Related and New Style Employment and Support Allowance (CRESA and NSESA)

New Style is the new name for this benefit but there will be those still on Contribution Related as well. There is no real difference for the claimant apart from the name.

This is paid to people who have paid (or paid and been credited with) sufficient national insurance (either class 1 or class 2) and are unable to work due to ill health. For the first 13 weeks (or until they have a medical assessment whichever is later) it is sufficient for the claimant to provide a medical certificate (fit note) from their GP confirming that they are unable to work. ESA lasts for 52 weeks unless someone has a very serious illness and is placed in the support group, in which case it can last indefinitely. ESA can be claimed by the self-employed.

Whilst claiming ESA, some people can work and continue to get benefit providing the work is classed as “permitted work”. The idea behind this is to ease people who have a health problem back into the workplace without affecting their benefits. For work to count as permitted work it must be undertaken for less than 16 hours per week and for less than £143 per week. The claimant must notify the DWP that they are doing permitted work.

For claims made prior to 3 April 2017, once someone has “passed” the ESA medical assessment their benefit will increase from week 14. They are either placed into a work related group or a support group depending upon the limitations their illness places upon them. For claims with an effective claim date on or after 3 April 2017, the additional payment for people in the work related group will stop.

State Pension (SP)

This is paid to people who have paid (or paid and been credited with) sufficient national insurance to qualify. The level of contribution will dictate the level of pension paid. The minimum level of contributions is 10 years, with a full pension being paid where there are 35 qualifying years. The government are in the process of increasing the state retirement age for men and women, which is the age at which someone can claim their state pension. State pension can also be claimed even if the claimant is still working. However if a claimant chooses to delay claiming their state pension the amount they are entitled to when they claim will be higher.

Maternity Allowance (MA)

This can be paid to someone who is employed but not entitled to statutory maternity pay. It can be paid for up to 39 weeks and is payable at a flat rate. To qualify the claimant must have paid national insurance (class 1 or 2) for 26 weeks in the 66 weeks before the baby is born. The claimant must also have earned £30 per week over any 13 week period.

Industrial Injuries Disablement Benefit (IIDB)

This can be paid to someone who was employed and liable to pay class 1 national insurance at the time of an injury as a result of their job. The injury must have resulted in a loss of faculty or a specified disease. In the case of a loss of faculty, the loss is assessed as a percentage. In order for the benefit to be claimed the loss must be 14% or more. Scores of 14% or more are rounded up to 20%, which is the minimum percentage at which benefit can be paid. It doesn't matter how long ago the injury happened or whether the company is still trading.

Bereavement Support Payments

This information relates to bereavement benefits claimed on or after 6 April 2017.

A bereavement support payment is payable where the claimant's spouse or civil partner has died. It must be claimed within 3 months of the death and will end 18 months after the death. If the claim is made more than 3 months after the death total amount payable will be less as it will still end 18 months after the date of death. The deceased spouse or civil partner must have paid national insurance contributions.

Where the claimant is pregnant at the time of death, and/or has a child/children under 20 in full time non advanced education they will be entitled to £3500 in month one and then £350 for the remaining months.

Where the claimant does not have children under 20 in full time non advanced education they will be entitled to £2500 in month one and then £100 for the remaining months.

Bereavement payments do not affect other benefits for the first 12 months that they are paid.

Bereavement payments are not payable to someone who is serving a prison sentence.

<u>Means Tested Benefits</u>

Means tested benefits are the safety net of the welfare state. They look at a person's household income and circumstances to determine whether or not they are entitled. Some things that will influence a decision about entitlement to means tested benefits are:

- Whether the person has a partner
- Whether the person has any children
- Whether the person has anyone else living with them who isn't their child or partner
- What level of income the person, their partner and any children have (including savings)

For those over pension age the rules about what counts as income or earnings are similar but not exactly the same.

Common rules for means tested benefits

<u>Capital</u> – Where someone (or a couple) has capital over £16,000 they are not usually entitled to means tested benefits. For couples this is £16,000 between them not individually. This applies to people under pension age and to pensioners unless they are entitled to the guarantee credit element of pension credit. For those under pension age the first £6,000 of capital is ignored and the remainder reduces benefit entitlement by £1 for every £250 or part thereof of savings over the limit. For those over pension age the first £10,000 is ignored and then £1 for every £500 or part thereof reduces benefit entitlement. This is called tariff income.

<u>Deprivation of Capital</u> – For those who are shown to have deliberately deprived themselves of their savings in order to obtain benefit (or an increased amount of benefit) they can be treated as still possessing the capital. This is called notional capital and can have the effect of reducing or removing a person's entitlement to means tested benefits.

<u>Universal Credit (UC)</u>

The government has replaced the 6 (legacy) means tested benefits (IS, IBJSA, IRESA, WTC, CTC, HB) for people of working age with one benefit known as universal credit. UC is normally paid in one go, monthly in arrears to the claimant (at the moment IS, JSA, ESA and HB are paid fortnightly). These legacy means tested benefits cannot usually be paid at the same time as universal credit. The exception to this is where housing benefit can be claimed for certain exempt accommodation whilst universal credit is claimed for the claimant and any children.

Further information about UC appears later in this pack.

Income Based Jobseeker's Allowance (IBJSA)

There are no new claims for this. It has been replaced for new claims by UC. This is paid to people (including couples) where one or both are required to be available for and actively seeking employment as a condition for receiving entitlement to benefit.

IBJSA can be paid, providing income is sufficiently low, where the claimant is either unemployed or working under 16 hours per week. If they have a partner the partner can work up to 24 hours per week.

Single people can earn up to £5 per week before it starts reducing their IBJSA (penny for penny). Couples can earn up to £10 per week before it starts reducing their IBJSA (penny for penny). Some people can earn up to £20 per week if they are disabled or a lone parent.

In order to receive IBJSA the claimant needs to show that they (and any partner if required to do so) has been taking sufficient steps to find work. These are set out in the jobseeker's agreement and if not complied with will lead to a loss of benefit through a sanction. Someone claiming JSA should be spending 35 hours per week looking for work.

JSA Sanctions (for NSJSA and IBJSA)

Sanctions are benefit penalties applied to someone's benefit claim. There are:

1. **High Level JSA Sanctions** – These are given for:

   - Reasons for job loss such as leaving voluntarily or getting sacked
   - Failing to apply for a job which was notified to you by a Jobcentre adviser including temporary work
   - Failing to accept a job including temporary work
   - Failing to participate in mandatory work activity [This is a scheme that provides 4 weeks or work, or work, related activity of up to 30 hours a week with a view to assisting you with your prospects of getting employment]
   - Neglect to avail yourself of a job opportunity [This is normally where you fail to return to work after a temporary absence with a former employer such as after maternity leave or where you refuse an alternative job offer during the redundancy process.]

   The sanction for these is loss of all JSA. The length of time this is for is normally:

   - First time = 13 weeks
   - Second time in a year = 26 weeks
   - Third or more time in a year =156 weeks

2. **Low Level JSA Sanctions** – These are given for:

   - Failure to participate in an interview [You are given a time and date to attend the JC and you fail to do so including being late or uncooperative]
   - Fail to participate in a specific scheme for assisting people back into work [work programme, skills conditionality, sector based work academy, new enterprise allowance, fulltime training flexibility and today 1 support for young people]
   - Fail to carry out a Jobseeker's direction [this is might be something you have agreed to doing your jobseeker's agreement or something that JCP has told you that you must do. This must be something which is relevant to helping you get a job or to the local labour market]
   - Fail to apply or accept a place on a training scheme or employment programme
   - Giving up or losing a place on a training scheme or employment programme
   - Not being available to work for 40 hours per week or not actively seeking work [Availability for work can be restricted if you have caring responsibilities for adults or children or due to your health – as long as you still stand a reasonable chance of securing employment and are available for 16 hours or more]

   The sanction for these is loss of all JSA. The length of time for this is for is normally:

   - First time = 4 weeks
   - Second or more time in a year = 13 weeks

   Whilst someone's benefit is sanctioned they can apply for hardship payments of JSA. These are reduced amounts of JSA paid depending upon need. If they disagree with the decision they can also challenge it.

<u>Income Support (IS)</u>

This is paid to people under state retirement age who are not required to look for work. It used to be paid to people who were unable to work due to ill health but is gradually being replaced by income related employment and support allowance. The main groups of people entitled to income support are:

- lone parents with responsibility for a child under 5

- carers who are caring for someone who is entitled to the middle or higher rate of disability living allowance care component, or either rate of the care element of personal independence payment, or either rate of attendance allowance

- young people who are estranged from their parents and in full time non advanced education

The same capital, hours worked and income rules apply to IS as IBJSA.

Pension Credit (PC)

This is paid to those over the state pension age, whose income is below a set level. There are 2 elements to pension credit: a minimum income guarantee (which tops up a pensioner's income to a certain income level) and the savings credit, which is a smaller amount of pension credit paid to reward someone for having saved for their retirement. Only the guarantee credit part of pension credit entitles the claimant to the passported help available for those on means tested benefits such as free help with health costs. From 15th May 2019 PC can only be claimed by couples if both of them have reached state pension age. Savings credit is no longer available for new claims.

Income Related Employment and Support Allowance (IRESA)

There are no new claims for this. All new claims are on UC. This is paid to people who are under pension age and classed as having limited capacity for work because of a health problem. It can be paid where someone doesn't have enough national insurance contributions for CB/NSESA, or where someone's CB/NSESA has run out, or where someone's circumstances mean that they should be entitled to more ESA (such as having a partner who is not working or has a low income).

Permitted work disregards – People claiming ESA (both contribution based and income related) can do the following types of permitted work, with permission from the DWP, and have some or all of the income disregarded:

- Permitted work lower limit - Undertake indefinite permitted work providing their earnings do not exceed £20 per week

- Permitted work higher limit - Undertake permitted work for up an indefinite period providing they earn no more than £143.00 per week after tax and national insurance and work for less than 16 hours per week

- Supported permitted work - Undertake indefinite permitted work earning no more than £143.00 per week after tax and national insurance and work for less than 16 hours providing they are receiving some kind of support from a support agency or Council to remain in employment

Council Tax Support (CTS) or Council Tax Reduction (CTR)

This replaced council tax benefit from April 2013 for people on a low income who have a liability to pay council tax. You will need to check the details of your local schemes, as each Local Authority has its own.

The same income and capital rules that apply to housing benefit also apply to council tax support.

Council Tax Support/Reduction Covid-19 Hardship Payment – In April 2020 there was a one-off extra benefit payment of £150 for those who received any Council Tax Support/Reduction in that year and met the other criteria. This has not been done again for 2021/2022.

Child Tax Credit (CTC)

There are no new claims for this. All new claims are for UC. This is paid to people who are responsible for a child/children whether or not they are working.

Much of the law relating to tax credits comes from taxation law (it is administered by Her Majesty's Revenue and Customs, HMRC) and so there are no capital rules for example, the important thing for tax credits is the taxable income derived from savings.

Child tax credit was capped at the level for 2 children from 6 April 2017. This means that no additional child tax credit will be paid for any subsequent child born on or after 6 April 2017 if that takes the number of children to more than 2. There are some exceptions to this including: multiple births, births as a result of rape, and those looking after another person's child as a result of estrangement.

Working Tax Credit (WTC)

There are no new claims for this. All new claims are for UC. This is paid to people working at least 16 hours a week, with a dependent child and/or a disability or who are aged 60 or over. It can also be paid to those aged 25 and over, who don't have a child or a disability, and who are working more than 30 hours a week and have a low income. Parents in a couple claiming WTC have to work at least 24 hours between them to qualify, with one of the parents working at least 16 hours. Lone parents only need to work 16 hours a week to qualify. Working tax credit has an element that may help some parents to meet up to 70% of their childcare costs up to a maximum amount on the condition they are using Ofsted registered childcare.

Tax credits are assessed annually and the claimant may have to complete a renewal form each June/July advising HMRC about any change in their income and circumstances. Changes should, however, be notified as soon as possible to reduce any over or under payment.

Tax Credit and Covid – For 2020-2021 there was an increase of £20 per week for the full financial year along with a relaxation of the working hour requirements. For 2021-2022 there was a one-off payment of £500 made by 23/04/2021 into their bank account. It arrived with the reference HMRC C19 support. This was for those who received Working Tax Credit or would were eligible for it but did not get a payment because their income is too high to get Working Tax Credit payments

Support with mortgage interest loan (SMI)

The DWP use a standard interest rate to determine how much interest they will pay towards the mortgage irrespective of the actual amount of housing costs incurred (currently 2.09%). The cap on mortgage value is up to £100,000 for those claiming through pension credit and £200,000 for everyone else. For those getting pension credit they can get housing costs as soon as they claim for the help. For those claiming through other benefits they have to wait 39 weeks before getting any help with their mortgage costs. No amount is included for the capital repayment part of the mortgage or to cover any endowment of other repayment vehicle used with the mortgage. Interest will only be covered on a loan taken out to purchase the property or for essential repairs/maintenance i.e. it will not be paid on a loan taken out to consolidate other debts.

Even if someone has a waiting period, they should still claim the means tested benefit that would enable them to claim help with their mortgage interest in order to safeguard their start date.

This is a loan secured upon the property rather than a benefit payment. This currently has interest at 1.5% Support with mortgages is different under universal credit but a still a loan. The loan was brought in with the help of Serco and the claimants were contacted to sign the papers to take on the loan. If they did not engage then from 6th April 2018, they stopped receiving help with their mortgage unless they met certain circumstances including as not receiving their offer from Serco or not having capacity to enter into an agreement. In these cases they got limited extra time before their help stopped in October 2018.

SMI is not a separate benefit but is paid as part of other means tested benefits (IS, IRESA, IBJSA, GPC). The maximum help on £200,000 is £348.33 and on £100,000 £174.17 per month.

Social Fund Grants

The social fund pays mandatory grants to people who are entitled to them based on their circumstances. These include:

- **Sure Start Maternity Grants** – These are paid where someone has their first child or twins where they have other children and receive income support, income based JSA, income related ESA, Pension Credit, Child Tax Credit at more than the family element, working tax credit that includes a disability or severe disability element, or universal credit

- **Funeral Grant** – They pay funeral grants to people who are closest person responsible for a funeral who would be entitled to a grant. Eligibility is also based upon entitlement to one of the benefits above in the section on maternity grants.

The time limit for applying for these two social fund grants is 6 months after the birth for the SSMG and 6 months after the death for the FG.

Other Assistance

There are the following other assistance schemes available:

- **Winter Fuel Payments** – The social fund also pays winter fuel payments to pensioners. It is paid regardless of income and capital.

- **Budgeting Loan** – People getting income support, income based JSA or income related ESA who have been receiving one of those benefits for at least 26 weeks can apply for a budgeting loan from the DWP. A budgeting loan is an interest free loan that is repaid by deductions being made directly from someone's benefit.

- **Health Benefits** – These can be paid to those receiving means tests DWP benefits (income support, income based JSA, income related ESA) or who are on a low income. Health benefits include prescriptions, dental treatment, eye tests, glasses, and travel to and from hospital.

- **Local Assistance Schemes** – Prior to April 2013, the DWP was responsible for paying loans and grants to people in emergency situations (crisis loans and community care grants). Each local authority was then given the money and asked to devise their own scheme. Rules for each scheme therefore vary from council to council.

Housing Benefit (HB)

This is a benefit paid for people in a low income (whether working or not) who are liable to pay rent. This liability could be to a private or social landlord.

Housing benefit can also be paid for:
- rent or ground rent if lease is less than 21 years
- eligible service charges
- rent, mooring charges and berthing fees for a houseboat
- site rental for a caravan or mobile home
- alms-house contributions
- rent on a garage or land only if it is a condition of occupation

Housing benefit in the private sector is assessed on the basis of the claimant's household composition and the average level of rents in a broad market area. This is known as the local housing allowance (LHA) levels. In the social sector, housing benefit is assessed on the basis of the claimant's household composition and either the actual rent charged or the rent level set by the Rent Officer. The capital rules for housing benefit are the same as those for IBJSA and GPC.

Where someone is required to pay more rent than the housing benefit they are entitled to, they can apply to the local authority for a discretionary housing payment (DHP).

Housing Benefit (HB) – more detail

This is paid to people on a low income. Capital for housing benefit is worked out in the same was as above (i.e. £16,000 limit and £1 for every £250 or £500) unless the claimant is entitled to guarantee pension credit in which case there is no capital limit (but the £1 for £500 rules still apply).

Who can claim housing benefit?

In general, claimants will qualify for housing benefit if:

- they are liable, or treated as liable to pay rent; **and**
- they do not fall within any excluded categories; **and**
- their income and capital are low enough.

Liability for rent

Only one member of the family can apply for housing benefit.

Liability for rent must be on the person's main residence and it must be occupied by the resident. For a person to be liable to pay rent, their agreement must be legally enforceable. There does not need to be a written tenancy agreement to create a legal liability and housing benefit can be paid providing it can be shown that there is an enforceable understanding between the parties, i.e. a firm promise to pay money in return for accommodation. A moral obligation is not sufficient. In practice, it can be difficult to show there is a legal liability in the absence of any written evidence, but if benefit is refused on this basis, it should be challenged.

The regulations allow that a person other than the person liable to pay rent can be treated as liable for housing benefit purposes. This can include:

- the partner of the liable person;
- a person who must continue to make payments to remain in the home because the liable person is not making them and:
  - they are the former partner of the liable person; **or**
  - it is reasonable to treat them as liable
- for up to 8 weeks, a person whose liability has been waived by the landlord in exchange for carrying out repair or redecoration of the property
- the partner of a student who is excluded from liability.

Joint tenants

Couples who are joint tenants will be considered as one claimant. Other joint tenants will be eligible to claim in their own right and each will have their own rent liability agreed as a share of the total rent.

People treated as not liable

Some people may be liable to pay rent but will be treated as not liable for housing benefit purpose and therefore not entitled to benefit. They include situations where:

- the tenancy or agreement to occupy is not on a commercial basis
- the landlord shares the property and is a close relative of liable person or their partner
- the liability is to a former partner (or a partner's former partner) and the claimant (or partner) occupied the property as a couple with the landlord before separating
- the claimant or their partner is responsible for a child of the landlord
- the liability is to a company or trust and:
  - a director, trustee, employee or beneficiary is the claimant, their partner or a close relative or former partner of the claimant or their partner; and
  - the agreement was made to take advantage of the housing benefit scheme
- the liability is to a trust and the claimant's, or their partner's, child is a beneficiary of the trust
- the claimant or their partner previously owned the property during the last 5 years unless they could not have continued to live there without giving up ownership
- the occupation is a condition of the claimant or their partner's employment by the landlord, for example, tied accommodation
- the claimant is a member of a religious order and wholly maintained by that order
- the liability to pay rent was created to take advantage of the housing benefit scheme – for example a 'contrived agreement'

Non-commercial basis

The Council will look at all the circumstances and will consider if the agreement, written or verbal, is legally enforceable. The rent does not have to be market rent, nor does the landlord have to profit financially from the agreement, providing there is some benefit to him. Renting from a close friend or family member does not preclude the agreement from being commercial, although in practice, the closer the relationship, the harder it will be to show that it is a commercial and legally enforceable arrangement exists.

Close relative

A 'close relative' means parent, parent in law, or step-parent, son/daughter, son/daughter in law, stepson/daughter or step son/daughter in law, brother, sister, brother/daughter in law or the partners of any of these (including civil partners). It also includes half-brother and sisters.

A claimant can be treated as liable to pay rent to a close relative providing the landlord is not living with them. A landlord is treated as living with the claimant if they share some accommodation other than a bathroom, toilet, hall or passageway, even if the claimant has exclusive use of other rooms.

Which people cannot claim housing benefit because of their circumstances?

The following people cannot claim housing benefit regardless of their income.

- those treated as not liable to pay rent
- people who have more than £16,000 savings/capital *except when in receipt of the guarantee element of pension credit*
- most full-time students (some exceptions for couples with children, lone parents and those with disabilities)
- people in residential care (unless they are just in for a trial period)
- owner occupiers
- people subject to immigration control or who are not habitually resident

How is housing benefit calculated?

The actual amount of benefit paid will vary according to the amount of rent, who lives in the house and their income and savings.

Maximum rent – The maximum amount of rent used to calculate housing benefit is not always the maximum actual rent payable. The maximum rent used to calculate housing benefit for private tenants is determined by the area in which the claimant lives and the number of people in their household.

Local housing allowance (LHA) is the method of calculating **maximum rent** for private tenants. The LHA awarded depends upon the area in which the claimant lives and the number of people occupying the home:

Size criteria **–** There will be **ONE bedroom** allowed for each of the following**:**

every adult couple	any other adult age 16 or over	any two children aged under 10 regardless of sex	any two children of the same sex
any other child	a non resident overnight carer	disabled children where the Council have the discretion to accept that it is not reasonable for them to share.	approved foster carers will be allowed an additional room, whether or not a child has been placed with them
adult children who are in the armed forces but who continue to live with parents will be treated as continuing to live at home, even when deployed on operations if they intend to return home.			

Shared room – If the claimant is single and aged under 35, in most cases, the maximum rent allowed is that payable for use of a single room with shared toilet, kitchen and living room facilities.

However there are certain exemptions from the shared accommodation rate. These are as follows:

housing association/council tenants		people with non-dependants living with them	young people with responsibility for children or dependent young people
those under 22 who have been provided with accommodation under section 20 of the Children Act.	those under 22 who were subject to a ‘care order’ under section 31 of the Children Act prior to their 16th birthday and which was continued after this, or was made after their 16th birthday.	people aged over 25 years old who have lived in a hostel for at least three months (this does not have to be continuous) and are being resettled into the community	people aged over 25 years old who are ex-offenders and subject to active multi-agency management (MAPPA) and are considered a risk to the community

Broad rental market areas (BRMA) **–** Different parts of the relevant Council are divided in to ‘broad rental market areas’ (BRMA). In each of these, rent officers establish the rent for different sizes of accommodation.

Setting the LHA **–** LHA is worked out by taking the average of the lowest 30% of rents in a specific area. It had previously been frozen but because of covid has now been restored to the correct level. It will increase every April and is linked to the Retail Price Index. Information about the rate of LHA payable is available at https://lha-direct.voa.gov.uk/

How long LHA lasts **–** The relevant LHA is that which applies on the day that benefit is applied for. The LHA used to calculate an individual’s maximum rent will apply for 12 months unless there is a change of circumstances:

- the category or size of dwelling changes, usually because someone has moved in or out or a child has reached 16 years old and is allowed their own bedroom
- a member of the family or a relative in the household dies, even if this would not change the category or size of the dwelling applying to the claimant
- a move to a new home

The LHA housing benefit is then based on the LHA rate that is appropriate at the date of the change unless temporary protection applies.

The spare room subsidy (‘bedroom tax’) – Housing benefit for working age social rented sector claimants is now restricted for those who are occupying a property larger than their household size would warrant. The size criteria replicates that of the LHA, see above.

For those properties with one spare bedroom a 14 per cent deduction in the amount of eligible rent covered by HB will apply, and for those with two or more spare bedrooms a 25 per cent deduction will be made. The percentage applies to the eligible rent (not the existing housing benefit award). The size criteria will not be applied to those in supported ‘exempt’ accommodation which is:

- temporary accommodation for those without a settled life funded by the resettlement agency
- accommodation provided by a Housing association, non-metropolitan County Council, registered charity or voluntary organisation where that body or a person acting on its behalf also provides the tenant with care support or supervision which is more than a token amount of support

A bedroom will be allocated to a lodger under the rules and not be considered a ‘spare room’, however the income from the lodger will affect the amount of housing benefit paid to the claimant subject to the relevant disregard. This rule will also change with the introduction of universal credit.

Where someone takes in a sub tenant this can be treated in one of two ways. For lodgers, the first £20 per week of income is disregarded and the rest is treated as income pound for pound. For boarders (supplied with food) the first £20 is ignored and then half of everything else is treated as income.

Temporary protection from rent restrictions – This is available to claimants whose rent might be restricted to local housing allowance rates where:

- the claimant could afford the rent when they entered into the agreement, and they have not received housing benefit for any of the preceding 52 weeks. No restriction is made for 13 weeks and housing benefit will cover the contractual rent less any ineligible charges.

- 12 months protection where any of the other occupants in the claimant's home died in the last 12 months. During this time the claimant's eligible rent will be the same as it was immediately before the date of the death. If the claimant was not receiving housing benefit at that time the housing benefit will cover the contractual rent less any ineligible charges.

Service Charges for Rented Properties **–** Service charges are only covered by housing benefit if payment is a condition of occupying accommodation (rather than an optional extra) things included for example are general management costs, gardens, children's play areas, lifts, entry phones, communal services, such as TV, charges for the cleaning of areas and windows in communal areas and the outside of windows which no-one in the household can do, unless these are met by Supporting People.

Non-dependant deductions (NDD) **–** If there are 'non-dependants' living in the claimant's household then a deduction will be made from the maximum housing benefit entitlement.

Non-dependants are people who live in the claimant's home on a non-commercial basis who are not part of the household for benefit purposes. (i.e. an adult son/daughter, friend or relative). A deduction is made irrespective of whether or not a contribution is made to the rent by the non-dependant. It is important to provide the Council with information concerning all non-dependents, even if they have no income so that they can be correctly assessed, or the Council may apply the maximum non-dependant deduction.

No deduction is made where the claimant or partner:

- is in receipt of attendance allowance or the care component of disability living allowance or personal independence payments (any rate)
- is registered blind or has ceased to be registered in the last 28 weeks.

Or if the non-dependant is:

- aged under 18
- aged under 25 and in receipt of IS, JSA(IB) or UC with no earned income
- a full-time student
- a joint occupier, tenant, sub-tenant, or boarder
- in receipt of work based training allowance
- in hospital for more than 52 weeks
- in prison
- staying temporarily and has a home elsewhere
- a carer, provided by a voluntary organisation who makes a charge, even if this charge is not met by the claimant
- in receipt of pension credit

There will be no non-dependant deduction for non-dependants under 25 who are receiving IRESA during the assessment phase. However, once in the main phase, a non-dependant deduction will be applied.

Non-dependant couples – Only one deduction applies, whichever is the highest that would have been made if the couple were treated as individuals.

Non-dependants of joint occupiers – The general rule is that where the non-dependant ‘belongs to’ one of the occupiers only, the full deduction is made against only one of the occupiers. If the non-dependant ‘belongs to’ more than one occupier, the deduction is shared between them.

Non-dependants and claimants or partner’s over pension age – If the claimant or their partner is over 65 and a non-dependant moves into the household, or an existing non-dependant’s circumstances changes, any (increased) non-dependent deduction can be delayed for 26 weeks.

Failure to provide evidence of non-dependant income **–** Where the claimant fails to provide the Council with evidence of a non-dependants income, they may apply the maximum deduction. However, the Commissioner’s decision (CH/48/2006) held that the Council had a duty to assess the claim regarding the likely level of earnings.

How the non-dependant deductions work – For example: Ms A is a claimant on Income Support in a 2 bedroom property. She has a non-dependant who is working and earning £200 per week. Her eligible rent is £110.00 per week.

The eligible rent = £100

1. Less the deduction for the non dependant's assumed contribution of £36.45
2. £110.00 - £36.45 = £73.55
3. The housing benefit entitlement is £73.55 per week.

Under Universal Credit the non-dependants have a fixed monthly deduction unless they or the household are exempt.

Extended payments scheme

Where the claimant has been in receipt of IS, IBJSA, or IRESA (or any combination) continuously for 26 weeks, they will be eligible to continue receiving housing benefit at the same rate, for an additional four weeks after their entitlement to IS, IBJSA or IRESA ends if it was due to starting employment, self employment or increasing their hours or earnings. A person ceasing to get NSJSA for work-related reasons cannot get an extended payment unless they were also in receipt of a qualifying income-related benefit which ceased at the same time and for the same reason. The work, or increase in hours must be expected to continue for at least a further five weeks.

If the claimant has been in receipt of CB/NSESA, incapacity benefit or severe disability allowance continuously for 26 weeks (and not entitled to means tested benefits) they will be eligible to continue receiving HB at the same rate for an additional 4 weeks after their entitlement to CB/NSESA, Incapacity benefit or severe disability allowance ends if it was due to starting employment, self employment or increasing their hours or earnings if this is expected to last for at least five weeks.

It is not necessary to complete a claim form in order to receive extended payments. Instead the claimant simply needs to inform either the Council or jobcentre plus of the change within 4 weeks, and the extended payment can be paid automatically.

If discretionary housing payments were being paid, a request needs to be made to the Council for these to continue during the extension period. Entitlement to HB can continue after the HB extension period if the claimant still qualifies. There does not need to be a fresh claim.

Benefit Cap **–** Welfare payments are currently capped at for all working age households except those:

- receiving a war pension
- receiving DLA, PIP or AA
- receiving IIDB
- who have a child for whom they are responsible who gets DLA or PIP

- who are in the support group of ESA
- who are eligible for WTC
- who lose their job through no fault of their own, who were in work continuously for 50 weeks in the previous 52 weeks, who will be subject to a nine months ‘grace period’.

From 7 November 2016 the cap is:

- £442 if you are a couple or have children and live in London
- £335 if you are a couple or have children and live outside London
- £296 if you are a single person and live in London
- £258 if you are a single person and live outside London

The benefits included in the total amount for the cap are:

- Universal Credit
- Child Benefit
- Child Tax Credit
- Housing Benefit
- Incapacity Benefit
- Income Support
- Jobseeker's Allowance
- Employment and Support Allowance (except when in the support group)
- Maternity Allowance
- Severe Disablement Allowance
- Widowed Parent's Allowance & Bereavement Allowance

Discretionary Housing Payments (DHP)

DHP's allow for a *discretionary* additional payment to assist with housing costs. The Department for Work and Pensions has given minimal guidance over the administration of DHP’s, and so Councils may operate them very differently from one another. However, in general:

- DHP is not a payment of benefit, there is no ‘right’ of entitlement or appeal
- the claimant must provide grounds and additional information if needed
- the Council will give written notice and reasons for their decision
- claimants may request an internal review of decisions. The Council must exercise its discretion reasonably – claimants’ only recourse will be judicial review
- the claimant must be entitled to at least the minimum HB to receive extra help towards their rent liability
- the weekly shortfall between benefit paid and the rent liability cannot be exceeded
- the payments cannot cover water or service charges or hardship caused solely by reduction of other benefits, for example by sanctions

- DHPs can cover rent in advance and/or deposit and other housing costs such as removal costs where the claimant already receives HB on present property
- DHPs can be paid on two properties in some cases
- Councils have a budget for DHPs which is limited each year
- they are not counted as income for means tested benefits.

Non-Contributory Benefits

Non-contributory benefits are benefits that are paid on the basis of circumstances rather than either national insurance contributions or means test.

Child Benefit (CB)

The most widely known non-contributory benefit is child benefit. Child benefit is paid at a higher amount for the eldest or only child and a lower amount for other children. Child benefit used to be a universal benefit (paid to everyone irrespective of income and capital). Child benefit is now reduced (or stopped altogether) where the claimant or their partner earns over £50,000 per year. Child benefit can be claimed for both children (under 16) and young people up to the age of 20 in approved education or training.

Carer's Allowance (CA)

This can be paid to someone who is caring for someone for more than 35 hours per week and the cared for person is entitled to the middle or higher rates of the care component of DLA, either rate of the care element of PIP or either rate of AA.

Disability Living Allowance (DLA)

This was a benefit paid to those under the age of 65 when they first claimed. New claims are now only able to be made by those under 16. For those aged 16 to 64 new claims should be made for PIP instead. DLA has 2 rates of benefit for those with mobility problems and 3 rates of benefit for those with care problems. They are:

- Mobility Component – The lowest rate of mobility is for people who need guidance and supervision when outdoors on unfamiliar routes (for example someone with agoraphobia, unstable epilepsy or panic attacks). The highest rate of mobility is paid to people who are actually unable to walk or are considered virtually unable to walk because of the time, speed, distance etc. Taken to make progress.

- Care Component – The lowest rate of care is paid for people who would need help for about an hour over the course of a day with personal care tasks. Personal care includes things like dressing, eating, washing, going to the toilet etc. It can also be awarded if someone is, as a result of their disability, unable to prepare and cook a hypothetical meal for themselves.

  The middle rate of care is awarded where someone needs continual supervision throughout either the day or night to avoid danger, or needs help with personal care frequently throughout either the day or night.

  The higher rate of care is awarded where someone needs daytime care (as above for middle rate) and also needs someone to be awake at night either to provide supervision to prevent danger or to provide help with personal care tasks more than once (for example, dealing with incontinence twice a night).

The government are rolling out a programme to switch over people currently getting DLA onto PIP. Children can continue to claim DLA, but all new claims for adults must now be for personal independence payments unless someone is currently getting DLA and has a change of circumstances that would still entitle them to some rate of the benefit.

Children can be entitled to claim DLA and the same rates apply to them (however there is no cooking test for them). In the case of children it has to be shown that the need of the disabled child is substantially greater than the need of a child of the same age who is without disability.

If someone is getting DLA when they reach 65 they can continue to receive it so long as they have the need.

Attendance Allowance (AA)

This is for new disability claims made by people 65 and over. It is similar to DLA but has no mobility components and no lowest rate of care. This gives two rates which are the same as the middle and higher rates of DLA care.

Personal Independence Payments (PIP)

This is for new claims for disability benefit for those over 16 and under 65. PIP has two rates of mobility and two rates of care. These rates are determined by scoring people for the things they can and cannot do. Each thing they cannot do (against a specific criteria) has a score and the scores are added together to determine what rates of PIP will be paid (if any). They are:

- Care Element – The care element looks at things like ability to prepare food, washing, dressing and getting to the toilet, communicating with people and making budgeting decisions.
- Mobility Element – The mobility element looks at things like planning and following journeys and physically moving around.

Common Information for DLA, PIP and AA

- These are all are awarded on the basis of need. They are not means tested and not dependent upon national insurance contributions having been paid (i.e. they are a non-contributory benefit). They are currently tax free and do not adversely affect other benefits someone is getting. So receiving one of these disability benefits will not result in a reduction in other benefits.

- To be entitled to these the person needs to have had the problems for the past 3 months (DLA and PIP) or 6 months (AA and DLA) or 9 months (PIP) and to be likely to have them for a further 6 months.

- In the case of someone who has a terminal illness (death is likely to occur within 6 months) they can apply for disability benefits under the special rules and are then entitled to the highest rates of the care elements/components. They do not need to show that their condition is likely to last for 6 months or that they have had it for 6 months, but they do need written confirmation in the form of a DS1500 document from a doctor to confirm the prognosis. They do not need to be aware that their illness is terminal because somebody else can apply on their behalf.

- If you go into a care home or hospital the care component/element will stop after 28 days.

- Entitlement to these benefits can significantly increase entitlement to means tested benefits. This may only happen if the correct benefit service is informed of the award. It is unlikely to happen automatically.

Overlapping benefits

Some benefits overlap with others meaning that you only get one of them, other benefits are incompatible with each other meaning that you only get one of them (for example JSA and ESA since you cannot be available for work if you are unfit for work).

State pension, ESA and JSA cannot be claimed/paid at the same time. This is because they are earnings replacement benefits designed to replace someone's earnings in particular circumstances.

Carer’s allowance can be claimed at the same time as state pension, contributory JSA and contributory ESA but only the higher benefit will be paid (i.e. if the state pension is of higher value than the carer’s allowance only that benefit will be paid). However so long as there is an "underlying entitlement to carer’s allowance (i.e. it can't be paid because of another benefit being paid) then the claimant should be entitled to a carer's premium when working out entitlement to means tested benefits.

Income support, income based JSA, income related ESA and pension credit cannot be claimed at the same time - it is one or the other. Carer’s allowance can be claimed at the same time as these benefits and will be paid. The amount of carer’s allowance paid will reduce the amount of means tested benefit being paid pound for pound. However, the claimant should be entitled to the additional income derived from being entitled to the carer's premium.

Subject to the hierarchy of benefits, income based JSA can be claimed to top up or in place of contributory JSA. Income related ESA can be claimed to top up or in place of contributory ESA. Pension credit can be claimed to top up or in place of state pension, income support can be claimed to top up SSP, SMP, SPP, SAP etc.

Universal Credit

What benefits has UC replaced?

The following means-tested legacy benefits will eventually be abolished and replaced by UC:

- income support
- income-based jobseeker's allowance
- income-related employment & support allowance
- housing benefit
- child tax credit and working tax credit

All new claims are for UC and eventually existing claimants will be migrated onto UC as well. The managed migration trial started in Harrogate in July 2019 and was expected to roll out from November 2020 to September 2024. Due to covid this is not currently happening but is expected to restart. When a claimant claims UC their tax credit payments will stop and HMRC will 'finalise' their tax credits award at this point. This is a change from the usual tax credits renewals cycle where HMRC ask claimants to confirm details and finalise their award after the end of the tax year, between April and July. HMRC will contact those claimants affected to explain what they need to do.

Passported benefits

Receipt of certain benefits 'passport' claimants on to a range of other benefits. In the pathfinder areas receipt of any rate of UC currently passports claimants to social fund maternity, funeral and cold weather payments, health benefits and free school meals. Free school meals entitlement stops if earnings for household are £7,400 per annum or higher. Help with health costs is limited to:

- those without a child earning £435 or less net per month in their last assessment period
- those with a child and/or limited capability for work or limited capability for work and work related activity earning £935 net or less per month (this is a combined figure for couples)

Change of Circumstances

Some changes of circumstance can trigger being moved from a legacy benefit claim to a universal credit claim. A list of the changes that can trigger a new claim can be found at https://www.southampton.gov.uk/benefits-welfare/benefits-advice/benefit-changes/trigger-universal-credit.aspx

Exempted accommodation

Tenants living in specified accommodation are not able to claim their housing costs through universal credit, instead they need to claim their housing costs through housing benefit. They still have to claim universal credit for their other living costs (i.e. for themselves and their children if they have any). Whether a scheme is exempt from universal credit is a decision that rests with the local authority the accommodation is in. Typical exemptions can be daily charge hostels (e.g. YMCA or refuges) and accommodation where they receive support (e.g. temporary accommodation or sheltered accommodation). See also specified accommodation on page 39.

More than 2 children

From 6 April 2017 where a claimant already has 2 children and another child is born to them then they cannot get means tested benefits for the additional child. There are some exemptions to the two child limit for means tested benefits, see here for a list of them. https://www.gov.uk/guidance/universal-credit-and-families-with-more-than-2-children-information-for-claimants

How to claim universal credit

Universal credit is administered by the Department for Work and Pensions and most people will make online claims via **www.gov.uk/apply-universal-credit** The local Citizens Advice Bureau have a service to assit with new claims on 0800 1448 444.

Backdating

A claim for UC can only be backdated for a maximum of one month and only in certain circumstances. These are where the claimant:

- Was previously getting JSA or ESA and notification of their entitlement ending was received after the benefit stopped
- Has a disability (although this is not defined)
- Was unwell and so couldn't claim online or on the phone (medical evidence needed to support this)
- Was unable to claim online because of a system failure or planned maintenance and the claim was made on the first day the system was available
- Was getting UC as a couple, was the first one to notify the DWP of the separation, and is now claiming as a single person
- Made a joint claim but their partner refused to sign the claimant commitment and the couple have now separated and is now claiming as a single person

Where someone's claim was delayed because they were given wrong information, or were misled, by the DWP they could ask for compensation but this is not a ground for a backdate.

Assessment periods and pay days

UC is assessed using one-month assessment periods. These start from the 1st day your claim is completed. Payment should be made within 5 days of the end of the fist assessment period. This works out to be 5 weeks.

The DWP recognises that the above rules may cause difficulties for some claimants. Advance payments of UC can be applied for where people are waiting for their first payment. ‘Money advice’ will be also offered to all claimants but this is likely to be signposting to external organisations or resources.

General conditions of entitlement

To be eligible for UC the claimant must:

- be aged 18 or over (with exceptions)
- be under state pension credit (SPC) age
- not be subject to immigration control
- be in Great Britain i.e. satisfy the habitual residence and right to reside test
- not be ‘receiving education’ (with exceptions)
- meet the income and capital rules
- accept a ‘claimant commitment’

16/17 year olds

Currently most 16/17 year olds cannot claim UC, they may be signposted to the existing legacy benefits. There are some exceptions for those in the full service area if they meet the other rules of entitlement for UC and also one of the following:

- have limited capability for work
- have regular and substantial caring responsibilities for a severely disabled person
- are responsible for a child under 16
- are part of a couple and partner is responsible for a child
- are pregnant and within 11 weeks of the baby being due
- are within 15 weeks of the birth of a child
- are without parental support

Couples

Couples in general must usually claim jointly and must both sign the claimant commitment. If one of a couple fails to sign then, subject to a cooling off period, the couple will not be entitled to UC.

Mixed Age Couples – Where a couple includes someone over state pension age and someone under state pension age then they will have to claim universal credit rather than pension credit until the youngest one in the couple reaches pension age. If they are already getting pension credit then they will continue to do so. This started in May 2019 so couples before that date could claim Pension Credit.

People subject to immigration control and being in Great Britain

UC is a public fund. This means it cannot be claimed by anyone who has “no recourse to public funds”. Where a couple consisting of someone subject to immigration control and a British national (for example) claim UC, no benefit is paid for the one subject to immigration control (i.e. it is treated as a single claim) but the partner’s income and capital are still used to determine the claim.

Some people are treated as not being in Great Britain, even if they are. UC utilises the same habitual residence test as the legacy benefits.

From 10 June 2015 a change to the UC regulations was made that excluded EEA nationals from claiming UC where their right to reside in Great Britain was through being a jobseeker or a family member of a jobseeker.

Students

Most students will be unable to claim universal credit if they are “receiving education”. Receiving education means:

- ‘qualifying young persons’ i.e. in non-advanced education of more than 12 hours per week which they enrolled, accepted or started on before their 19th birthday (up to 31 August following 19th birthday) or
- Students who are undertaking a full time course of advanced education or another full time course of study or training for which a maintenance grant or loan is provided.

Students can claim UC if they are:

- a person under 21 without parental support
- a person with limited capability for work receiving DLA, PIP or AA
- responsible for a child or young person
- a single foster carer or foster carer where the partner is also a student
- someone over state pension age in a mixed age couple

If none of the above apply, but they are on a course that the DWP believe is not compatible with their work-related requirements, they are treated as if they are ‘receiving education’.

How is UC calculated?

The maximum amount of UC is made up of monthly standard allowances and elements for a single/joint claim plus elements for:

- each child or qualifying young person for whom the claimant is responsible
- 'limited capability for work' / 'limited capability for work-related activity'
- caring for a severely disabled person
- child care costs;
- housing costs, including rent and mortgage interest payments.

Standard allowance

- single person aged 25 and over (£411.51 from Oct £324.84)
- single person aged under 25 (£344.00 from Oct £257.33)
- couple where one member is aged 25 or over (£596.58 from Oct £509.91)
- couple with both members aged under 25 (£490.60 from Oct £403.93)

Universal Credit and Covid-19 – These standard allowances have been increased by £20 per week until 1st October 2021. They are then due to decrease again unless there is new legislation.

Elements

Depending upon the claimant's circumstances they may be entitled to additional UC elements. E.g. for children or ill health.

Child element

- paid for a dependent child or qualifying young person (up to 31st August following the child's 16th birthday or 31st August following the 19th birthday if in full-time non-advanced education of more than 12 hours p/w or approved training)
- higher amount for first/only child born before 06/04/17(£282.50)
- lower amount for subsequent children or all children if eldest born after 06/04/17 (£237.08)

This means the higher amount can only be awarded where the eldest child is born before 6 April 2017.

Disabled child element

- lower level disabled child addition if the child gets any rate of DLA or PIP (£128.89) or
- higher level disabled child addition if child is registered blind, or gets DLA high rate care or the daily living component of PIP at the enhanced rate (£402.41)

The claimant can get this element for all their children that meet the criteria even if they cannot get the child element for them (e.g. third child).

Limited capability for work and limited capability for work and work related activity elements

Ill and disabled people can get extra amounts in UC if they pass the work capability assessment. They will get either the:

- For claims before 3 April 2017, limited capability for work (LCW) element (similar to current ESA Work Related Activity Group £128.89); or
- limited capability for work and work related activity (LCWWRA) element (similar to current ESA Support Group £343.63)

If the claim started from 3 April 2017 onwards then even if they pass the limited capability for work assessment (LCW) they will not get the extra element unless they are treated as having limited capability for work and work related activity (LCWWRA).

A couple can only qualify for one (the highest) element even if both satisfy the conditions.

Unless the claimant is terminally ill, these elements (LCW/LCWWRA) will not be included in the UC award until the first day of the assessment period following the ‘relevant period’. The ‘relevant period’ is three months from the date of the UC claim or date the claimant applies for LCW/provides medical evidence of LCW.

Claimants who have already been found to have LCW/LCWWRA before starting to earn 16 times the national minimum wage will continue to receive the element. They will only lose the element if they fail the work capability assessment at a later claim review.

A claimant who is working above this threshold and has not already had an assessment can apply for the element and be assessed for LCW/LCWWRA if s/he is entitled to DLA or PIP. They can also be assessed if their earnings are less than the minimum wage times 16 hours per week.

There is no equivalent to the disability, severe disability or enhanced disability premiums within universal credit.

Carer element

A carer can get the carer element if they provide regular and substantial care to a severely disabled person (getting mid or higher DLA care, or the daily living component of PIP or either rate of AA) for at least 35 hours per week. The carer element is not dependent on receiving carer's allowance (£163.73).

However, it's not possible for one person to get both the carer element and the LCW or LCWWRA element. If the claimant is entitled to the LCWWRA they will get that; otherwise they will get the carer element.

Childcare costs element

Registered childcare costs can be met for claimants who are in paid work (or have an offer of work), regardless of the number of hours they actually work. 85% of the childcare costs will be paid up to a maximum of £646.35 per month for one child or £1108.04 for two or more children. Costs can be paid up until the end of the assessment period following the one in which employment ends, can be paid in the assessment period before employment starts and for temporary absences from work when the claimant is in receipt of a statutory benefit. They can be paid for a child up to the 31 August following their 16th birthday.

If you pay for childcare after it's been provided, you can claim up to 3 months of past costs at a time. If you pay for childcare in advance, you can claim up to 3 months of advance costs at a time. You'll be paid back in your monthly Universal Credit payments during the months the childcare is for.

For couples, both partners will normally need to be in work except where one is working and the other is unable to provide childcare due to limited capability for work, regular and substantial caring responsibilities, or temporary absence from the claimant's household.

They cannot get help with childcare costs through universal credit if they are getting the new tax free childcare.

Childcare element and Covid-19 – This is not payable unless the childcare takes place. The childcare element does not cover paying a retainer to keep your place with the provider.

Housing element

A housing costs element is included in universal credit for help towards either rent or mortgage costs. Housing costs can be paid for a period of temporary absence where the absence is not expected to exceed six months. However, costs can be paid for up to twelve months if the absence is due to reasonable fear of violence. In these circumstances housing cost elements may be payable for both homes.

Owner occupiers

Owner-occupiers may get payments towards loans secured on their home (for any purpose, not just to purchase the property or qualifying home improvements) as well as certain service charges. The housing element will usually be paid directly to the lender. It is in the form of a loan with the same rules as for SMI.

There is currently a waiting period of 9 assessment periods before the housing costs element can be paid and there is usually an upper limit of £200,000. Any loans for adaptations to meet the disability needs of the benefit household will be disregarded when working out the £200,000 cap. A standard interest rate is used to determine the interest that can be paid. This is currently 2.09%.

Periods of entitlement to contribution-based JSA, contributory ESA or income support immediately preceding the award of UC can also count towards the waiting period. However, there are no linking rules for housing costs so a new waiting period has to be served where entitlement to housing costs has ceased for any reason.

Unlike the current rules, there is no restriction on taking out a loan while on UC, and no termination of entitlement such as there is for jobseekers after 104 weeks.

No mortgage costs can be paid if the claimant has any earned income but owner occupiers will be allowed the maximum earnings disregard of the work allowance (page 44).

Renters

Most of the rules relating to the local housing allowance (LHA) are imported into UC to determine a claimant's maximum housing costs element, including the size criteria and LHA caps. The shared accommodation rate applies to most single claimants under 35. Tenants in social housing are also subject to the bedroom tax.

In the majority of cases, DWP will pay eligible housing costs directly to the claimant as part of their single UC benefit payment. However, alternative payment arrangements can be requested by either the tenant and landlord.

If claimant lives in the following **'specified accommodation'** housing support will continue to be paid by housing benefit rather than universal credit and can be paid direct to the landlord:

- supported exempt accommodation, i.e. accommodation provided by a county council, housing association, registered charity or voluntary organisation where that body, or a person acting on their behalf, provides the claimant with care, support or supervision

- supported housing where the landlord is one of the above and the care, support or supervision is provided by a third party

- domestic violence refuges, including refuges where the landlord is a local housing authority

- housing authority non self-contained accommodation (e.g. hostels) where the tenant receives care support or supervision

Claimants living in supported exempt accommodation are not affected by either the benefit cap or the social sector rent restrictions. However claimants living in the other three categories of specified accommodation are exempt from the benefit cap but NOT the rent restrictions.

There is currently no provision within the UC regulations to allow for payments of “use and occupation” or “mesne profits”. These might apply where someone is a former tenant in the process of being evicted or has no right to succeed to a tenancy.

People in custody

Prisoners (either on remand of sentenced) cannot get universal credit for their living costs, but can get the housing element for up to 6 months where the remand or sentence is not likely to exceed 6 months and they were already getting UC that included the housing element before they went to prison.

Housing costs contribution

A standard reduction of £75.53 a month will be applied for each non-dependant in a renter’s household, such as an adult son or daughter. This is called a housing costs contribution. No deduction will be made if the claimant or their partner:

- is registered blind
- receives middle or high rate DLA care component
- receives attendance allowance
- receives either of the daily living components of PIP

No deduction will be made if the non dependant is:

- under 21
- responsible for a child under 5
- getting state pension credit
- getting middle or high rate DLA care component, attendance allowance or either of the daily living components of PIP
- getting carer's allowance
- a prisoner on temporary release
- an adult child in the armed forces or reservists while deployed on operations

There is no housing costs contribution for owner occupiers with non-dependants.

Housing costs on more than one home

The housing element can be paid on more than one home in the following circumstances:

- for one month, where a move is delayed because adaptations are being made to meet the disablement needs of a person in receipt of DLA mid or highest care component, the daily living component of PIP or attendance allowance.
- for up to 12 months, where the liabilities have arisen because of a reasonable fear of violence in the accommodation normally occupied as the home.
- Indefinitely, where the claimant and family have been housed in more than one property by a social housing provider due to the number of people in the claimant's family

Housing costs before moving in to new home

If the claimant has moved into new accommodation they are treated as occupying it for up to one month before they moved in if:

- there was a delay in order for the accommodation to be adapted to meet the disability needs of a person getting DLA mid or highest care component, PIP daily living component or attendance allowance or
- they became liable whilst living in a care home or hospital.

Housing Costs Run On

Where a claimant is being transferred from HB to UC then from April 2018 they will continue to receive their award of HB for two weeks from the date of the UC claim. This will not be recoverable and is designed to cover previous gaps which had occurred as a result of change of benefit.

Capital in UC

Claimants with more than £16,000 in savings will not be eligible for UC. For couples this is £16,000 between them, not individually. Tariff income will apply on savings between £6,000 and £16,000, reducing the UC award by £4.35 per month income for every £250 or part thereof.

All the current rules about capital from the current legacy benefits (such as disregarded capital, deprivation of capital and notional capital) are likely to be imported into UC.

At the moment, tax credits do not have a capital limit, they are assessed using the income derived from savings rather than the savings themselves. Therefore some people currently entitled to tax credits may not be entitled to UC.

Income

Income is assessed on a monthly basis and taken into account in the assessment period in which it is received. A couple's joint income counts.

Unearned income

The following count as unearned income and reduces UC penny for penny:

- contribution-based JSA, contributory ESA, carer's allowance, bereavement and widows payments, maternity allowance, industrial injuries benefits
- retirement, occupational and private pensions
- annuities and trust payments (unless compensation for personal injury)
- spousal maintenance under a court order or agreement
- student grants and available loans (after disregards)
- tariff income from capital
- other taxable income

Other income is ignored, including disability living allowance, personal independence payments, child benefit, child maintenance, personal injury payments, volunteer expenses and most income from letting rooms in the home.

Earned income

Earnings of employed and self employed claimants will be assessed on a monthly basis net of tax, national insurance contributions and 100% of pension contributions.

Universal credit is reduced by 63% of net earnings (the taper) after certain disregards, called work allowances, have been applied (see page 44). Statutory sick pay, statutory maternity pay, statutory adoption pay and statutory paternity pay count as earnings.

Earnings from employed workers are reported through 'real-time information' (RTI) provided by HM Revenue and Customs. However, claimants need to declare any earnings which are not reported this way, such as earnings from self-employment, casual work or if the employer fails to notify HMRC. Under universal credit those people who are self employed are subject to closer scrutiny to ensure that their work is genuine and meets certain conditions.

Minimum income floor

Self employed people are allowed 12 months to start up their business. Once this 12 month period is over, they are expected to earn at least a certain threshold. For most people this threshold is 35 hours per week (but could be less based upon circumstances e.g. 16 hours for single parents) multiplied by the amount of the national minimum wage. If they do not earn this level, they are still treated as if they do e.g. their income will be 35 (or relevant amount of hours) x minimum wage or actual income whichever is higher.

So a single person aged 30, no disabilities or children etc. would be expected to work 35 hours per week so their minimum income floor would be 35 x £8.91 = £311.85 per week. For a couple this could be up to 70 hours per week at the minimum wage.

Minimum Income Floor and Covid-19 – This has been suspended until 1st July 2021 and the actual earnings will be used for this period.

Self-Employment Income Support Scheme – Any payments from this scheme for the self-employed will be treated as income for the purposes of Universal Credit, Working Tax Credit and Self-Assessment. Here are the grant schemes so far:

> First grant – This was 80% of the average monthly trading profits, paid in one instalment and capped at £7,500 and applications closed on 13-07-2020.
>
> Second grant – This was 70% of the average monthly trading profits, paid in one instalment, capped at £6,570 and applications closed on 19-10-2020.
>
> Third grant – This was 80% of the average monthly trading profits, paid in one instalment, capped at £7,500 and applications closed on 29-01-2021.
>
> Fourth grant – This was 80% of the average monthly trading profits, paid in one instalment, capped at £7,500 and applications closed on 01-06-2021.
>
> Fifth grant – This is 80% of the average monthly trading profits if turnover is reduced by 30% or more and capped at £7,500 but only 30% if turnover is reduced by less and then capped at £2,850. The is due to go live in late July 2021.

Work allowances

A monthly earnings disregard, called a 'work allowance', is applied to earned income according to the circumstances as outlined in the box below. The maximum work allowance applies to claimants who are owner occupiers or have no liability for rent and the minimum one for those with rental costs.

	Minimum disregard	**Maximum disregard**
Single or couple without child	£0	£0
Single/couple with child	£293	£515
Limited capability for work	£293	£515

Only one work allowance applies for each household so if the household qualifies for more than one disregard, the most generous is applied.

Repeat claims within 6 months (surplus income rule)

Where someone's income increases so as to reduce their UC entitlement to zero, their claim will be kept open for a further 6 months. If their income reduces to such a point that they then become entitled to UC again, it will automatically restart. The DWP should be able to identify this without the claimant needing to reclaim by using HMRC real time information (RTI).

However if during that 26 weeks the claimant becomes entitled to UC again, any "surplus earnings" they have earned over that 26 weeks can continue to reduce or extinguish their entitlement to UC.

A claimant's surplus earnings are any monthly earnings that would reduce their UC entitlement to zero plus a de minimis figure of £2,500 (£300 from April 2020). What this means in practice is that if the claimant was entitled to UC again in month 4 then any surplus earnings from month 1, 2 and 3 are treated as their income in month 4 onwards until they are down to zero.

Worked examples can be found here https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/407123/print-universal-credit-surpluses-and-self-employed-losses-ssac-report.PDF

Benefit cap

Most benefits will be included in a benefit cap which places a maximum on the total amount of benefit that can be paid to a working-age household. The amount of the cap is currently:

- £1916 if they are a couple or have children and live in London
- £1452 if they are a couple or have children and live outside London
- £1283 if they are a single person and live in London
- £1118 if they are a single person and live outside London

The benefits subject to the cap includes universal credit (including housing costs) as well as most others, like jobseeker's allowance, employment and support allowance, bereavement and widow's allowances, maternity allowance, carer's allowance, child benefit and guardian's allowance.

The following benefits will **not** be included when working out the total amount of benefits:

- bereavement payments
- council tax support
- discretionary housing payments
- housing payments for those in 'specified accommodation' (see p.14)
- social fund payments or the replacement local welfare assistance – all one-off payments:

- budgeting advances
- cold weather payments
- funeral payments
- sure start maternity grants
- payments from social services such as fostering or adoption allowances, special guardianship and residence order allowances
- statutory adoption pay
- statutory maternity/paternity pay
- statutory sick pay

Childcare costs are also excluded from the cap.

The cap will be applied by reducing the universal credit award. However, it will not apply to those who:

- are getting a war pension, DLA, PIP, attendance allowance or industrial injuries benefit; or
- have a child who gets DLA or PIP; or
- are assessed as having limited capability for work and work related activity (equivalent to ESA support group)
- are in a household where someone works and there are net wages of at least £520 a month after tax and national insurance.

There will also be a ‘grace period’ new claims where there were earnings of at least £604 a month in each of the previous 12 months. In these circumstances the cap won’t be applied for nine months.

Those affected by the benefit cap may be able to get additional help through a discretionary housing payment. These are paid by the local housing benefit authority and claimants must have rental liability in order to qualify for one.

Universal credit calculation

The basic calculation is as follows:

Step 1: calculate maximum universal credit award amount. This is the total of all the UC allowances and elements that apply

Step 2a: calculate the income that affects entitlement.

Firstly work out earnings. Remember to disregard the relevant work allowance and then work out 65% of what is left.

Step 2b: calculate the income that affects entitlement.

Work out the unearned income

Step 3: Max elements minus income = UC entitlement but check for benefit cap

Example 1

A single person aged 25 with a disability. Currently receives £680.98 per month contributory ESA (including Limited capability for work and work-related activity component) and standard rate care element of PIP. They have no other income or savings. They live in a 1 bedroom council flat paying an eligible rent of £500 per month.

Step 1: calculate maximum Universal Credit

Standard allowance	£411.51
LCWWRA element	£343.63
Housing costs	£500.00
Maximum UC	£1,255.14

Step 2: calculate income

No earned income	£0.00
ESA	£686.53
PIP is disregarded	£0.00
No savings to take into account	£0.00
Income	£686.53

Step 3: work out UC entitlement ie UC elements minus income

Max UC £1,251.81 minus £686.53 = £568.61

Step 4: check for benefit cap

Benefit cap not applicable as receives PIP.

UC = £568.61 pcm

plus £686.53 ESA (which would be paid every 2 weeks at £316.86)

plus £240.00 PIP (every 4 weeks)

Example 2

A lone parent with one child born in 2014. The parent works 10 hours per week earning £500 net per month, has savings of £7,000 and eligible rent is £600 a month.

Step 1: calculate maximum Universal Credit

Standard allowance	£411.51
Child element	£282.50
Housing element	£600.00
Maximum UC:	£1,294.01

Step 2: calculate income

Earned income	£500.00
Work allowance	-£293.00
Sub total	£207.00
63% of excess earned income	£130.41
Capital tariff income	-£17.40 (4 x £4.35)
Total income:	£147.81 (£130.41 + £17.40)

Step 3: work out UC entitlement i.e. UC elements minus income

Max UC £1,294.01 – income £147.81 = **£1,146.20**

Step 4: check for benefit cap

UC level is under the cap

UC = £1,146.20 pcm

plus child benefit (every 4 weeks)

Alternative payment arrangements

‘Alternative payment arrangements’ (APA) can be put in place where the DWP decide that these are needed. These could be direct payments to landlords (to safeguard the home), payments made weekly or 2 weekly for those struggling to budget with monthly payments, or split payments to couples (to prevent financial abuse). When the claim for UC is made, the DWP will consider whether a claimant needs additional financial support with budgeting, which may include putting in place an alternative payment arrangement where significant support needs are identified. However they will not be available through choice alone. The type of situation where alternative payment arrangements may be agreed include rent arrears, severe debt problems, addiction problems, learning difficulties, mental health problems, homelessness and domestic violence.

Following pressure from social landlords DWP have now agreed that direct payments to social landlords may also be available from the start of a claim, for example, where a tenant is already in rent arrears. A rent arrears hotline and emergency email address have also been set up for social landlords to use when a tenant builds up one month’s arrears. At this point the DWP can offer the claimant budgeting support and may decide to pay the rent directly to the landlord. Arrears of two months’ rent will trigger an alternative payment arrangement to allow direct payments to the landlord.

Private landlords can also request an Alternative Payment Arrangement where they can show that the rent is more than 2 months in arrears or the tenant is consistently underpaying their rent leading to arrears of at least one month’s rent.

Changes in circumstance

Where a change in circumstance occurs and is reported in the same assessment period as which it occurs then the change will be backdated to the start of the assessment period in which it occurred.

Where a change in circumstance occurs and is reported in the next assessment period (or later) then if it is a beneficial change it will be backdated to the start of the assessment period in which it occurred. If it is a unbeneficial change then it will be backdated to the beginning of the assessment period in which the change happened.

Example 1

Janine’s assessment period runs from the first of the month to the end of the month. On 15 October, she has a child. She contacts the DWP on 17 October to tell them. Her UC is increased from 1 October because the change occurred in October and she told them in October.

If Janine had not reported the change until the 17 November then her UC would have increased from 1 November only (the month in which she reported the beneficial change).

Example 2

Nazir's assessment period runs from the 15th of the month to the 14th of the next month. On 23rd October he moves out of his rented accommodation and back home with his parents. He does not tell the DWP about the change until 1 December. As the change is an unbeneficial change (the removal of the housing element) it takes effect from the 15th October – the month in which it occurred.

Changes will eventually be reported online but, for the time being, should be reported by calling the universal credit helpline on 0345 600 0723.

Information on earnings from employees will be automatically forwarded to the DWP from a 'real-time' information system operated by HMRC.

All overpayments are recoverable with a code of practice on 'official error' overpayments. A £50 civil penalty will apply if a claimant negligently makes an incorrect statement, or fails to report relevant changes in circumstance with no reasonable excuse, and is overpaid more than £65.

Advance payments

Within universal credit there will be four different types of advances available:

UC advance (benefit transfer)

When a claimant migrates to UC there is likely to be a gap in provision between a claimant receiving their final payment of an existing benefit and receiving their first UC payment.

To cover this transition a UC advance will be available to migrating claimants to cover the initial shortfall in income and to prevent hardship.

The UC advance will be paid at 100% of the claimant's expected UC entitlement and be recovered in equal instalments over 12 months from deductions in the claimant's monthly award, or faster if the claimant wishes. These advances are only an interim measure and will be phased out once all existing benefit claimants have been migrated over to UC.

UC advance (new claimant)

UC advances (new claimant) replace interim payments and social fund crisis loan alignment payments for new claimants of UC who are experiencing hardship while waiting for their first benefit payment.

These advances will only be paid in cases of genuine financial need to claimants without access to other funds or means of support. The maximum advance will be 50% of the total indicative monthly award before the claimant's payday and recovered over a maximum of 24 months. In exceptional circumstances the DWP can give the claimant three months grace before recovery starts. 100% will be paid if the pay day has passed but the UC award has not been paid. In these cases the full amount will be recovered immediately from the award payment.

UC advance (change of circumstances)

UC advance (change of circumstances) can be made when the claimant has a change which will increase their award (such as a new baby) and cannot wait until the next payday to receive the increased amount. The maximum advance paid will be 50% of the increase in the award and recovered over a maximum of six months. In exceptional circumstances recovery can be deferred for three months.

Budgeting advances

Budgeting advances have replaced social fund budgeting loans for eligible UC claimants.

The minimum amount for a budgeting advance will be £100. The maximum amounts will be:

- £348 for a single person, no children
- £464 for a couple, no children
- £812 for households with any dependent children

Claimants can only have one budgeting advance at a time and claimants will be required to pay it back over 12 months, although this can be extended to18 months in exceptional circumstances. Unless the payment is for work expenses, claimants must have claimed UC (or a combination of UC and IS, IRESA, IBJSA or PC) for at least six months to qualify and must not have earned more than £3,600 for a couple/£2,600 for a single person (net) in the previous six months. Any capital over £1,000 will reduce the amount of the budgeting advance. Advances can be requested by calling the universal credit helpline.

Transitional Protection

Transitional protection will apply to some claimants who move on to UC. Claimants transferred onto UC through the 'managed migration' process will receive transitional protection if the award of UC is less than the benefits they were previously getting. This tops up the award of UC to the same amount they were getting under the legacy benefits. However, this will reduce as other UC elements rise and will end on specified changes in circumstance.

Transitional protection will end if any of the following happen:

- a partner leaves/joins the household

- there is a sustained (3 month) earnings drop beneath the level of work that is expected of them according to their claimant commitment
- the UC award ends
- one (or both) members of the household stop work.

Transitional protection will only be given to claimants who are transferred onto UC via the DWP's managed migration programme, and not to those transferring after a change of circumstances.

Claimant commitment

Entitlement to UC will be subject to a tough regime of 'personalised' conditionality, backed by increased benefit sanctions.

The claimant commitment is at the heart of the new conditionality regime. It is a written record of the responsibilities claimants will need to undertake in order to receive UC. It will include details of:

- the work related requirements the claimant has to undertake
- the amount and duration of benefit sanctions if the requirements are not met
- the duty to notify changes in circumstances and correct information to avoid recoverable overpayments and prosecution

Some people will be able to claim UC without signing a claimant commitment if the DWP considers that they lack capacity to accept one or if there are exceptional circumstances which would make it unreasonable, for example, if the claimant is likely to be in hospital for weeks.

The claimant commitment can be reviewed and updated and a claimant can request this.

Work related requirements

There are four types of work related requirements that usually must be met:

- **participating in work focused interviews -** to assess work prospects and identify activities, training or work opportunities to enhance the claimant's job prospects

- **work preparation -** this is specified activity aimed at increasing the likelihood of obtaining paid work (or more or better paid work) including attending skills assessments, participating in training, work experience, a work placement or employment programme, drawing up a business plan and 'improving personal presentation'. A work placement will include Mandatory Work Activity for jobseekers comprising four week's unpaid work.

- **work search -** this is all reasonable action and specified activity to obtain paid work (or more or better paid work) including looking and applying for jobs and registering with employment agencies. The default requirement will be that claimants must treat looking for work as their full-time job.

- **work availability -** this is a declared ability and willingness to immediately take up paid work (or more or better paid work).

Some claimants who are in work may also have to meet work-related requirements. People will be allowed to do voluntary work but only for a maximum of half the hours they are expected to look for work in a week.

Conditionality

All UC claimants will be placed in a conditionality group. There will be four groups. Claimants may move into different groups as their circumstances change. Partners in couples may be placed in different groups.

Group 1: No work-related requirements

The following groups of claimants will not be subject to any work-related requirements (but will still have to sign the claimant commitment which will set out their responsibilities, e.g. to report changes of circumstances):

- claimants with limited capability for work-related activity (i.e. claimants currently in the support group for ESA)
- claimants with regular and substantial caring responsibilities (at least 35 hours a week) for a severely disabled person
- lone parents with a child aged under 1
- nominated parent in a couple with a child under 1
- nominated foster parent with child under one
- claimants from week 29 of pregnancy to 15 weeks after the birth
- nominated adopter, for 52 weeks from the date of adoption
- claimants above the qualifying age for state pension credit
- students with student income, or under 21 in non-advanced education without parental support
- recent victims of domestic violence, for up to 13 weeks or 26 weeks where the claimant is the primary carer of a child
- claimants who work and are earning above their individual ‘earnings threshold’

There is also a one-month suspension for work-related requirements where there is a need to provide additional care and support to a child following either the death of a parent, sibling, previous responsible carer of a child or a person living in the same household as the child, or the child experiencing or witnessing violence or abuse. The responsible carer can access this one-month suspension once every six months for a total period up to two years.

Group 2: Work focused interviews only

The following claimants will be required to attend work focused interviews only:

- lone parents or the nominated carer in a couple responsible for a child aged one or two
- lead foster parent of a child aged 1 - 16 or qualifying young person with care needs which would make it unreasonable to require the claimant to comply with either the work search or work availability requirement. In exceptional circumstances, where a foster chid has needs that require full-time care by two adults, then both members of the fostering couple will only be required to participate in work-focused interviews
- where one of the above applied within the last eight weeks and the carer expects to resume being a foster parent
- 'friend or family' (kinship) carers for first year after child enters the household

Claimants in this group earning the equivalent of 16 hours pw at national minimum wage will not have to attend work focused interviews.

Group 3: Work preparation only

- claimants with limited capability for work (but not limited capability for work related activity) will fall into this group. Like those currently in the ESA work related activity group, they must take action to prepare for work. However they cannot be required to look for, or take up, a job. They are also exempt from the compulsory Mandatory Work Activity (four weeks unpaid work).
- lone parents or the nominated carer in a couple responsible for a child aged three or four

Claimants in this group earning the equivalent of 16 hours pw at national minimum wage will not have to meet the requirements.

Group 4: All work-related requirements

All other claimants will be subject to full work-related requirements, including attending work focused interviews, work preparation, work search and work availability. This will apply to jobseekers, claimants with a youngest child aged at least five and claimants who are working but whose earnings are under their 'earnings conditionality threshold'. Claimants awaiting a work capability assessment will also be placed in this group.

Claimants will usually be expected to look for full time work of 35 hours a week. However, as now, certain people will be allowed to restrict their work search and availability in certain specified circumstances:

- claimants who are the responsible carer of a child aged 4 – 13 (can restrict their work search and availability to fit in with school hours)

- claimants with caring responsibilities as a parent/adoptive parent/carer for a disabled person
- claimants with a long term physical or mental health condition affecting their ability to do 35 hours per week

Claimants previously employed with 'a good work history' can be allowed up to three months to look for similar employment/pay. Jobs that involve less than 90 minutes travel time from home will be considered reasonable.

Earnings conditionality threshold

Universal credit introduces a new concept of 'in-work' conditionality i.e. a requirement to prepare, look and be available, for more or better-paid work. Claimants with sufficient weekly earnings will not have any work-related requirements imposed on them.

A claimant's individual earnings threshold is worked out by multiplying the amount they would earn at the hourly rate of the national minimum wage by the relevant number of hours that applies to them. Conditionality will apply to claimants whose gross earnings are below this threshold. The default threshold is the weekly national minimum wage for a 35-hour week (e.g. for workers aged 25 or over, 35 x £8.91 = £311.85 per week). This is a maximum figure and can be adjusted to take into account caring responsibilities or health conditions.

For people subject to work preparation and/or work-focused interviews only, the threshold is based on a 16-hour week.

Joint claimants will need to combine the individual earnings threshold for each claimant to derive the joint earnings threshold. If the household earnings are above that threshold -then both claimants, regardless of what they individually earn, will not be subject to work-related requirements. If household earnings are below the joint threshold – the DWP will look at the earnings of each claimant to assess whether they earn above or below their individual threshold and apply conditionality accordingly.

Universal Credit Sanctions

Universal credit is subject to sanctions, involving the loss of benefit, for failure to comply with conditionality.

There are higher, medium, lower and lowest level sanctions, depending on the claimant's conditionality group.

Where claimants incur more than one sanction, they run end to end, rather than concurrently and resume on a reclaim for UC.

Most sanctions result in a loss of the standard allowance - £10.40 per day for claimants aged 25 and over (i.e. standard allowance multiplied by 12, divided by 365 & rounded down to nearest 10p). If only one member of a couple is sanctioned, then half of the couple rate standard allowance is sanctioned.

A sanction stops once a claimant has been working and earning at least the amount of their individual earnings threshold for 26 weeks or is assessed as having LCWWRA.

If the UC award terminates where there is an outstanding sanction, this period continues so, if the claimant is entitled to a new award before the period expires, the reduction continues to be applied for the remainder of the outstanding period.

Higher level sanction

These will apply to claimants subject to all work related requirements (Group 4) who, for no good reason, fail to undertake Mandatory Work Activity, apply for a particular vacancy or take up an offer of paid work.

They will also apply to claimants who cease working or fall below their conditionality threshold 'voluntarily' without good reason or because of misconduct.

The sanction periods are less severe for 16 and 17 year olds but if the claimant is 18 years or over on the date of failure they will be sanctioned for:

- 91 days for the first failure
- 182 days for the second failure, if it occurs within 365 days of previous failure
- 1095 days for a third or subsequent failure within 365 days of a 182 day or 1095 day sanction.

Medium level sanctions

Medium-level sanctions may be imposed on claimants subject to all work-related requirements (Group 4) who, for no good reason, fail to meet other important labour market requirements for that conditionality group: i.e. to take all reasonable work search action; to be able and willing to take up work immediately (or more paid work or better paid work).

The sanction periods are less severe for 16 and 17 year olds, but, if the claimant is 18 years or over on the date of failure, they will be sanctioned for:

- 28 days for the first failure
- 91 days for another failure if it occurs within 365 days of a previous failure.

Low level sanctions

Low level sanctions may be imposed on claimants in the work preparation conditionality group 3, as well as those subject to all work-related requirements (group 4). Failures at this sanction level include not complying with a work focused interview requirement or failures to comply with a work preparation requirement to take a particular action or to comply with a requirement to come for an interview or provide information. They also include failure to report a change that is relevant to whether work-related requirements can be imposed on them or to their compliance with a work-related requirement, for example, if they lost their job or lost pay.

The sanction periods are less severe for 16 and 17 year olds, but, if the claimant is 18 years or over on the date of failure, the sanction will be the loss of the standard allowance until the requirement is met plus:

- a further fixed period sanction of 7 days for a first failure
- 14 days for a second failure within 365 days of the first failure
- 28 days for a third or subsequent failure if it occurs within 365 days of a 14 or 28 day sanction.

Lowest level sanctions

Claimants who are required to attend work focused interviews (group 2) only and fail to do so, for no good reason, will lose 40% of their standard allowance until the day before the claimant meets the requirement. They may satisfy this just by agreeing to attend a WFI at a specified time and date.

Safeguards for sanctions will include that requirements must be reasonable taking into account health, caring responsibilities etc, that claimants may show good reason for non compliance and that claimants with LCW and a stated mental health condition will be visited before a sanction is imposed.

16-17 year olds

The sanction is 40% of the standard allowance for:

- Higher level – 14 days for first failure and 28 for subsequent
- Medium level – 7 days for first failure and 14 for subsequent
- Low level – open ended plus a fixed 7 days for a repeat failure within a year

There is no right of appeal against any work requirement direction but there is a right to appeal against the sanction itself, including if there was a ‘good reason’ for not complying with the requirement. A mandatory reconsideration must be requested first.

Good reason

A sanction will be applied unless the claimant can show ‘good reason’ for not complying. Good reason is not defined in law but decision makers should consider whether it was reasonable for the claimant to act as they did.

There are no specified time constraints in UC for a claimant to show good reason for a failure. However, if the claimant is notified by post, guidance states the benchmark should be five working days although this could be less than this if the claimant has been informed by phone, face to face or electronic means. The time limit should be extended where the claimant needs time to gain the evidence or has a reason for not replying (health condition/caring responsibilities).

Hardship payments

Claimants, over 18 years old, subject to 100% sanctions may be able to get a hardship payment where they can show that their ‘immediate and most basic’ essential needs cannot be met due to the sanction being applied. Hardship payments are paid at a daily rate based on 60% of the sanctioned amount and are recoverable from ongoing UC payments at up to 40% of the standard allowance. Recovery is suspended while the claimant is working above their conditionality threshold and any balance will be written off after 26 weeks work above the threshold.

Hardship payments can be requested where claimants have:

- received a sanctioned payment
- met any compliance conditions required of them
- complied with work search & preparation requirements (in previous 7 days)
- made every effort to access alternative sources of support
- stopped incurring expenditure which does not relate to immediate basic & essential needs
- accepted that payments are recoverable.

Claimants must re-apply for a hardship payment each month.

Appeal Process

Claimants will be sent a notice setting out the universal credit ‘outcome decision’ and any award. The majority of decisions will be sent through the UC on-line account. However, those who are unable to use the on-line channel should be able to receive paper copies in the post.

Claimants can ask for a mandatory reconsideration within one month. If still unsatisfied they can ask for an appeal to a First Tier Tribunal within a month of receiving the revised decision. However, they must ask for a reconsideration first. They may be allowed up to 13 months if there are good reasons for the delay.

There is a right of appeal against most UC decisions (including overpayments and sanctions), but not overpayment recovery, the imposition of work-related requirements, a decision to impose the 'minimum income floor' or the benefit cap. There is no provision for payment of disputed elements of UC pending an appeal but undisputed elements should continue to be paid pending a dispute. Therefore someone who fails the work capability assessment will not receive an element for 'limited capability for work' whilst waiting for the appeal but will continue to get the personal allowance and other elements including housing costs.

<u>Backdating</u>

For some benefits the claim can be backdated if the claimant was entitled for a previous period but did not claim earlier. There sometimes also needs to be additional circumstances relating to why the benefit was not claimed earlier.

For income support, JSA and universal credit, **one month backdating** can be awarded where:

The jobcentre was closed or transport difficulties and no alternative was available, DWP phone lines were busy, adverse postal conditions, a previous benefit ended but notification was not received until after it had ended, the claimant stopped being a couple in the "backdate" month, the claim is for JSA by the partner of someone who failed to attend a work focussed interview, a partner, parent, son, daughter, brother or sister died within the month before the claim.

For income support, JSA and universal credit **three-month backdating** can be awarded where:

The claimant was given information by a DWP official that led them to believe the claim would not be successful, they were given written information by a "professional" (e.g. solicitor/CAB adviser) that led them to believe the claim would fail, bad weather prevented attendance at the jobcentre, they have difficulty communicating because of a disability, they were ill or disabled (but not for JSA), they were caring for someone who is ill, they were dealing with a domestic emergency

Disability living allowance, personal independence payment, attendance allowance	No backdating
Income support/jobseeker's allowance/universal credit	One month or three months subject to conditions
Carer's allowance	3 months

Employment and support allowance	3 months
Housing benefit	Up to 3 months for under pension age providing continual good cause shown, up to 1 month for over pension age
State pension	12 months
Pension Credit	3 months
Tax credits	3 months
Child benefit, guardian's allowance, maternity allowance, industrial injuries disablement benefit	3 months
Bereavement benefits	3 months

What is 'good cause'?

A general description of 'good cause' (as given by a tribunal of social security commissioners) is:

"some fact which having regard to all the circumstances (including the claimant's state of health and the information he had received and that which he might have obtained) would probably have caused a reasonable person of his age to act (or fail to act) as the claimant did."

Some factors which may provide 'good cause' are:

- misleading advice received from someone upon whom the claimant was entitled to rely
- a mistaken understanding of rights – including an assumption that no claim is possible where it was reasonable to hold that view
- delay due to factors beyond the claimant's control
- physical or mental ill-health (however a person would be expected to seek advice)
- problems with communication in English/problems with documents/little knowledge of the benefits system (although taken into account, unlikely to be sufficient on its own)

Claimants who have reached women's pension age can have their award backdated for up to three months. They need not show 'continuous good cause', just entitlement.

Changes in circumstances

It is the claimant's responsibility to notify the authority dealing with their benefit claim about any relevant changes in circumstances. Changes in circumstance need to be reported to the office that deals with the claim.

Decisions and Challenges

Once a decision is made about a claim and notified to the claimant, the decision will be final unless changed by a supersession, revision or an appeal.

Supersession **–** If there is a change in circumstances since the decision was made, (or the original decision is wrong) then the claimant can request a supersession. There is no time limit for requesting a supersession although any relevant changes in circumstances should always be notified promptly. Any new decision will be backdated to the date of the supersession request, so any arrears of benefit will be limited.

Revision – A revision is where the decision is revised by the decision maker because it was wrong. A revision can come about because it is requested by the claimant or because an official decision maker believes the original decision was wrong (for example where new information becomes available to them).

There are two types of revisions:

(1) 'any grounds' revisions where the claimant only has to show they disagree with the decision

(2) 'any time' revisions where the claimant must show certain grounds apply.

Any grounds' revisions **–** Must normally be made within the one-month dispute period. Late requests up to an absolute maximum of 13 months may be accepted if the claimant can show that there are special circumstances which meant it was not practicable to request a revision within the one-month time limit.

'Any time' revisions **–** There is no time limit for seeking an 'any time' revision. In practice, if you ask for a revision and it is within one month of you being sent the decision, the Council treats your application as one for an 'any grounds' revision.

The main grounds for an 'any time' revision are where there has been:

- an official error
- a mistake about or ignorance of facts
- an award of a 'qualifying benefit'

- an appeal against a decision

For example, a missed premium on an award may result in an “any time” revision.

If a revision is made, it will take effect from the date of the original decision was made. This could result in an underpayment or overpayment of benefit.

Mandatory reconsideration

A mandatory reconsideration is a request made to the office that made the decision challenging it. It should be done within one month of the date of the decision being challenged. Late requests should be accompanied by an explanation as to why it is late. Requests can be made by phone or by letter setting out why the decision is wrong and providing any supporting evidence.

Upon receipt of the mandatory reconsideration the decision should be looked at again. This could result in a new, changed or upheld decision.

Appeals

If someone is unhappy with the mandatory reconsideration decision they can appeal to an independent tribunal. For some benefits they should still be able to appeal to a tribunal directly without the mandatory reconsideration stage, however most benefit processing places now impose mandatory reconsideration as a step in the challenge process.

A claimant can opt for either a paper or oral hearing. The chances of success are higher at oral hearings. If someone is unhappy with the decision of an appeal tribunal they can appeal the decision further but only on a point of law. Currently hearings can be by video due to covid regulations.

If a decision has no right of appeal then the only remedy for the claimant is to seek a judicial review or complain to the relevant ombudsman.