UNIVERSAL CREDIT – AN INTRODUCTION

HACKNEY COMMUNITY LAW CENTRE

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Universal Credit

Definitions:

Terms	Meaning
Alternative payment arrangements	An alternative way of splitting payments based on discretion. This could include paying directly to a landlord and paid twice monthly.
Assessment period	The whole monthly period on which claimants are assessed for payment. This is different from a calendar month.
Benefits Cap applies – reg. 79(1).	**£1,916.67** for joint claimants or a lone parent caring for a child or qualifying young person **£1,284.17** for a single claimant without responsibility for a child or qualifying young person.
Budgeting advance (also called UC advance)	An advance payment of UC paid as a loan. There is no right of appeal if a request is refused. Claimants would usually need to be in receipt of benefits for at least 6 months.
Claimant commitment	The written agreement drawn up with claimants, that specifies the eligible criteria for retaining their UC payments. This can be altered under agreement with the jobcentre. Failure to comply could lead to sanctions.
Conditionality	Conditions in place to retain benefits.
Earnings threshold i.e. 35 hours x NMW	The minimum amount single/joint claimants can earn before they are free of the requirement to look for (more) work or be available for work. See work availability.
Elements	The different components that count towards a person/ couple's maximum UC award.
Habitually resident	A person from abroad who has met the general residence conditions – i.e. has lived and worked in the UK for at least five years and has shown a settled intention to stay in the UK.
Hardship payments	A loan of UC where a sanction has been applied and the claimant can demonstrate that they face hardship as a consequence.

Housing costs contribution	The amount that non-dependents now contribute towards the costs for where they live.
Income (includes capital).	Relevant net pay from work/ self-employment. Some aspects of income from property as well as savings. Statutory Sick Pay, Statutory Maternity Pay etc. also count as income. Also include ESA (permitted work income).
Maximum universal credit	The full award of eligible UC calculated **before** other income is taken into account.
Minimum income floor	Applies to self-employed people and is an assumed amount based on the National Minimum Wage and reasonable hours of work. There will be more probes to determine if work is genuine and effective.
Real time information	The new system that allows employers to report all income once paid to HMRC. The DWP will use this information to adjust UC awards. Claimants earning income elsewhere, e.g. cash in hand / casual work will be expected to report this to avoid an overpayment.
Sanction	A specified reduction in UC awards where an offence has been committed and/or a claimant/s fail to meet their conditionality or claimant commitment requirements.
Standard allowance	Basic personal allowance for either single or joint claimants. Included in all awards.
Short term advance	An advance of UC paid to a claimant facing hardship whilst awaiting their first award, delay by decision makers or some other reason.
Students (check if exemptions apply to the claimant)	Generally this group does not qualify for UC but, there are exemptions that apply.
Taper	The stipulated reduction applied to the UC award as a person's income increases. Income also includes earnings from capital.
Unearned income – defined in reg. 66 UC Regulations 2013	Income that is not from paid work. This includes some benefits. Student loans and grants are included as well as

	personal injury compensation not put in a trust for example.
Universal job-match	The government website that offers work opportunities for jobseekers. Claimants may be expected to demonstrate that they have consulted the website regularly as part of their claimant commitment.
Waiting days	The usual 7-day period before entitlement to benefit is allowed.
Work allowance (apply disregards). Apply to owner occupiers or renters Max. = £397.00 Min. = £192.00	The amount a claimant can retain before reductions to UC starts. This varies depending on the circumstances. The work allowance is the 'earnings disregard' for IS/HB/ESA/JSA.
Work availability (failure to comply could result in a sanction)	Check claimant commitment. There should be a willingness to accept and take up work immediately if an opportunity arises. Travel could be up to 90 minutes each way from home. Check if exceptions apply.
Work coach	The DWP officer assigned to claimants to ensure that claimant commitments are kept or, adjust them if circumstances change.
Work-focused health-related assessment Claimants getting ESA do not need a separate assessment for UC.	Same as the Work Capability Assessment for ESA. These are subject to review to check continuity of entitlement.
Work-focused interview	Similar to ESA work-focused interview.
Work preparation	Usual preparation to get back into the job market. Could include a work placement or taking up part time work.
Work programme	Work support programmes delivered by external /private contractors approved by the government.
Work-related requirements (sanctions could apply)	Criteria to be met by claimants to continue to get their UC awards.
Work search (sanctions could apply if this not complied with)	A work-related requirement that demonstrates best endeavours to get suitable work.

Universal Credit

What is Universal Credit (UC)?

UC is part of the wider set of changes already introduced to the Welfare Benefit system. UC aims to remove and/or replace some of the previous benefits available in an effort to simplify the current system in place. The main people affected will be those of working age i.e. 16 – 65-year olds. As UC is part of welfare form, it is not going to apply to everyone and so is not really '*universal*' despite its title.

UC is non-contributory based and is means-tested. There are residence requirements and all claimants will have to satisfy the **basic conditions** as well as the **financial conditions** during the time they claim.

N.B. Tax Credits will be replaced – but there will be a transition period when this benefit will continue to apply even where UC is available.

ESA (income-related) and JSA (income-based) will remain.

The legal basis for UC is set out in a number of legislations including the Universal Credit Regulations 2013. Universal Credit was created by the Welfare Reform Act 2012 and many of the important provisions that advisers will have recourse to come from this Act. The UC Regulations come from the Act itself.

The new UC is hopefully going to remove the complexities of a person claiming benefits across different departments, i.e. HMRC, DWP and the local authority all at the same time, reduce the potential for overpayments and the difficulties with revisions/appeals and the long wait of resolving the matter at a Social Security Tribunal – eventually.

PRACTICAL UNIVERSAL CREDIT

Claiming UC

The majority of new claims will be made online www.gov.uk/apply-universal-credit The link takes a new claimant directly to the online claim form. Advisers may want to check out the information available on www.gov.uk/universal-credit/how-to-claim. The site also has a toolkit (not tested). There are on site notes about eligibility and claimants are alerted to the fact that they will need to agree to the 'claimant commitment'. There is a helpline available (0345 600 0723) for claimants who need support or have queries. The call is **not** free. The lines are open from 8.00 a.m. to 6.00 p.m. Monday to Friday.

If claiming online then it will be important to have the following in advance:

- A telephone number;
- National Insurance number/s;
- Details of savings / capital;
- Rent agreement;
- Bank account details;
- Child benefit reference numbers (if applicable);
- Details of any income that is not from work (if applicable);
- Details of other benefit/s (if applicable);

- Details of any childcare provider (if applicable).

An average online application form could take around 45 minutes to complete.

Unable to claim online?

a) Alternatively, a telephone call can be made or;

b) In person, but in exceptional cases only. There are planned closures of many Jobcentres across the country. People in affected areas may find that they are relying on someone else who has a computer or an advice agency (where there could be delays to see an adviser). Consider therefore if a new claimant could ask to backdate their UC claim. **Backdates** are allowed but no longer than a month and only with good reason. See below.

There are no paper forms to claim UC.
Submit the claim form. Once the online form is complete, the computer process gives the claimant an opportunity to review the information they have submitted. It is only after this is checked and the claim is actually 'submitted' that the claim is made.

Following this the claimant/s can expect to hear from the DWP by phone (or email) to confirm next steps – i.e. an appointment to attend the Jobcentre and meet the 'work coach' and sign the 'claimant commitment'.

Assessment period

The **assessment period** is when the new claim starts (excluding the first seven days) and is paid every month in arrears. The first payment is therefore on average 5 weeks after a new claim is made (and there may be delays for documents, technical glitches etc.). Many new claimants on low income may therefore need to apply for an 'advance' depending on the circumstances.

Backdating UC

It is possible to apply for a backdate but, this will be allowed in exceptional circumstances only. Backdates are possible for late claims where a claimant/s are:

- Disabled;
- The new claim is covered by a medical certificate supporting why an earlier claim could not be made; (e.g. was in hospital, recently gave birth etc.)
- Getting either JSA or ESA previously and there was no clear information about the new benefit;
- Genuine problems claiming online (i.e. system not working on the day);
- Disputes between couples which resulted in a claim being turned down or delayed.

Advisers should be very clear why the backdate is needed. Claimants should be advised that backdates will be for a maximum of one month and this will only be in the strongest of cases. Inability to use a computer, general mental health issues or a language barrier on their own may not suffice. As case law develops this advice is likely to change.

How much is UC?

Calculations of UC are in accordance with section 8 Welfare Reform Act 2012. The *maximum amount* of UC is what the law says a claimant should have. A claimant's maximum amount is made up of a series of other parts (where these apply) called 'elements' that are added to make up the maximum amount. The maximum amount is then reduced (where applicable), by factors that apply to the individual calculation. For this reason, advisers will need to be aware of all the relevant circumstances when assisting a claimant in working out their entitlement.

Maximum amount = (standard allowance + all elements that apply) – (amounts to be deducted).

Ideally, the maximum amount includes:

- The standard allowance (based on the personal allowances used for basic IS/IB/assessment rate ESA/JSA;
- Housing costs element;
- Child element/s;
- LCW (ESA if applicable);
- LCWRA (higher than support component ESA at the moment);
- Carer element (if applicable) but not paid together with LCW or LCWRA even if the carer is entitled to it.
- Child care costs element (if applicable)

The childcare costs element is 85% of the fee that the claimant would pay for childcare. The amounts are subject to a maximum payment of £646.35 for one child and £1,108.04 per calendar month for two (or more) children. The benefit cap rule is not applied to the childcare costs element of UC – Regulation 81(1)(b) and (2).

Deductions:

- Claimant/s 'unearned income' – use 100%
- Earned income where there is no LCW or child element – use 63%
- Claimant/s has responsibility for a qualifying child or young person or LCW, then use 63% of income that exceeds the work allowance.

The **benefit cap** applies (where relevant) to income reg. 79(1). For joint claimants or a single claimant responsible for a qualifying young person or child, the amount is £1,916.67 p.c.m.

For a single claimant who is not responsible for a child or qualifying young person, the amount is set at £1,284.17. These figures indicate a significant reduction from the previous cap figures.

There are also **disregards** (see work allowance in the table).

Earned income – defined in Regulation 52 UC regulations 2013. It means

52 "Earned income" means –

(a) the remuneration or profits derived from –
(i) employment under a contract of service or in an office, including elective office,
(ii) a trade, profession or vocation or;
(iii) any other paid work; or

(b) any income treated as earned income in accordance with this Chapter.

For joint claimants, their income is added together. The income is added together even if the claim can only be made as a single person. There are circumstances when this will arise.

UC has brought in a requirement on employers to send their PAYE returns to HMRC every month as part of the Real-Time Information (RTI) system. There will be expectations on employers to report timely, so that UC calculations could be reliably made based on what is reported to HMRC. This should in principle remove (or at least reduce) the possibility of errors in payments being made as well overpayments of UC arising. Whether or not this will happen in reality is unknown at this point.

For self-employed persons, the earnings will be the 'gross profits' taken by the claimant. This is calculated according to regulation 57(3) and should be 'actual receipts, less any deductions for expenses allowed under reg. 58 or 59'. From this, there should be deductions made for income tax as well as Class 2 and 4 NI Contributions actually made to HMRC as well as any relief made for pension contributions.

Self-employed earnings are subject to a 'minimum income floor'.

Unearned income. This defined in Reg. 66(1)(a)-(m) and sets out all the forms of income that will be treated as unearned and includes payments of contributory ESA and contributions-based JSA, maternity allowance, industrial injuries benefit (subject to exceptions), carer's allowance and student income. This list is not exhaustive. Unearned income is reduced pound for pound from the maximum award of UC. **It is not subject to the 63% taper as with earned income**.

Working out the maximum amount of UC.

1. The **standard allowance** is one of the base ingredients and is included in every calculation of the maximum amount of UC. It is based on the personal allowance amount made to individuals each tax year.

2. **Child element** – is allowed for each dependent child or qualifying young person (up to 31st August following the dependant reaching their 16th birthday.) Child element can also be paid up to the age of 19 where the qualifying person is in

non-advanced full time education of more than 12 hours per week or in some approved training scheme).

3. **Disabled child element** – there are two rates payable £126.11 or £367.92 depending on the rate of DLA /PIP the child is in receipt of. The higher rate is paid if a child is registered blind.

4. **Childcare costs element** – can be paid to parent/s in work (or who have an offer of work). The number of hours of work is not important. If the element is claimed by a couple, both parties need to be in work as it would be reasonable to expect the unemployed person to provide childcare. A taper of 85% is applied to the actual costs of the childcare but up to a maximum of £646.35 for a single child and up to £1,108.04 for two or more children. (See the proposed changes below – adviser's notes).

   Claimants receiving Statutory Sick Pay, Maternity Allowance, Statutory Maternity / Paternity Pay, Statutory Shared Parental Pay or Statutory Adoption Pay are deemed to be still in work.

5. **Housing costs element** – this can be included in an award of UC to claimants who are either owner-occupiers or tenants. It can also be awarded to those liable to pay service charges in the space they live. The housing costs element for private tenants will be based on the local housing allowance for their locality.

   For owner-occupiers, the housing costs is to cover mortgage interest and is usually paid directly to the lender. The cap for this category of claimant is set at £200K. The cap will disregard any payments made to adapt the property for disability needs. The waiting period for owner-occupiers has increased from six to nine months. Housing costs can cover interest payments on a loan that is secured on the home occupied by the claimant or the one that they are treated as occupying. This is regardless of the purpose of the loan.

   Tenants renting from the local authority or housing association will have their housing elements set by the rent they pay. Those households that have more bedrooms than needed will see a reduction in their entitlement. This is at the rate of 14% for one bedroom and 25% for two or more bedrooms.

   The housing costs element can assist those with obligations under shared ownership schemes. The element can include payments to both the lender and the landlord as well as service charge payments that need to be met.

   Housing costs cover rent for residential accommodation not business premises. Where a space is used for both work and living, the element could be apportioned if it is clear which part of payment is residential.

   Claimants moving to new accommodation are treated as occupying it up to one month before they actually move in if there were delays in adapting the property for a disabled person who gets AA, DLA mid or highest care or, PIP daily living component.

Note the entitlement rules for 18 – 21 year olds.

The previous non-dependent deductions for Housing Benefit is now changed to **housing costs contributions.** The standard amount, currently set at £70.06 is for the assessment period regardless of the non-dependent's income or their status as a single person or member of a couple.

No deductions are made where:

- The claimant is an owner/occupier;
- Where the UC claimant is certified (by a specialist) as sight impaired or blind;
- The claimant (or their partner) receives AA, highest/middle rate care component of DLA or any level of PIP for daily living
- If the non-dependent receives AA, middle or highest rate care of DLA, daily living component of PIP, receiving carer's allowance
- A prisoner;
- Is under 21
- The non-dependent is responsible for a child under five

This list is not exhaustive.

6. **Carer element** – different and separate from Carer's Allowance (CA). The amount allowed is (£151.89) monthly as part of the maximum amount. This is available to those who provide *'regular and substantial caring responsibilities for a severely disabled person'* – Regulation 29(1).

   'Regular and substantial caring responsibilities' means that the claimant in this case would have qualified for Carer's Allowance – i.e. they provide at least 35 hours care per week or would qualify for CA if their earnings were lower.

   Joint claimants both caring for the same severely disabled person will only have one payment of the element. If both claimants care for two different severely disabled person, then two payments of carer element will be awarded in their maximum amount.

   If a couple both have LCW or LCWRA only one element of carer's element will be paid and the highest element of LCWRA or LCW will be included in the maximum amount awarded.

7. **LCW and LCWRA elements.** Ill or disabled claimants can qualify for additional payments of these elements in their maximum award where applicable. LCW

= £126.11 and those in the support group (i.e. LCWRA) can get £318.76 per month. (PIP / DLA if paid, is disregarded).

The ESA LCW/LCWRA rules have been imported into the UC. Therefore claimants can expect to attend the WCA, complete the ESA 50 questionnaire and provide medical certificates to ensure they comply with the requirements.

LCW
This is no longer paid to new claimants from 3 April 2017. LCWRA is still paid.

To continue to receive LCW a new claimant will have to:

- Have been entitled to LCW as part of UC before 3 April 2017. New claims made before 3 April but only approved after this date will be entitled;
- Have previously been entitled to LCWRA but at a later WCA, be found entitled to LCW only;
- Claimant was previously entitled to ESA before 3 April 2017 and remained entitled on or after 3 April 2017;
- Claimant was initially incorrectly assessed for ESA, before 3 April but a later, correct decision was made on or after 3 April, either at a revision or appeal (including Tribunal). The UC award should be amended to take account of this;
- Claimant does any work that is equal to a specified earnings minimum they may be seen as no longer meeting the requirements for LCW. This minimum is equivalent to 16 hours x NMW. For present purposes, this amount may be £520.00 per month.

For joint claimants where both are ill / disabled, only one element of LCW or LCWRA will apply, depending on which is higher. Nothing prevents the other person in the couple from claiming the carer element if they provide 'regular and substantial' care for the severely disabled person.

New claimants to UC will also have a three month qualifying period before receiving LCWRA. Time spent in the ESA assessment phase counts towards the three month waiting period. Once assessed as having LCWRA, it will be included in the next assessment period. The waiting period is not applied to claimants who are:

- Terminally ill;
- Were previously entitled to LCW immediately before the current UC award and was a member of a couple or became a member of a couple;

- Previously entitled to LCW but lost their entitlement up to six months earlier because their income was too high;

- Upgraded from LCW to LCWRA on an assessment for WCA.

- Previously entitled to ESA with the support component.

THE CLAIMANT COMMITMENT

The Claimant Commitment is a record of the agreement made by the claimant/s to ensure they remain entitled to receive their UC award. It is usually mandatory requirement unless the DWP decides otherwise. The claimant commitment will be at the core of the conditionality regime once UC is approved. Claimant/s who fail or breach their agreement are likely to face reductions or withdrawal of their awards, otherwise known as sanctions.

There are usually **time limits** within which a claimant commitment should be accepted. Usually for most claimants this will be at the start of their assessment period.
Claimants can also have a say in placing limitations on some of the work they may be offered – e.g. if a work placement may be offensive to a particular religious belief or the type of work is clearly unsuitable. Limitations could also extend to rates of pay or hours of work where the work coach is in agreement. Again, this area is likely to be the backbone of a substantive amount of appeals.

Not all claimants will be asked to agree a claimant commitment. Exceptions to this can arise where:

1 a claimant lacks enough capacity to accept one;
2 any other circumstance in which it would be unreasonable to accept the commitment.

Under <u>ss. 14(3) and (4) Welfare Reform Act 2012</u>, the DWP have discretion as to the form and content of the claimant commitment. It will usually be agreed with the claimant and their work coach (an officer at the Jobcentre) what the agreement will contain. The work coach remains at liberty to update the commitment as s/he thinks fit. The claimant can also request a review.

For joint claimants where one party does not agree to the claimant commitment, UC will not be paid.

For able bodied claimants, there will be four types of work-related requirements that are expected to be met most of the time:

1 Attending work-focused interviews;

2 Work preparation – specified directed activity aimed at enhancing the chances of finding work (additional work) or better paid work. This could extend to interview / cv preparation, further training or attending work placements;

3 Work search – this may be directed by the work coach with set targets. Again, the focus will be on ensuring the claimant is doing as much as they possibly can to get paid work – better paid work or additional work.

4 Work availability – this area is likely to be the mainstay of appeals. The claimant will be expected to accept that they will commit to take up paid work (or better paid work) immediately.

The claimant commitment is likely to get in the way of many people who opt to study part time or do voluntary work to enhance their prospects of success in a particular field. There will also be lone parents and couples caught up with obligations to children and their partners where one member of the couple breaches their part of the claimant commitment.

In addition to the claimant commitment, claimants will be placed in any one of four conditionality groups. The allocated group could change depending on an individual's circumstances. Partners could end up in different groups at the same time.

NO WORK-RELATED REQUIREMENTS.

Those in this group of claimants are generally those who are deemed to be exempt from the need to look for any or better paid work. They are still expected to report changes in circumstances. The long lists includes:

- Those with LCWRA;
- Claimants with regular and substantial caring responsibilities of at least 35 hours a week;
- Lone parents with children aged under one;
- Claimants who work and are earning above their individual 'earnings threshold'.

This list is not complete. There are others who would qualify.

WORK FOCUSED INTERVIEWS ONLY

- Lone parents or nominated carer in a couple who is responsible for a child aged one or two
- Lead foster parent of a child 1 – 16. If foster child has particular support needs due to emotional trauma then work search could be restricted.

List not complete.

If the claimant already earns at least 16 hours pay per week at NMW rate, there may be no need to attend the work focused interviews.

WORK PREPRATION ONLY

- Attendees may be those already entitled to LCW (paid or unpaid). The claimants in this group cannot be expected to take up work. The point is that they are to be seen as taking steps to re-enter the world of work.

ALL WORK RELATED REQUIREMENTS

This is likely to be the largest group of applicants. This group will be expected to meet all the work-related requirements in an average claimant commitment record. Decisions against being placed in this group are also to form the bulk of an adviser's work at some stage. Some of those placed here will be people who failed (marginally), the WCA requirements and will only be in this group as a last resort or to maintain essential other payments to protect their homes etc.
Other claimants are likely to include:

- Claimant/s responsible for children aged 4 – 13 who may want to restrict their availability due to school runs / caring for elderly, ill parents / partners;
- Claimants unable to manage up 35 hours a week;
- Claimants awaiting or appealing a WCA decision

<u>All work-related requirements are suspended for 13 consecutive weeks where a claimant notifies the DWP that they have been a victim of or threatened with domestic violence from a partner, former partner or their family and certain conditions are met</u>.

EARNINGS THRESHOLD

For UC claimants already in work, there may be further conditions (or conditionality requirements) that have to be met. This could include willingness to look for better paid work or prepare adequately to find better paid work. However in some cases, some claimants are outside this requirement.

1 Those with sufficient earnings;

2 Claimants with a good work history may be allowed up to three months to look for similar work or pay before further requirements are placed on them. Commuting as much as 90 minutes one way may also be seen as reasonable.

The actual earnings threshold is the minimum amount a claimant is expected to earn before they are released from any restrictions under the work-related requirements conditions. This is usually 35 hours x £7.50 (NMW) = £262.50. This is the default threshold.

The earnings threshold is variable, depending on the claimant and their particular circumstances. Some persons may only need to work 16 hours x NMW in order to qualify.

There will be a different calculation for joint claimants as they will need to combine their separate incomes. If both combined incomes surpass the joint threshold then the couple is exempt from the requirements regardless of what they earn individually.

There is likely to be an intensive requirement on 18 – 24 year olds who are not in work, education or training before they are deemed eligible for UC.

Sanctions – Reg. 100 Universal Credit Regs. 2013

Failure to comply with the requirements for UC can lead to a reduction (or nil) rate of benefit. There are different levels of sanctions and these can be applied depending on whether the failure to comply with a requirement is a first, second or third failure. The lengths of time a sanction/s lasts or the 'sanctionable periods' are set out in the regulations at 101 – 105.

Sanction	Applies to	First failure	Second failure	Third failure
Higher level	**Group 4** – claimants subject to all work-related requirements	91 days	182 days	1095 days i. e. 3 years.
Medium level	**Group 4** Claimants subject to all work-related requirements	28 days	91 days	91 days
Low level	**Group 3 and 4** claimants. Those required to comply with work-related requirement and those in work	Ongoing until claimant contacts Jobcentre 7 days	Ongoing until claimant engages with Jobcentre 14 days	Ongoing until claimant engages with Jobcentre 28 days

	preparation group.			
Lowest level	**Group 2** Claimant required to attend work-focused interviews only.	Sanction remains open until claimant re-engages with the Jobcentre – 40% loss of standard allowance until then.		

When could a sanctionable failure arise?

A failure to comply with the conditionality requirements where these arise. **Note**, this is another area that is ripe for appeals and friction between the DWP and claimants.

Higher level sanctions are likely to apply where there is a failure to comply with work-related requirements and there is no good reason for the failure. This is most likely to apply to claimants with full work-related requirements who simply fail to attend a work placement, or apply for jobs available to them. This will also apply to those who left work voluntarily or is likely to apply to those who lost their roles due to their own fault. How is this likely to affect those people who were constructively dismissed or dismissed by poor quality employers?
Medium level – the sanction will be either 28 or 91 days and could be for failing to meet targets for applying for roles, or better paid work. A failure to be available to take up work immediately could also be a factor. Consider claimants who may have good reasons for delaying in accepting a role due to ongoing caring responsibilities or wanting to finish a course of study / programme.

The amount of the reduction conforms to a formula. This varies depending on the benefit that is being reduced. For UC purposes, there will be a set daily rate that will be used for working out the reductions.

For UC purposes, a sanction will take effect from the first day of the assessment period in which the decision was made. If this is not possible then it will be applied from the first day of the next assessment period. If there is a previous sanction already in place, then the subsequent sanction will start once the previous sanction period has expired. Where a claimant breaks their sanction by taking paid work or, giving up UC altogether, the sanction resumes when the claimant reclaims UC.

Low level sanctions are more likely to be applied to claimants in the work-preparation or work those who are to comply with all work-related requirements. The usual problems will be that the claimant failed to comply with a work preparation requirement, failure to provide further information or attend an interview when scheduled to do so. Remember that some of these claimants may be people with irregular health concerns which could coincide with a scheduled date for an interview.

The time lags are 7, 14 or 28 days depending on whether the offence is a first, second or third failure within a 365 day period.

This will also be the most likely sanction for 16 / 17 year olds.

Lowest level sanctions – this is most likely to be applied to those in group 2 – those required to attend work-focused interviews only. Their sanction is the loss of 40% of their standard allowance. Their loss will continue until they agree to attend a Work focused interview at a specified time and date.

Advisers should look into whether the work-focused interview requirement is reasonable taking into account the claimant's health, caring responsibilities and what is asked of them. Bear in mind that 'reasonable' does not mean ideal.

> Jodie has a 91-day sanction applied to her starting on 6th March 2017. This should expire on Sunday 4 June 2017. Jodie finds a job that lasts for 3 weeks from 3 April 2017 finishing on Friday 21st April 2017. Jodie reapplies for UC on Saturday 22nd April. The remaining days 44 days are applied to Jodie's new application. So Jodie's benefit entitlement is reduced until the sanction comes to an end.

Calculating the daily reduction rates

Under 25	High rate per day	Low rate per day
Single	£8.20	£3.30
Couple	£6.40	£2.50
25 and over		
Single	£10.40	£4.10
Couple	£8.20	£3.20

Under UC the sanction is applied to the standard allowance. The other elements remain intact. This allows for housing costs and essential child elements to be paid. The hardest hit people will be single, childless, able-bodied claimants who only have the standard allowance and housing costs. These individuals are likely to have nothing else to fall back on if they are sanctioned.

Calculating the sanction.

Work out the number of days in the assessment period. This is usually 30. This could be lower if a sanction has been running for some time or, a claimant is returning to UC when a previous sanction is still running its course.

For UC the reduction rate is 40% (i.e. low rate) if at the end of the assessment period in which the decision to sanction was made, the claimant's circumstances are:

- Responsible carer / foster parent for a child under one
- Pregnant with less than 11 weeks before the bay is due
- Had a baby (including a still birth) less than 15 weeks ago
- Adopted a child less than 52 weeks ago
- The claimant is 16 or 17 years old
- The claimant is in Group 2 with work focused interviews only.

A sanction will terminate where a claimant starts working and is earning at least their individual earnings threshold for 6 months or more or, they are seen as having LCWRA.

HARDSHIP PAYMENTS

These are available for those who have been sanctioned (over 18) where they can show that there is a genuine need for the additional payments due to the sanction. Claimants can expect their requests to be robustly tested. Essential needs are what will be considered. The DWP are entitled to direct the claimant to other resources if these are available. For example, a single adult, still living at home with family will be expected to rely on the household for meals and basic toiletries. The Jobcentre may expect to see some attempt from the claimant that they have tried to comply with any compliance requirements if, this was the reason for the sanction in the first place.
A claimant will have to accept that the hardship payment is recoverable from their awards before they can have a payment.

The DWP may even recommend that a claimant reduce expenditure on less essential items before considering whether or not to grant a hardship payment.

APPEALS

By this point, advisers should be well aware of where the problem issues are likely to arise. Appeals under UC will follow the usual procedure for the other income and contribution-based benefits.

The decision will be sent (mainly) online but in some cases, the UC decision will be sent by post. It is not clear if third party agencies can receive written decisions for claimants who rely on others for help.

The appeal process will follow the general pattern for regular benefits i.e.

1 Decision will be made by the DWP and communicated to claimant;

2 Claimant receives the decision and can request a mandatory reconsideration (also online) within one month of the decision;

3 The mandatory reconsideration request is considered by the DWP and either revised (after which there will be no further action) or refused and claimant gets specialist advice or decides to progress the matter directly to HMCTS on a standard SSCS1 form.

In the early part of claims, advisers are likely to be pressed by claimants for requests to backdate UC awards. The law on this is clear. There are no general provisions for backdating UC claims. Where a backdate is allowed, the maximum period will be for one month and this is most likely to be in exceptional cases only. The DWP will consider backdating claims where it was not reasonable to apply earlier and will expect claimants to provide evidence of this.

Advisers should remind claimants where possible that the usual suspects of: language barriers and lack of knowledge (or failing to read letters), are not going to be suitable reason/s for insisting on getting UC clams backdated.

What's in – what's out!

With the arrival of UC, some benefits will be completely replaced (over a period of time), many will remain and others will depend on the individual (or couple's) circumstances.

What stays? This list is not exhaustive but definitely includes:

- Attendance Allowance
- Carer's Allowance
- Child Benefit
- Contribution-based JSA
- Contributory ESA
- Disability Living Allowance
- Industrial Injuries
- Maternity Allowance
- Pension Credit
- Personal Independence Payment
- Statutory maternity / paternity pay
- Statutory sick pay

There are other benefits that should have been named here – please check www.gov.uk for further.

You can claim some of the above benefits alongside UC and some of the above are disregarded so including them does not affect entitlement to UC.

What's gone (or going...) – as per s.33 Welfare Reform Act 2012

Income support
Income-based JSA
Income-related ESA
Housing Benefit
Child tax credit
Working tax credit.

For people already in receipt of tax credits, their payments will continue until they are phased over to UC but, for new claimants who satisfy the eligibility criteria for UC, no tax credit awards will be made. Those new claimants will go straight to UC.

For new claimants to UC if they have recently left work or self-employment, contributions-based JSA and contributory ESA could still be claimed. These claimants could also get elements of UC in addition to their benefits.

Who qualifies?

Check the claimant/s meet both the basic and financial conditions.

Basic conditions:

1. Must be at least 18 years of age (but see rules for 16/17 year olds);
2. Is below State Pension Credit age;
3. Lives in Great Britain;
4. Is not 'receiving education';
5. Has signed up to the claimant commitment.

All of the above conditions are subject to exceptions. Working people are not barred from claiming.

Persons subject to immigration control (PSIC), students, some people aged 16 / 17 years old and mixed age couples (where one person qualifies for SPC), **can** sometimes claim.

EU nationals can qualify where they meet the criteria for the habitually residence test and right to reside requirements.

Financial conditions:

a) Single or joint claimants' whose income is no more than £16,000.00;

b) A claimant cannot qualify for any UC award less than a penny.

16 / 17 year olds – minimum age requirement

UC Regulations 2013 – Part II Reg. 8

Generally claimants of UC should be at least 18. The minimum age is reduced to 16 (no lower) where any of the following apply. This list is not exhaustive. Note that there are different rules for young people who were previously looked after by a local authority.

Reg. 8(1) allows 16 year olds to where:

- The claimant has LCW or
- Is waiting to be assessed for LCW and has a current medical certificate stating unfit for work or
- Has regular and substantial caring responsibilities for a severely disabled person or;
- Is responsible for a child;
- Is pregnant and it is less than 11 weeks before the birth or, was pregnant and gave birth 15 weeks or less previously. UC is still available even if the birth was a stillborn; or
- The claimant has no parental support (parents living abroad, or estranged from parent/s or is an orphan; or
- The claimant is a couple and one of them is responsible for a child or a qualifying young person. Note, the other person should also be eligible for UC in their own right.

Students:

Students are excluded generally from UC. They are deemed to be persons 'receiving education'

Receiving education is defined in Regulation 12 (1) Universal Credit Regulations 2013. Excluded persons are those deemed to be:

➢ "qualifying young persons" receiving education UNLESS the person is participating in a traineeship.

➢ Undertaking a full-time course of advanced education or;

➢ Undertaking any other full-time course of study or training at an educational establishment for which a student loan or grant is provided for the person's maintenance.

➢ Any other person on a full-time course of study or training that the Jobcentre thinks is not part and parcel of their work-related requirements or programme. These persons are treated as "receiving education".

Exemptions that apply to students are:

- The course being undertaken is not "advanced education"

- The person is under the age of 21 or became 21 years of age whilst on the course;
- Is without parental support.
- If the claimant is in receipt of AA, DLA, PIP, or has LCW.
- The claimant has full time caring responsibilities for a child or qualifying young person.
- Students over Pension Credit age
- Those returning to study after illness or caring responsibilities.
- Couples with one student but the other is eligible for UC.

Self-employed earners

This group can expect to have to meet tighter and tougher standards in order to qualify for UC. The emphasis will be on whether their work is genuine and effective and the work would have to meet certain conditions.

Self-employed earnings will be income the claimant gets from carrying on a trade, profession or vocation.

The starting point will be determining whether or not the claimant is in self-employment. This should be a question of fact. It will also be worth considering whether or not the self-employed claimant is in 'gainful self-employment'.

Assessing self-employed earnings:

Work out the Gross Profits for the relevant assessment period (usually one month) then deduct:

- Income tax
- Class 2 and 4 Contributions
- Pension scheme contributions (Claimants could be encouraged to make these if it would reduce their Gross Profits).

The remaining sum will then be the income earned in that assessment period.

Note that **Gross Profits are** the actual receipts in that period less any deductions for expenses allowed under the regulations. It does not matter whether or not the money earned was for work done in a previous assessment period or, a payment for future work to be carried out.

This is a complex area of the regulations and likely to be a source of friction for many claimants and (possibly advisers) going forward. Many claimants who are self-employed may not be able to comply with the eligibility criteria and even more will have difficulty accounting regularly for all their earnings. The most likely people to fall into this category are cash-in-hand earners and traders who do not appreciate the need to meticulously account for all actual pennies earned and spent.

Self-employed earners will be presumed by the DWP to be earning a minimum amount – i.e. the minimum income floor. This amount may be set around a 35 hour week calculated at the National Minimum Wage / Living Wage rates.
Where the income is equal to or above the threshold level set, then that income is taken into account in the normal way.

If the self-employed person is in a start-up period (a period of up to 12 months from the start of the assessment period where the DWP determined that the claimant was in gainful self-employment) then the claimant is exempt from the minimum income floor.

There is only one start-up period allowed for self-employment unless either five years have passed since the last start-up period or, the start-up period is in relation to a different trade or profession.

Persons from abroad

Rights of residence

Entitlement to UC will depend on the residence and presence conditions of some claimants. This will usually apply to persons from abroad and their families. The matter is fairly complex and is set out in the *Welfare Benefits and Tax Credits Handbook* published by the Child Poverty Action Group.

For some benefits, the word 'residence' has its ordinary meaning. Most claimants will be able to satisfy this as they will be present when they claim the benefit. For some benefits PIP for example, past presence in the UK will also be taken into account in order for a claimant to be eligible.

For UC, a claimant will need to be habitually resident.

- Habitually resident in fact
- Have a right to right to reside

Note that the term 'habitually resident' is not legally defined.

This test is usually applied to persons from the EU/EEA countries and again, is another source of friction for claimants and the DWP. A claimant could satisfy the habitual residence test (HRT) by providing evidence of their intention to live in the UK. This is best done the longer they have been actually present, can show they are employed, self-employed, lengthy residence periods (temporary absences for holiday does not break continuity), registered with a local GP, registered their children in schools in the area etc. This list is not exhaustive.

Where the claimants are a couple, both claimants must meet the test.

UC is also subject to a further "right to reside" (RTR) test.

EEA nationals can establish a RTR in different ways.
Check whether the EEA national claimant meets the test. The claimant would have to be a 'qualified person' – an EEA national living in the UK. This could be as a:

- ✓ via their past or current employment, job seeking or self-sufficiency (as a student or in another capacity);
- ✓ job seeker
- ✓ worker (including if they have retained this status – e.g. women on maternity leave and temporarily sick workers);
- ✓ self-employed
- ✓ some students

Does the Claimant have a derived right? This means via someone else right to reside. Does the claimant look after a child in education for example?

Does the claimant have rights as a family member of someone else who is a qualified person? This applies even to persons outside the EU.

Has the claimant already acquired a permanent right to reside? This could arise after five years of 'legal residence'.

Vulnerable people
UC allows for this group to receive some support at various levels depending on the level of need. Most of these claimants may already be in receipt of ESA / IS and at some point will be migrated over to UC.

For new claimants who are unable to wait until the end of the assessment period (approximately five weeks) after their claim, there are provisions to allow for the receipt of benefit in advance of the assessment period. These payments are called 'advances' and there are four types available.

New claimants unable to use a computer to make a new claim can have assistance over the telephone via the helpline. There are no paper claims for UC. Some Jobcentres may be able to see some applicants directly.

Alternative Payment Arrangements – these arrangements may be made where it is likely that a claimant/s are likely to struggle with managing their money themselves. This could be due to mental health problems or weaknesses from addiction. In some cases the UC award can be split for couples to prevent abuse or to enable fair access to the award. This arrangement could also ensure that landlords are paid directly.

In some cases, the payments of UC can be made fortnightly or even weekly. Many of these claimants may already be in receipt of PIP or DLA.

Alternative payment arrangements may also be set up where a claimant/s has fallen behind with rent or has developed a negative record with their landlord. In some cases, deductions to a **third party** can be set up to recoup the arrears especially if this is to protect the tenancy.

(a) **New claimant** – paid to new claimants who will suffer severe financial hardship if made to wait to the end of the full assessment period. Up to 50% can be paid in advance and then recovered (by award reduction over the following assessment periods), over six months. The new claimant will need to demonstrate that they genuinely do not have access to any other funding whilst waiting.

(b) **Change of circumstances** – advances can be made where a change is likely to increase the claimant/s entitlement. This could be where there is an increase in rent or a new baby. If the next payment due is too far away, up to 50% can be paid in advance to meet the necessary expenses under the change. Recovery could also be deferred for up to three months.

(c) **Benefit transfer** – for some claimants migrated over to UC there will be the transitional protection to cover any shortfall after the migration. In some cases, this may not happen. For these claimants, if the gap between the last payment of old benefit and the first payment of UC is too long, an advance payment of 50% of the expected UC payment can be made. This will be covered in reductions to future UC awards over a period of 12 months.

(d) **Budgeting advance** – this is a kind of loan and can be paid in advance of an award, if a claimant cannot afford the money to make a specific purchase. **The advance has to be repaid.** Items usually covered include household equipment, furniture etc. The amount is approved in writing and the DWP will set out the repayment terms, usually from future payments of UC. There is no right of appeal if a request is refused. The budgeting advances have replaced the old social fund budgeting loans. Most of these loans should be repaid within 12 months. Only one loan will be approved at any one time. UC claimants should be in receipt of the benefit for at least six months in order to be eligible.

Let's work it out. Please advise the following people.

A Jude is new to UC. He is 37, single, has no children, is fit for work. His monthly rent is £850.00 for his 1-bed private rented flat and he has savings of £2,200.00. He has made his claim online on Monday 16th January 2017.

(i) When is Jude's first assessment period?

(ii) What will be Jude's entitlement to UC?

B Change of circumstances:
Jude meets Pia (27) who has a two-year old son, Carl. Carl is disabled and gets lower rate DLA care component. Pia has no savings and cares for Carl full time. She moves in with Jude on 13 February 2017.

(i) What should Jude do first?
(ii) What elements can the couple claim?

(iii) What is their entitlement to UC now?

C Jude finds work through the Jobcentre and is now getting £10.00 per hour net pay. He works 12 hours a week.

(i) What is the financial impact on Jude now?

D You meet Donald (57) who is an owner occupier of his home. His earnings reduced due to cuts in his work place. He now earns £220.00 per week net. Donald lives with his partner Ronald (66). Ronald gets an income from his occupational pension, £866.00 net per month. The couple have no health issues and no dependents live with them. Donald's mortgage interest payments are £500.00 per month. He prefers to work but wants to know if he would be better off without his job. What do you advise?

(i) What elements apply to this household?

(ii) How much can they get in UC?

(iii) Would the household be financially better off if Donald was not working?

E Salima (31) is off work with stress-related illness. She now gets contributory ESA as well as enhanced daily living PIP. She is also in the work-related activity group. Her partner, Pierre (31) is Belgian, has been resident in the UK 10 years and works part time. His net earnings are £300.00 per week. He provides at least 35 hours care a week to Salima. The couple are in private rented accommodation. The property has two bedrooms and costs £800.00 per month.

(i) Which elements apply to this couple?

(ii) What is the amount of UC they are entitled to?

The relevant law.

Entitlement to UC – check basic and financial conditions. Does the claimant/s satisfy both?	s.3(1) Welfare Reform Act (WRA) 2012 s.3(2) applies to joint claimants
The basic conditions	s.4(1) WRA 2012
The financial conditions	s.5 WRA 2012
Assessment period (determination)	s. 7 (2) WRA or Reg. 21(1) UC Regs. 2013
Calculation of UC awards	s.8(1) WRA 2012
Unearned income	Reg. 66(1)(a) – (m) UC Regs. 2013
Receiving education	Reg. 12(1) UC Regs. 2013
Claimant commitment	s.14(1) WRA 2012

Further reading on Universal Credit –
See
Welfare Benefits and Tax Credits Handbook — by Child Poverty Action Group

Social Security Legislation 2017 /2018 - Volume V — Sweet & Maxwell

www.gov.uk/Universal-credit/

Adviser's notes:

Housing costs – from 2018 the plan is to pay a loan to owner-occupiers for housing costs. The loan can be repaid when /if the property is sold or the claimant returns to work.
Note that new claimants to UC who are owner-occupiers will not be entitled to anything towards housing costs for the first nine months.
Owner-occupiers who do receive the housing costs element will lose out on all of it once they start earning, regardless of the level of income.

Note that there may be no entitlement for 18 – 21 year olds under proposed changes. There will be exceptions for those responsible for children or have established that they are vulnerable or without parental support. 18-21 year olds who lived independently and worked for the previous six months will only be eligible for housing costs for six months. Young HB claimants in supported accommodation will be exempt from this rule.

LCW this element of UC will be abolished for new claimants from April 2017. There will be the basic standard allowance. LCWRA will be paid along with the standard allowance if the claimant qualifies for this following a WCA. There are exceptions to this rule, see above.

Under UC there will be no disability, severe disability or enhanced disability premiums.

Child element will be limited to families of up to two children from 6th April 2017. Families with more than two children where the third or later child is born after 6th April 2017 will not get additional payments for this child. There are exceptions. These included multiple births, adopted children and those born outside of consensual relations. Disabled children not entitled to the child element can still be awarded the disabled child and child care elements.

Child Element – there will be no higher element for first born children that arrive on or after 6 April 2017. Further, there will be no child element applied to children born on or after 6 April if the family already has two children. There are exceptions if this third child is part of a multiple birth that extends the number of children to three – for example, a first-time mother giving birth to triplets or twins born in a family with only one other older child. Exceptions will also be made where the third or subsequent birth (after 6 April 2017) was conceived without consent. Other exemptions apply for adopted children etc.

THE AMOUNTS

Standard Allowance	Under 25	25 +
Single	£251.77	£317.82
Couple	£395.20	£498.89
Elements	First Child	Second and others
	£277.08 *	£231.67
Disabled children	Higher rate	Lower rate
	£372.30	£126.11
LCW	£126.11	
LCW RA	£318.76	
Carer	£151.89	
Childcare costs	One child	Two or more children
	Up to £646.35	Up to £1,108.04
Capital limits	Lower amount	Upper
	£6,000.00	£16,000.00
Housing costs contribution	£70.06	

Work allowances

	Maximum disregard	**Minimum disregard Applied to tenants**
Couple with dependent children	£397.00	£192.00
Lone parent	£397.00	£192.00
LCW	£397.00	£192.00

*there are future plans to remove the additional amounts for first-born children.