

# **ADM Chapter F5: The LCWRA element**

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# When is the LCWRA element included F5001 - F5029

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## Introduction

F5001 An award of UC includes the LCWRA element where the claimant has LCWRA<sup>1</sup>. But see F5030 et seq for when the element is not included.

**Note:** See ADM Chapter G3 for guidance on when a claimant has LCWRA<sup>2</sup>.

1 [WR Act 12, s 12\(1\) & \(2\)\(b\); UC Regs, reg 23\(2\)\(a\) & 27\(1\)](#); 2 [WR Act 12, s 12\(4\)\(b\); UC Regs, reg 27\(3\)](#)

F5002 From 3.4.17 where it is determined that a UC claimant has, or is treated as having, LCW, their award cannot include the LCW element<sup>1</sup>. But see the Appendix for exceptions where the removal of the LCW element does not apply.

**Note:** A determination that the claimant has LCW continues to be relevant for the purposes of work-related requirements and income and work allowance deductions – see [G2004](#).

1 [WR Act 12, s 12\(2\); UC Regs, reg 23\(2\)\(a\), 27 - 29 & 36](#)

## Example

Jessie has been entitled to UC since 2015, and is in the all work-related requirements group. On 2.5.17 she sends in a fit note, and following the WCA it is determined that she has LCW. Jessie is moved to the work preparation requirements group, and has the LCW related work allowance, but the LCW element is not included in her award.

F5003 – F5009

## Joint claimants

F5010 Where joint claimants<sup>1</sup> both have LCWRA, only one LCWRA element is awarded<sup>2</sup>.

### **Example**

Fred and Ginger are entitled to UC. Fred has LCWRA, so their award of UC includes the LCWRA element. Their assessment period begins on the 20<sup>th</sup>. Ginger provides medical evidence on 26.11.14 that her health condition has deteriorated after a stroke. Following application of the WCA, the DM determines that Ginger has LCWRA. Fred and Ginger's award does not change.

F5011 – F5014

### **Run on after death**

F5015 Where

- 1.** joint claimants are entitled to UC **and**
- 2.** the award of UC includes the LCWRA element for one member of the couple **and**
- 3.** that member of the couple dies

the award of UC, including the LCWRA element, remains in payment as if the person had not died for the assessment period in which the person dies and the following two assessment periods<sup>1</sup>.

1 [UC Regs, reg 37\(a\)](#)

### **Example**

Danny and Carmel are entitled to UC. Their award includes the LCWRA element as Danny is terminally ill. Their assessment period begins on the 19<sup>th</sup> of the month. On 19.11.14 Danny dies. Carmel remains entitled to UC. Her award continues to include the LCWRA element until 18.2.15, after which she will be required to claim UC as a single claimant.

F5016 – F5019

### **Claimant qualifies for carer element**

F5020 Where the claimant satisfies the conditions for

- 1.** the carer element **and**
- 2.** the LCWRA element

only the LCWRA element can be included in the UC award for that claimant<sup>1</sup> – see F5023 for joint claimants. See ADM Chapter F6 for guidance on the conditions for including the carer element in an

award of UC.

[1 UC Regs, reg 29\(4\)](#)

### **Example**

Francine is entitled to UC. Francine has LCWRA, and also cares for her severely disabled father Milo. Francine's UC award includes the LCWRA element, but not the carer element.

F5021 - F5022

F5023 Where joint claimants satisfy the conditions for the carer element and the LCWRA element, F5020 does not apply. But see F5010 where joint claimants both have LCWRA.

### **Example 1**

Paul and Maggie are entitled to UC. Paul has LCWRA, and Maggie cares for their disabled son George. Paul and Maggie's UC award includes the LCWRA element and the carer element.

### **Example 2**

Anton and Beth are entitled to UC. Anton and Beth both have LCWRA. Beth also cares for her severely disabled father. Anton and Beth's UC award includes the LCWRA element for Anton, and the carer element for Beth.

F5024 – F5029

# When is the LCWRA element not included F5030 - F5999

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F5030 The LCWRA element is not included in an award of UC until the first day of the assessment period following the assessment period in which the relevant period ends<sup>1</sup>. But see F5040 et seq for exceptions to this rule.

1 [UC Regs, reg 28\(1\)](#)

## Relevant period

F5031 The relevant period is three months beginning<sup>1</sup>

**1.** in relevant threshold cases<sup>2</sup> (where the claimant has weekly earnings at or above the relevant threshold and is entitled to DLA or PIP), on

**1.1** the first day of the award of UC **or**

**1.2** if later, the date on which the claimant applies for the LCWRA element to be included in the award **or**

**2.** in any other case<sup>3</sup>, on the first day on which the claimant provides medical evidence of LCW<sup>4</sup>.

**Note 1:** See ADM Chapter G1 (Work capability assessment) for guidance on relevant threshold cases.

**Note 2:** Medical evidence includes a self-certificate for the first seven days of LCW.

1 [UC Regs, reg 28\(2\)](#); 2 [reg 28\(2\)\(a\)](#) & [41\(3\)](#); 3 [reg 28\(2\)\(b\)](#); 4 [SS \(Med Ev\) Regs](#)

### Example 1

Dom is entitled to UC. His assessment period begins on the 5th of every month. Dom contacts the Department on 17.11.15 to say that he is unwell due to mental health problems. He sends in a doctor's statement signed on 2.12.15 which states that Dom is not fit for work due to anxiety and depression. Dom is referred for assessment, and is found to have LCWRA.

The relevant period begins on 17.11.15, the date he first gave evidence of LCW, and ends on 16.2.16. The LCWRA element is included in Dom's UC award from 5.3.16.

## **Example 2**

Petra has been entitled to UC since 11.11.13 after being made redundant. Her assessment period begins on the 11<sup>th</sup> of every month. She is admitted to hospital on 27.11.13 for emergency surgery, and is discharged on 28.1.14. On 30.1.14 Petra sends in a hospital doctor's statement signed on the date of discharge, which states that she is not fit for work from 27.11.13 for at least three months. Petra continues sending in further doctor's statements. The relevant period begins on 30.1.14, and ends on 29.4.14. This falls in the assessment period beginning on 11.4.14.

Petra is treated as having LCW while she continues to recover from the surgery, and also has LCWRA. The LCWRA element is included in her UC award from 11.5.14.

## **Claimant entitled to ESA**

F5032 DMs should note that the claimant may have provided medical evidence for the purposes of a claim for ESA. See F5051 for guidance on the relevant period where the claimant is or was previously entitled to ESA.

## **Claimant subject to work search requirement**

F5033 A claimant may provide evidence that they are not fit for work, including medical evidence, for a period of up to 14 days<sup>1</sup>. During that period

### **1. a work search requirement**

**1.1** is not imposed **or**

**1.2** does not have effect **and**

**2.** the claimant **also** does not have to be able and willing to immediately take up work or attend an interview<sup>2</sup>.

See ADM Chapter J3 (Work-related requirements) for detailed guidance. The relevant period in F5031 does not begin if a determination about LCW or LCWRA is not required.

1 [UC Regs, reg 99\(4\)\(b\)](#); 2 [reg 99\(1\) & \(2\)](#)

F5034 Where medical evidence is provided, the DM should clarify whether the claimant is

### **1. applying for**

**1.1** a determination that they have LCW **or**

**1.2** the LCWRA element to be included in their UC award **or**

**2.** exempt from the work search requirement for a limited period.

F5035 – F5039

## Relevant period - exceptions

### Claimant previously entitled to UC – LCWRA element in payment

F5040 The guidance at F5030 does **not** apply where<sup>1</sup>

**1.** the claimant was previously entitled to an award of UC which included the LCWRA element **and**

**2.** the claimant's previous award of UC terminated<sup>2</sup>

**2.1** immediately before the current award of UC, because the claimant

**2.1.a** ceased to be **or**

**2.1.b** became

a member of a couple **or**

**2.2** within six months of the current award, because the claimant or joint claimants no longer met the income financial conditions<sup>3</sup>.

This means that, if the conditions for including the LCWRA element in F5001 are satisfied, it can be paid from the first day of entitlement to UC.

[1 UC Regs, reg 28\(3\)\(a\)](#); [2 reg 28\(4\)](#); [3 WR Act 12, s 5\(1\)\(b\) or \(2\)\(b\)](#)

### Example

Bill and Eileen are entitled to UC including the LCWRA element for Eileen who has LCW. Bill and Eileen's assessment period begins on the 26<sup>th</sup> of every month. On 9.9.14 Bill leaves the benefit unit, and Eileen notifies DWP. Eileen claims UC for herself. Her award includes the LCWRA element from 26.8.14, the date her UC award begins.

F5041 – F5044

### Claimant previously entitled to UC – relevant period did not end

F5045 Where

**1.** the claimant was previously entitled to an award of UC **and**

**2.** the claimant's previous award of UC terminated<sup>1</sup>

**2.1** immediately before the current award of UC, because the claimant

**2.1.a** ceased to be **or**

**2.1.b** became

a member of a couple **or**

**2.2** within six months before the current award began, because the claimant or joint claimants no longer met the income financial conditions<sup>2</sup>**and**

**3.** a relevant period as in F5031 had begun, but had not ended before the previous award ended

the relevant period for the current award ends on the date it would have ended in relation to the previous award<sup>3</sup>.

**Note:** See ADM Chapters H3 – H4 for guidance on the income financial conditions. See ADM Chapter A2 (Claims) for guidance on where the claimant or joint claimant makes a claim as in **2.2**.

<sup>1</sup> [UC Regs, reg 28\(4\)](#); <sup>2</sup> [WR Act 12, s 5\(1\)\(b\) or \(2\)\(b\)](#);

<sup>3</sup> [UC Regs, reg 28\(3\)\(b\)](#); [UC, PIP, JSA & ESA \(C&P\) Regs, reg 6](#)

### **Example 1**

Karina claimed UC on 16.12.13, and provided medical evidence on the same date. She is awarded UC. On 21.1.14 she moves in with her partner Henry, who is already entitled to UC. His assessment period begins on the 14th of the month. Karina's award of UC is terminated from 16.1.14. Henry and Karina are entitled to UC as joint claimants from 14.1.14. The relevant period ends on 15.3.14. Following application of the WCA, the DM determines that Karina has LCWRA. Henry and Karina's award of UC includes the LCWRA element from 14.4.14.

### **Example 2**

Mack claims UC and provides medical certificates from 18.2.14. The relevant period is due to end on 17.5.14. He is referred for the WCA. Before the relevant period ends, Mack returns to work from 7.4.14. His earnings exceed the income limit and his award of UC is terminated. He notifies us on 15.9.14 that the job ended on 12.9.14, and again provides medical evidence. If Mack is found to have LCWRA, he does not have to serve a relevant period before the LCWRA element is included in his award of UC from 18.8.14, the first day of the assessment period for the new award.

### **Claimant previously assessed as having LCW**

F5047 The guidance at F5030 does not apply where



**1.** the DM had previously determined that the claimant had or was treated as having LCW **and**

**2.** following a further WCA, it is determined that the claimant now has LCWRA.

### **Example**

Muriel claims UC on 3.10.17 and sends in medical evidence. Following application of the WCA, the DM determines that Muriel has LCW. On 31.7.18 Muriel notifies that she had a road traffic accident on 15.6.18 which has significantly affected her mobility. After a further WCA, the DM determines that Muriel has LCWRA. Muriel's award of UC is superseded to include the LCWRA element from 3.7.18, the first day of the assessment period in which Muriel notified her mobility problems.

F5046 – F5049

### **Claimant is terminally ill**

F5050 The guidance at F5030 does **not** apply where the claimant is terminally ill<sup>1</sup>. A UC claimant is terminally ill where they are suffering from a progressive disease where, as a result, death can reasonably be expected within 12 months<sup>2</sup>. This means that, if the conditions in F5001 are satisfied, the LCWRA element can be paid from

**1.** in the case of a decision on a claim, or where a decision awarding UC is revised<sup>3</sup>, the first day of entitlement to UC **or**

**2.** in the case where a decision awarding UC is superseded, the first day of the assessment period in which

**2.1** the application for supersession is made **or**

**2.2** the DM made the decision on their own initiative<sup>4</sup>.

**Note 1:** Terminal illness is known as end of life in operational instructions and communications.

**Note 2:** See ADM Chapter A2 for guidance on claims, Chapter A3 for guidance on revision, and Chapter A4 for guidance on supersession.

[1 UC Regs 28\(5\)\(a\)](#); [2 reg 2](#); [3 UC, PIP, JSA & ESA \(D&A\) Regs, reg 5](#); [4 reg 26 & 35\(9\)\(b\)](#)

### **Claimant entitled to ESA**

F5051 The guidance at F5030 does **not** apply where<sup>1</sup> the claimant

**1.** is entitled to ESA including the support component<sup>2</sup>**or**

**2.** was entitled to ESA on the day before the award of UC began, and the ESA award has terminated due

to entitlement exceeding the relevant maximum number of days<sup>3</sup>.

This includes where entitlement to ESA is awarded retrospectively to a date before the UC award begins. See ADM Chapter V1 for guidance on ESA and entitlement to the support component.

[1 UC Regs, reg 28\(5\)\(b\)](#); [2 WR Act 07, s 2\(2\)](#); [3 s1A](#)

### **Example 1**

Floyd is entitled to ESA. His award ends on 15.5.14 as he has been entitled for 365 days. Floyd claims UC from 16.5.14. At the date of his UC claim, the DM has not yet determined whether Floyd has, or is treated as having, LCW. After application of the WCA, the DM determines that Floyd has LCWRA. He is entitled to the LCWRA element from 16.5.14.

### **Example 2**

Louise has been entitled to ESA since 4.5.14, and claims UC on 12.8.14. At the date of her UC claim, the DM has not yet determined whether Louise has, or is treated as having, LCW. After application of the WCA, the DM determines that Louise does not have LCW, and terminates the ESA award from 24.9.14. Louise appeals against the ESA decision.

On 27.11.14 the FtT allows Louise's appeal, and awards her the support component from 10.8.14. The DM revises the UC award to include the LCWRA element from 12.8.14.

F5052 Where entitlement to the ESA support component begins after the award of UC, the claimant must serve the relevant period as in F5031 before the LCWRA element can be included in the UC award.

### **Example**

Noel claims ESA from 18.8.14 on 10.9.14. He claims UC on 15.9.14. As he has already supplied medical evidence for his ESA claim, the relevant period begins on 15.9.14, and ends on 14.12.14.

Following application of the WCA, on 26.2.15 the DM determines that Noel has LCW and LCWRA, and the decision awarding ESA is superseded to include the support component from 17.11.14. The LCWRA element is included in his award of UC from 15.12.14, the first day of the assessment period after the assessment period in which the relevant period ended.

F5053 – F5069

## **Claimant not entitled during relevant period**

F5070 Where a claimant or joint claimants would satisfy the income financial condition<sup>1</sup> if it were not for the requirement to serve a relevant period, the claimant's or joint claimants' income during the relevant period is treated as if it were an amount that allows the claimant or joint claimants to be entitled to the prescribed minimum amount of one penny<sup>2</sup>. See ADM Chapter E1 for guidance on when the prescribed

minimum amount applies.

1 [WR Act 12, s 5\(1\)\(b\) or \(2\)\(b\)](#); 2 [UC Regs, reg 17 & 28\(7\)](#)

### **Example**

Julian and Adele claim UC on 2.6.14, and Adele sends in doctor's statements. Julian works part-time for 20 hours a week earning £536.46 a month. UC entitlement would be £493.95, so Julian's earnings mean that the income financial condition is not satisfied. The DM makes a determination that Adele has LCWRA. If the LCWRA element was in payment, Julian and Adele would be entitled to UC of £805.81 before taking income into account. The DM treats Julian and Adele as entitled to UC of 1p during the relevant period, and then awards UC including the LCWRA element from the next assessment period.

F5071 – F5999

# Appendix - Removal of LCW element - savings

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## Introduction

The removal of the LCW element as in F5002 does not apply where

- 1.** an award of UC is made to a claimant in the circumstances in paragraphs 3 and 10 - 15 **and**
- 2.** the claimant continues
  - 2.1** to be entitled to UC **and**
  - 2.2** to have LCW<sup>1</sup>.

<sup>1</sup> [ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, Part 2, para 8\(1\)](#)

## Meaning of continuous entitlement to UC

<sup>2</sup> In paragraph 1 **2.1**, continuous entitlement to UC includes where<sup>1</sup>

- 1.** an award of UC is terminated **and**
- 2.** a further award is made **and**

**2.1** immediately before the further award begins, the previous award ended on formation or separation of a couple **or**

**2.2** within the six months before the further award begins, the previous award ended because the claimant or joint claimants failed to satisfy the income condition of entitlement<sup>2</sup>.

**Note:** See ADM [Chapter A2](#) (Claims) for detailed guidance on the date a claim for UC is made or treated as made<sup>3</sup>.

1 [ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, para 8\(2\)](#); 2 [WR Act 12, s 5\(1\)\(b\) & \(2\)\(b\)](#);  
3 [ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, para 8\(4\)](#); [UC, PIP, JSA & ESA \(C&P\) Regs](#)

### **Example 1**

Bella and Peter are single claimants who both have awards of UC including the LCW element. Bella's award included the LCW element from March 2016, and Peter's award included the LCW element from June 2016. They move in together, and their awards of UC as single claimants end on 26.5.17. Their new award of UC from 27.5.17 as joint claimants includes one LCW element for Bella.

### **Example 2**

Rosie and Geoff are UC joint claimants. The DM determines that Rosie has LCW and the LCW element is included in their award from February 2016. Geoff is found to have LCW in December 2016, but their award already includes the LCW element, so no further LCW element can be included.

In May 2017, Rosie and Geoff separate, and both claimants are entitled to UC as single claimants from the day after their joint UC award ended. Rosie's award includes the LCW element, but Geoff's does not, because the previous UC award did not include the LCW element in respect of him.

### **Example 3**

Catherine lives in a Live Service area, and has been entitled to UC since 14.6.16. She sends in fit notes from 24.1.17, and on 3.5.17 the DM determines that Catherine has LCW. The LCW element is included in her award from 14.5.17.

On 7.2.18 Catherine finds work, and her earnings after application of the work allowance and taper exceed her UC entitlement, so that her award terminates from 14.1.18. The job ends on 6.7.18, and Catherine is awarded UC from 14.6.18 without being required to claim it. She sends in fit notes with a different health condition, and after the WCA outcome, the DM determines that Catherine has LCW. Catherine's UC award includes the LCW element from 14.6.18.

## **Claimant entitled to LCW element before 3.4.17**

3 The removal of the LCW element does not apply where the LCW element

**1.** was included in the claimant's UC award immediately before 3.4.17 **or**

**2.** has not been included because<sup>1</sup>

**2.1** the relevant period has not yet ended **or**

**2.2** the relevant period has ended, but the next assessment period has not started.

**Note:** See F5030 - F5031 for further guidance on the relevant period.

1 [ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, para 9; UC Regs, reg 28\(1\)](#)

### **Example**

Leon has been entitled to UC since 16.7.15. On 4.1.17 Leon starts sending in fit notes, and he is referred for the WCA on 1.2.17. On 29.3.17 the DM determines that Leon has LCW. The relevant period is 4.1.17 – 3.4.17. Leon's award includes the LCW element from 16.4.17, the beginning of the assessment period after the assessment period in which the relevant period ended.

### **Claimant has LCW but LCW element is not included - award of carer element**

4 Currently, where a claimant satisfies the conditions for the carer element and either the LCW element or the LCWRA element, only one element is included in the UC award<sup>1</sup>. If the claimant has

**1.** LCW, only the carer element is included **or**

**2.** LCWRA, only the LCWRA element is included.

5 From 3.4.17, as the LCW element cannot be included, the condition in **1.** only needs to be considered for claimants who would otherwise continue to satisfy the conditions for the LCW element as in paragraphs 3 and 10 - 15<sup>2</sup>.

1 UC Regs, reg 29(4); 2 [ESA & UC \(Misc Amdt etc.\) Regs, reg 4\(6\) & Sch 2, Part 2](#)

### **Example**

Russell has been entitled to UC and CA since October 2015 while he cares for his brother Robert. Russell has LCWRA, and the LCWRA element is included in his award from February 2016.

Russell's health condition improves, and he is referred for a further WCA in June 2017. The DM determines that Russell has LCW. Under the savings provisions, the removal of the LCW element does not apply. However, as Russell is still caring for his brother, the carer element is included in his UC award, rather than the LCW element

If Russell stops caring for his brother and the carer element is no longer included in the award, the LCW element cannot be included (see paragraph 6).

## 6 Where

1. the claimant's award did not include the LCW element immediately before 3.4.17 because they were entitled to the carer element **and**
2. entitlement to the carer element ends on or after 3.4.17 **and**
3. the claimant has had LCW since the day before 3.4.17

the LCW element cannot be included in the award after entitlement to the carer element ends.

### **Example**

Toni claimed UC in March 2015 while she was caring for her severely disabled father, and it was determined that she had LCW following the WCA outcome in September 2015. The LCW element was not included in her award, as the carer element was included. Toni's father moves into a nursing home on 13.4.17, and Toni is unable to continue caring for him. Entitlement to the carer element ends, but although Toni continues to have LCW, the LCW element is not included in her UC award.

### **Claimant has LCW but LCW element is not included - joint claimants**

7 Currently, for claims made before 3.4.17, an award of UC to joint claimants may include

1. one LCW element where one or both claimants have LCW **or**
2. the LCWRA element where one claimant has LCWRA and the other has LCW **or**
3. one LCWRA element where both claimants have LCWRA<sup>1</sup>.

1 [UC Regs, reg 27\(4\)](#)

8 From 3.4.17, the LCW element cannot be included in the award unless any of the exceptions in paragraphs 3 and 10 - 15 apply. If both claimants have LCWRA, only one LCWRA element is included<sup>1</sup>.

1 [UC Regs, reg 27\(4\)](#)

## 9 Where

1. before 3.4.17 the LCW or LCWRA element is included in an award to joint claimants as in paragraph 7 **and**
2. on or after 3.4.17 there is a change of circumstances for either of the claimants

the DM should consider whether the LCW element can be included in the UC award as in paragraphs 3 and 10 - 15.

**Note:** See paragraph 2 for guidance where a further award of UC is made after formation or separation of a couple.

### **Example 1**

Lesley and Dave are UC joint claimants. Lesley has LCW, and Dave has LCWRA. Their UC award includes only the LCWRA element from December 2016. Dave is referred for a further WCA, and is found not to have LCW or LCWRA from May 2017. Although Lesley still has LCW, the LCW element is not included in the award when entitlement to the LCWRA element ends, because it was not included for her on 3.4.17.

### **Example 2**

Huan and Mei are UC joint claimants. Their award includes the LCW element from 2015 when the DM determines that Mei has LCW. Later it is determined that Huan also has LCW, but as the UC award already includes the LCW element, no further LCW element is included. In June 2017 Mei's health condition improves and the DM determines that Mei no longer has LCW. The UC award is superseded to remove the LCW element. Although Huan continues to have LCW, the LCW element cannot be included, because it was not included for him on 3.4.17.

## **Claimant entitled to LCWRA element before 3.4.17**

10 Where

- 1.** the claimant's award included the LCWRA element immediately before 3.4.17 **and**
- 2.** on or after that date, it is determined that the claimant has LCW **and**
- 3.** the claimant had LCWRA until it is determined that the claimant has LCW

the claimant's award of UC can include the LCW element<sup>1</sup>.

**Note:** This does not apply if the claimant also satisfies the condition of entitlement to the carer element. In that case the LCW element is not included<sup>2</sup>.

[1 ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, para 10](#); [2 UC Regs, reg 29\(4\)\(b\)](#)

### **Example 1**

Ray's award of UC began on 4.11.16, and has included the LCWRA element since 19.1.17. On 26.5.17 following a repeat WCA, the DM determines that he has LCW. Ray's award is superseded to include the LCW element instead of the LCWRA element from 4.5.17.

### **Example 2**

Sibyl's award of UC has included the LCWRA element since 8.2.17, due to pregnancy complications.



Sibyl's baby is born on 7.6.17, and on 22.6.17 the DM determines that Sibyl does not have LCW or LCWRA. The LCWRA element is removed from her award from the date of decision. On 13.9.17 Sibyl sends in a fit note, and after the WCA, it is determined that she has LCW. Sibyl's award cannot include the LCW element, as she has not had LCWRA up to the date of the LCW determination.

## Claimants awaiting the WCA

11 The removal of the LCW element does not apply where<sup>1</sup>

**1.** immediately before 3.4.17 the claimant

**1.1** is awaiting referral for the WCA, or the outcome of the WCA<sup>2</sup> **and**

**1.2** has provided evidence of LCW<sup>3</sup> **and**

**2.** on or after 3.4.17 following the WCA, it is determined that the claimant has LCW.

**Note:** The guidance at **2.** includes where a determination that the claimant does not have LCW is reversed on revision<sup>4</sup> or appeal to the effect that the claimant does have LCW.

1 [ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, para 11](#); 2 [UC Regs, Part 5](#); 3 [SS \(Med Ev\) Regs](#);  
4 [SS Act 98, s 9](#)

### Example

Tilda has been entitled to UC since 9.5.16. She sends in a fit note on 20.10.16, but on 1.2.17 the DM determines that Tilda does not have LCW. The decision refusing to include the LCW element in the UC award is not revised following mandatory reconsideration, and a subsequent appeal to the FtT is dismissed on 15.8.17. Tilda is granted permission to appeal to the UT, and the UT Judge sets aside the FtT decision, remitting the appeal for rehearing. The appeal is reheard on 1.11.18, and the FtT determines that Tilda has LCW. Tilda's UC award includes the LCW element from 9.2.17.

## ESA decision changed on revision or appeal

12 The removal of the LCW element does not apply where<sup>1</sup>

**1.** a UC claimant lodges an appeal or requests a mandatory reconsideration of a decision about entitlement to ESA, where the ESA claim was made before 3.4.17 **and**

**2.** on or after 3.4.17 the DM revises the decision awarding UC to include the LCW element<sup>2</sup>.

**Note:** See ADM [Chapter M4](#) (Effects of transition to UC – Gateway conditions) and [M6](#) (Effects of transition to UC – Digital service area) for guidance on revising UC awards following a request for revision of or an appeal against a decision on entitlement to ESA.

### Example 1

Steve's award of ESA(IR) from 12.9.16 is terminated on 22.2.17 after the DM determines that Steve does not have LCW. He claims and is awarded UC from 23.2.17. Steve then decides to dispute the ESA disallowance. The decision is not revised following a mandatory reconsideration, and Steve appeals to the FtT. The FtT allows the appeal on 10.11.17, finding that Steve has LCW. Steve is awarded arrears of the ESA WRAC up to 22.2.17, and the UC awarding decision is revised to include the LCW element from the first day of the UC award, 23.2.17.

### Example 2

Connie is awarded ESA(IR) from 12.4.17, but the award is terminated from 7.8.17 when the DM determines that she does not have LCW. Connie claims UC from 22.8.17, and in the meantime disputes the ESA disallowance. On 8.11.17 the ESA disallowance is revised following mandatory reconsideration, and Connie is found to have LCW. Connie is paid ESA(IR) up to 21.8.17, but this does not include the WRAC as the ESA claim was made after 3.4.17. The UC award cannot be revised to include the LCW element.

## Claimants entitled to ESA before 3.4.17

13 The removal of the LCW element does not apply where the claimant

1. was entitled to ESA immediately before 3.4.17 **and**
2. remains entitled to ESA throughout the period beginning on 3.4.17 and ending on the date on which the UC claim is made or treated as made<sup>1</sup>.

1 [ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, para 13](#)

**Note:** See ADM [Chapters M4](#) (Effects of transition to UC – Gateway conditions) and [M6](#) (Effects of transition to UC – Digital Service area) for detailed guidance on transition to UC from ESA to UC where the claimant has LCW.

### Example 1

Geoffrey has been entitled to old style ESA since 8.9.16, and his award includes the WRAC. On 16.5.17 he joins his partner Arthur who has been entitled to UC as a single unemployed claimant since 2.7.15. Geoffrey and Arthur are awarded UC from 2.5.17 including the LCW element. Geoffrey's award of old style ESA is terminated from 2.5.17, and is taken into account as unearned income for the UC award.

### Example 2

Billy's award of old style ESA from 4.1.17 was terminated from 21.3.17 when he failed without good cause

to return the questionnaire. He claims and is awarded ESA(IR) from 18.4.17, sending the questionnaire in with his repeat claim. After the WCA, the DM determines that Billy has LCW, but not LCWRA. Billy's award of ESA includes the WRAC from 3.5.17 under the ESA savings rules where linked periods of LCW begin before 3.4.17.

On 14.8.17 Billy moves in with his partner Tricia, who has been entitled to UC as a single unemployed claimant since 9.3.17. Although Billy is treated as having LCW under transition rules (see [M4132 - M4133](#) and [M6192 - M6193](#)) for the purposes of work-related requirements, Tricia and Billy's award of UC from 9.8.17 does not include the LCW element. This is because Billy was not entitled to ESA immediately before 3.4.17, and unlike ESA, UC does not have linked periods of LCW rules.

## Claimants with LCW - credits only

14 The removal of the LCW element does not apply where<sup>1</sup>

**1.** immediately before 3.4.17, the UC claimant

**2.** the entitlement to credits in **1.1** continues to apply for each week for the period beginning with 3.4.17 and ending on the date on which the UC claim is made or treated as made.

**1.1** was entitled to be awarded NI credits on the basis that they had, or would have had, LCW<sup>2</sup> **and**

**1.2** was not entitled to old style ESA **and**

<sup>1</sup> [ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, para 14](#); <sup>2</sup> [SS \(Credits\) Regs, reg 8B\(2\)\(a\)\(iv\), \(iva\) & \(v\)](#)

## Example

Philip is awarded old style ESA(Cont) and following the WCA, it is determined that he has LCW but not LCWRA. His award ends on 28.2.17 as he has been entitled for 365 days and he is not a member of the support group. He is not entitled to ESA(IR) as his wife Helena is in F/T employment, but he remains entitled to NI credits. Helena is made redundant from 1.11.18, and she and Philip claim UC as joint claimants who live in a Full Service area. Philip is treated as having LCW under transition rules (see [M4132 - M4133](#) and [M6192 - M6193](#)), and the award of UC from 8.11.18 includes the LCW element from the beginning of the first assessment period.

## Claimants with IfW - IB, IS, SDA or credits only

15 The removal of the LCW element does not apply to a UC claimant who, throughout the period beginning immediately before 3.4.17 and ending on the date the UC claim was made or treated as made, was entitled to<sup>1</sup>

**1.** IS on the grounds of incapacity for work or disability **or**

**2. IB or**

**3. SDA or**

**4. NI credits on the basis of IfW.**

**Note:** See ADM [Chapters M4](#) (Effects of transition to UC – Gateway conditions) and [M6](#) (Effects of transition to UC – Digital Service area) for detailed guidance on the consequences for UC claimants who are entitled as in **1. - 4.**

1 [ESA & UC \(Misc Amdt etc.\) Regs, Sch 2, para 15](#); UC (TP) Regs, reg 22 - 24 & 26 - 27

### **Example**

Tom is entitled to NI Credits and is incapable of work. He is also entitled to the lowest rate care and lower rate mobility components of DLA. His partner Alice takes voluntary redundancy, and three months later the couple claim UC on 24.8.17. Tom will reach pensionable age on 22.11.17. Tom is treated as having LCW, and the LCW element is included in Tom and Alice's UC award from the beginning of the first assessment period starting on 31.8.17.

**The content of the examples in this document (including use of imagery) is for illustrative purposes only**