

HOUSING COSTS & SOCIAL FUND MATERNITY GRANT

Contents	Paragraphs
Introduction	1-2
Background	3
Changes	4-6
Transitional end day	
Loan offer made before 6.4.18	7-9
Loan offer made on or after 6.4.18	10-14
Persons who lack capacity – identified before 6.4.18	15-21
Treatment of certain insurance payments in UC	22-23
Social Fund Maternity Grant	24
Meaning of Existing member of the family	25
Annotations	
Contacts	

INTRODUCTION

- 1 This memo provides guidance on amendments to legislation, in particular those regulations which provide for an amount of housing costs.
- 2 These amendments are made by The Loans for Mortgage Interest Regulations 2017 (SI 2017 No. 725) (LMI) and the Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (SI 2018. No 307) (LMI & SFMG) and come into force on 6.4.18.

BACKGROUND

- 3 Help with owner occupier payments is currently included in a claimant's award of an income related benefit (also referred to as support for mortgage interest (SMI)). In the

summer budget 2015, the Chancellor announced that SMI would be changed from a benefit to a loan secured by a second charge on a claimant's property. The LMI Regulations introduce this policy and the provisions that change SMI so that help with owner occupier payments is no longer payable as part of the benefit award. The changes are explained below.

CHANGES

- 4 From 6.4.18 the regulations which provide for entitlement to payments in respect of loans and loans for repairs and improvements¹ within UC are omitted². As a result these owner occupier payments will no longer be met through this benefit. Payment towards other housing costs, for example service charges, will continue.

1 UC Regs, reg 25(2)(b) & 26(3)(b)(i); 2 LMI Regs, reg 18;

- 5 From 6.4.18 the guidance in ADM Chapter [D4](#) concerning loan interest payments paid direct to qualifying lenders for mortgage interest and housing costs in respect of loans and loans for repairs and improvements should no longer be followed¹.

1 LMI & SF Maternity Grant (Amdt) Regs, reg 2(12)(e); C&P Regs, Sch 9

- 6 The guidance in ADM Chapter [F2](#) and [F4](#) concerning the award, calculation and payments in respect of loans and loans for repairs and improvements should no longer be followed. However certain transitional arrangements are in place for existing claimants whose housing costs can continue to be met (beyond 6.4.18) but only until the transitional end day¹(see paragraph 7).

1 LMI Regs, reg 19

TRANSITIONAL END DAY

Loan offer made before 6.4.18

- 7 Where the loan offer is made before 6.4.18 the transitional end day will be the earlier of

1. the day described at paragraph 8 below **or**

2. the day immediately following the day on which entitlement to a qualifying benefit ends¹

Note: the following paragraphs contain detailed options. DMs should be vigilant when establishing the transitional end day.

1 LMI Regs, reg 19(1)

8 For the purposes of paragraph 7.1 the day referred to is the later of

1. where 6.4.18 is not the first day of the claimant's assessment period, the first day of the first assessment period that begins after 6.4.18 **or**
2. the day immediately following the day which is the earliest¹ to occur of the following
 - 2.1 the day the DM receives notification that the claimant does not wish to accept the offer of loan payments **or**
 - 2.2 where the DM
 - 2.2.a receives the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day described in paragraph 9 below **or**
 - 2.2.b has not received the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day on which that 6 week period ends².

Note: The loan payments offer date is the day on which the loan agreement is sent to the claimant³.

1 LMI Regs, reg 19(2); 2 reg 19(3); 3 reg 2(1)

Example:

William is in receipt of UC that includes owner-occupier payments, his assessment period ends on 18.4.18. The transitional end day is 19.4.18 (the day after the first assessment period that ends after 6.4.18). From this date William is no longer entitled to mortgage payments but he will get loan payments from this date (because he had returned all the appropriate signed documents).

- 9 For the purposes of paragraph 8.2.2.a the day referred to is the last day of a 4 week period where that period begins on the day the fully completed loan agreement and associated documents are received¹.

1 LMI Regs, reg 19(3)(b)

Loan offer made on or after 6.4.18

- 10 Where the loan offer does not occur before 6.4.18 the transitional end day will be the earlier of

1. the day described at paragraph 11 below **or**
2. the day immediately following the day on which entitlement to a qualifying benefit ends¹
3. the day immediately following the day the DM receives notification that the claimant does not wish to receive loan payments¹.

1 LMI Regs, reg 19A(1)

- 11 For the purposes of paragraph 10.1 the day referred to is

1. 7.5.18¹ **or**
2. where the loan payments offer date is before 7.5.18 **and**
 - 2.1 the DM receives the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, then the day referred to is the last day of a 4 week period where that period begins on the day the fully completed loan agreement and associated documents are received **or**
 - 2.2 the DM has not received a fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day on which that 6 week period ends².

Note: Where the day described in paragraph 2.1 or 2.2 above is not the first day of the claimant's assessment period, the day referred to here is the first day of the first assessment period that begins after that date²

1 LMI Regs, reg 19A(2)(a); 2 reg 19A (2)(b)

- 12 Where 7.5.18 or the day described at 10.3 is not the first day of the claimant's assessment period, the first day of the first assessment period that begins after that day¹

Note: The loan payments offer date is the day on which the loan agreement is sent to the claimant.

1 LMI Regs, reg 19A(3)

13 Where

1. before 19.3.18 the DM has asked the claimant to provide information needed to

1.1 establish whether the claimant wishes to receive an offer of a loan payment
or

1.2 be able to send the loan agreement and associated documents **and**

2. the claimant has not provided that information

then the preceding paragraphs 10 to 12 do not apply and the owner occupier payments are removed, subject to paragraph 14, from 6.4.18¹.

1 LMI Regs, reg 19A(4)

14 Where paragraph 13 applies (and this is not because the claimant lacks capacity) and the 6.4.18 is not the first day of the claimants assessment period then the removal of the owner occupier payments from benefit entitlement is effective from the first day of the first assessment period that begins after that date¹.

1 LMI Regs, reg 19A(5)

Persons who lack capacity – identified before 6 April 2018

15 Where, before 6.4.18 the DM

1. is satisfied that the claimant lacks capacity to make some or all the decisions about entering into the loan agreement. **or**

2. suspects that the claimant may lack such capacity

then claimants who are already getting owner-occupier payments will continue to benefit from owner-occupier payments until the date specified below¹.

1 LMI Regs, reg 20(1)

16 The date referred to in paragraph 15 falls on the day that is the earlier of

1. the day described in paragraph 17 or paragraph 19 **or**

2. the day immediately following the day on which entitlement to a qualifying benefit ends¹.

1 LMI Regs, reg 20(2)

17 For the purposes of paragraph 16.1 that day is the later of

1. 5.11.18 **or**
2. where, before 6.4.18, the DM suspects the claimant lacks capacity but prior to 5.11.18 the DM's suspicion becomes belief, the day immediately following the last day of a period of 6 weeks beginning with the day the DM formed that belief¹ **or**
3. where an application for a decision of a type described in the Note below is made before the later of

3.1 5.11.18 **or**

3.2 the day prescribed in paragraph 17.2

the relevant day is the day immediately following²

3.2.a the last day of a 6 week period beginning with the day on which a relevant person (see Note below) makes a decision **or**

3.2.b the last day of a 6 week period beginning with the day on which the relevant person receives notification that the application for such a decision is withdrawn³.

1 LMI Regs, reg 20(3)(b); 2 reg 20(3)(c); 3 reg 20(4)

Note: In England and Wales the relevant person is the Court of Protection or Public Guardian and the decision they need to determine would concern registering a lasting power of attorney, appointing a deputy or making an order in order that someone has the power to act on the claimant's behalf in respect of entering in the loan agreement. In Scotland the relevant person is the Sheriff or Court of Session and the decision they need to determine would concern the making of an intervention order, the appointment of a guardian or the appointment of a judicial factor in order that someone has the power to act on the claimant's behalf in respect of entering in the loan agreement¹.

1 LMI Regs, reg 20(7); Adults with Incapacity(Scotland) Act 2000, s 53; Judicial Factors Act 1849; Mental Capacity Act 2005; s16(2);

Example 1

Bert receives UC which includes an amount towards his mortgage interest. On 2.4.18 his daughter Rosie advises that Bert has dementia and she has an enduring power of attorney, dated December 2017. Bert therefore lacks capacity to make any decisions about the loan payment offer notification he received in January. The transitional end date for Bert is the 5.11.18, the later of the dates outlined in paragraph 27.3, which is the earlier of the dates in paragraph 26. Owner occupier payments will continue until that date.

Example 2

Ernest receives UC which includes an amount towards his mortgage interest. In March his son Jim advises that Ernest has dementia and is unlikely to have capacity to make any decisions about applying for a loan payment and advises that he has recently applied to be appointed as a Financial Deputy. Owner occupier payments continue. On 30.10.18, Jim advises the DM that he has been appointed. The transitional end date for Ernest is 6 weeks after that determination which in this particular case is 11.12.18, at which point the owner occupier payments end. As all the appropriate loan payment application forms had been returned Ernest now has entitlement to a loan payment.

- 18 Where more than one application for a decision (as described in the Note to paragraph 17) is made within the intervening period cited at 17.3 then the periods described in paragraph 17.3 do not start to run until the relevant person has decided the last application or that all the applications are withdrawn¹. Similarly where there is one application for a decision referred to in the Note but it is made within the intervening period to more than one relevant person then the day will be the later of the days².

1 LMI Regs, reg 20(5); 2 reg 20(6)

- 19 Where, before 6.4.18, the DM suspects the claimant lacks capacity but prior to 5.11.18 the DM's suspicion becomes a belief that the claimant does not in fact lack capacity then the relevant day is the day immediately following the earlier of

1. the day described in paragraph 20 **or**
2. the day on which the DM is notified that the claimant does not wish to receive loan payments¹

1 LMI Regs, reg 20(8)

- 20 For the purposes of paragraph 19.1 the relevant day is the earlier of

1. where the DM receives the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, then the day referred to is the last day of a 4 week period where that period begins on the day the fully completed loan agreement and associated documents are received **or**
2. where the DM has not received a fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day on which that 6 week period ends².

Note: Where the day described in paragraph **1. or 2.** above is not the first day of the claimant's assessment period, the day referred to here is the first day of the first assessment period that begins after that date²

1 LMI Regs, reg 20(9)

- 21 Where 5.11.18 or the day described at 19.2 or paragraph 20 is not the first day of the claimant's assessment period, the first day of the first assessment period that begins after that day¹

1 LMI Regs, reg 20(10)

TREATMENT OF CERTAIN INSURANCE PAYMENTS IN UC

- 22 Certain insurance payments, typically a mortgage payment protection insurance policy (MPPI), are currently taken into account in UC where the award includes the housing costs element (see ADM chapter H5). Following the introduction of the loans for mortgage interest regulations, this will end from 6.4.18¹.

1 LMI Regs, Sch 5(5)

- 23 DMs should ensure that when considering whether any income at H5086 (insurance policies against the risk of losing income due to illness, accident or redundancy) should be taken into account, that the policy does not contain an amount for mortgage protection (sometimes referred to as a mixed income protection policy). From 6.4.18 any payments or any payments analogous to payments for mortgage protection should not be taken into account as unearned income in UC.

SOCIAL FUND MATERNITY GRANT

- 24 Amendments are made to exclude from the definition of "existing member of the family" a child for whom the claimant is responsible under a formal or informal non-

parental caring arrangement, provided that the child was over 12 months of age when the claimant became responsible for them. This ensures that such a caring arrangement will not prevent the carer from claiming a SSMG for their own first child.

Meaning of Existing Member of the family

- 25 From 6.4.18, additional guidance is added to ADM L2058. The definition of “existing member of the family”¹ now also excludes a child under the age of 16 who was not at the time of that child’s birth, a child of the claimant or the claimant’s partner, provided that child’s age exceeded 12 months at the time the claimant or the claimant’s partner first became responsible for that child. The presence of such a child in the family will therefore not preclude the claimant from being eligible for a SSMG in respect of their own subsequently-born first child (or children in the case of a multiple birth).

Note: The term “partner” means the claimant’s partner at the date of the SSMG claim. The claimant’s partner at the date of the child’s birth or at the date the claimant became responsible for the child is not relevant.

1 SFMFE (Gen) Regs, reg 5A(3)(d)

ANNOTATIONS:

Please annotate the number of this memo (ADM 9/18) against the following paragraphs: D2001, D4001, and Annex E, H5086, F2 heading, F4 heading, L2058

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 03/13](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds: March 2018

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