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Chapter F4: Housing Costs Element: Support for owner occupiers

General

F4001 Until 6.4.18 help for owner occupier payments was included in a claimant's award of Universal Credit as a housing cost element (HCE) (also referred to as support for mortgage interest (SMI)). From 6.4.18 SMI was changed from a benefit to a loan secured by a charge on the property¹. For guidance on the transition from SMI housing costs to SMI loans, see Appendix 1. For advice on Support for Mortgage interest prior to 6.4.18, DMs may wish to contact DMA Leeds.

1 LMI Regs 2017

F4002 The guidance in this chapter on owner occupier payments in respect of loans, loans for repairs and improvements and alternative finance arrangements no longer applies and is removed with effect from 6.4.18. **See ADM memo 8/18** for guidance on the new Loans for Mortgage Interest.

F4003 – F4010

Definitions

Earned income

F4011 Earned income has the meaning given in ADM chapters H3 and H4.

Joint owner occupiers

F4012 Joint owner occupier means¹ joint claimants who are both liable to make service charge payments

1 UC Regs, Sch 5, para 1(2)

F4013

Owner occupier

F4014 Owner occupier means a single owner occupier who is liable for service charge payments, or each joint owner occupier¹.

1 UC Regs, Sch 5, para 1(2)

Qualifying period

F4015 QP has the meaning given in F4040 et seq¹.

1 UC Regs, Sch 5, para 2

Relevant payments

F4016 Relevant payments¹ are one or more payments of service charge payments.

1 UC Regs, Sch 5, para 2 & 3

Relevant date

F4017 Relevant date means the date on which an amount of HCE is first included in the award of UC¹

1 UC Regs, Sch5, para 2

F4018 – F4019

Circumstances where no amount of HCE will be included in an award of UC

No HCE where the owner-occupier has earned income

F4020 No HCE will be included in an award of UC for an assessment period where¹

1. the owner-occupier has any earned income **or**
2. if the owner occupier is a member of a couple, the other member of the couple has any earned income.

Note: See ADM chapters H3 and H4 for more guidance on earned income.

1 UC Regs, Sch 5, para 4(1)

F4021 For the purposes of F4020¹

1. the nature of the work
2. its duration **or**
3. the amount earned

are not relevant when considering whether the claimant has earned income.

1 UC Regs, Sch 5, para 4(2)

F4022 Where the home is shared ownership the rental element and, if relevant, any service charge will still be eligible for an amount of HCE to be included in an award of UC¹.

Note: See ADM chapter F2 for the definition of shared ownership.

1 UC Regs, Sch 5, para 4(3)

F4023 - F4029

No HCE for a QP

F4030 No HCE will be included in an owner occupier's award of UC until the beginning of the assessment period that follows the assessment period in which the QP ends¹.

1 UC Regs, Sch 5, para 5(1)

Example

Chris claims and is awarded UC. He is an owner occupier and is liable to pay service charges. His award of UC will not include any amount of HCE for the first 9 consecutive assessment periods but will be eligible to have them included in the one immediately following.

F4031 - F4039

Qualifying period

F4040 QP means¹ a period of

1. in the case of a new award 9 consecutive assessment periods
 - 1.1 for which the owner-occupier has been receiving UC **and**
 - 1.2 in relation to which an amount of HCE for owner occupiers would, but for the QP, be included in that award.
2. in the case of a claimant entitled or treated as entitled to one or more relevant benefits for a continuous period which includes 31st March 2016., a period of 3 months²
3. in any case where an amount of HCE for owner occupiers ceases, for any reason, to be included in the award of UC, 9 consecutive assessment periods in relation to which an amount of HCE for owner occupiers would, but for the QP, be included in that award.

1 UC Regs, Sch 5, para 5(2); 2 SS(Housing Costs Amendmensts) Regs, reg 8

Example

Jane has already completed her initial QP and her award of UC now includes the HCE to help with her service charges. Jane starts work for a two week period and receives earnings on her last day. The HCE ceases to be included in her award for the assessment period that includes the receipt of those earnings. No HCE can be included in her award for a subsequent 9 assessment periods following that assessment period.

F4041 Where the QP in F4040 is interrupted for any reason

1. that QP stops running **and**
2. a new QP starts only when the owner occupier next satisfies F4040.

1 UC Regs, Sch 5, para 5(3)

Example

Rosie claimed and was awarded UC. She is an owner occupier and is liable to pay service charges. Her award of UC will not include any amount of HCE for the first 9 consecutive assessment periods. In the 6th assessment period of her UC award she works for 4 weeks. The work and earned income spans 2 assessment periods and the QP stops running for those two assessment periods. No HCE can be included in her award for a further 9 consecutive assessment periods following the last of those 2 assessment periods.

F4042 - F4049

QP where claimant also in receipt of JSA or ESA

F4050 Where an owner occupier is in receipt of JSA or ESA immediately before the start of an award of UC the QP in F4040 will be reduced by the number of days the claimant was receiving JSA or ESA¹. The days the claimant was receiving JSA or ESA will

1. be treated as the whole or part of one or more assessment periods **and**
2. be determined by the number of days the claimant was in receipt of JSA or ESA.

1 UC Regs, Sch 5, para 6

Note: where the claims are not contemporaneous the previous period of JSA/ESA entitlement may still count towards the QP under the UC transitional provisions regulations

Example

Joseph lives alone, has HCE, and is entitled to JSA. His girlfriend moves in and he therefore becomes part of a couple and claims UC. The period he was in receipt of JSA counts towards the QP for housing costs. Joseph was in receipt of JSA from 09.09.16 and made his claim to UC on 17.10.16. With a QP of 9 assessment periods Josephs HCE should start from 17.7.17 however taking into account the days Joseph has been in receipt of JSA he will satisfy the QP for his housing costs in UC on 9.6.17. This is in the assessment period which runs from 17.5.17 to 16.6.17. In UC where a QP ends within an assessment period the HC award takes effect from the beginning of the assessment period following. Joseph's housing costs would be allowed from 17.6.17 and would be paid in arrears on 16.7.17.

F4051 JSA¹ and ESA² in 4050 refer to JSA and ESA in prescribed legislation.

1 JSA Regs 13; 2 ESA Regs 13

F4052 - F4054

QP where joint owner-occupiers cease to be a couple

F4055 Where

1. joint owner-occupiers cease to be entitled to UC because the award has been terminated because they are no longer a couple **and**
2. a further award is made to one or both of them **and**
3. in relation to that further award, or awards, the occupation condition is met in respect of the same home as that occupied by the joint owner-occupiers

the QP will be calculated with reference to F4057 or F4058¹.

1 UC Regs, Sch 5, para 7(1)

F4056 For the purposes of F4055 1. it is irrelevant whether the further award is made¹ on a claim or is made under prescribed legislation² without a claim.

1 UC Regs, Sch 5, para 7(4); UC, PIP & WaB (C&P) Regs, reg 10(6)

F4057 When calculating the QP in F4040 et seq for any further award in the circumstances of F4055 the whole or part of any assessment period which would have counted in relation to the award that has been terminated is

1. carried forward **and**
2. taken into account for the further award¹.

1 UC Regs, Sch 5, para 7(2)

Example 1

Dave and his partner Joanne are in receipt of an award of UC and are in the 2nd month of a QP. They split up and Joanne makes a further claim to UC, she also stays in the same home. Joanne only has to wait for the remaining assessment periods before an amount of HCE can be included in her award of UC. Joanne is only able to use the previous spell of QP from the joint claim as she is remaining in the property she and Dave previously occupied.

Example 2

Caroline and her partner Paul are in receipt of an award of UC and are in the 2nd month of a QP. They split up and Paul makes a further claim to UC, he moves and is liable for service charges on a different property. Paul has to wait for the full QP before an amount of HCE can be included in his award of UC.

F4058 Where¹

1. an amount of HCE for owner occupiers was included in a joint owner-occupiers award of UC immediately before that award ended **and**
2. a further award is made in the circumstances of F4055

there is no requirement to serve a QP and the UC award can include the HCE at the outset.

1 UC Regs, Sch 5, para 7(3)

Example

Kevin and his civil partner John are in receipt of UC that includes an amount of HCE for service charge payments. Kevin and John split up and Kevin leaves the household. John makes a further claim to UC. The HCE is included in John's further award of UC.

F4059 - F4069

Calculation of the amount of HCE for owner-occupiers

Payments to be taken into account

F4070 Where an owner occupier meets the payment, liability and occupation condition (ADM chapter F2) for one or more relevant payments and the QP has ended, each relevant payment will be taken into account when calculating the HCE¹.

1 UC Regs, Sch 5, para 8(1)

F4071 Any amount of a relevant payment where the owner occupier does not meet the payment, liability and occupation conditions in respect of that amount will not be taken into account when calculating the HCE¹

1 UC Regs, Sch 5, para 8(2)

F4072 Any relevant payment for which an owner occupier is liable can only be taken into account once whether in relation to

1. the same owner occupier **or**
2. a different owner occupier

but this does not prevent different payments of the same type being taken into account in respect of an assessment period¹.

1 UC Regs, Sch 5, para 8(3)

F4073 - F4079

The amount of HCE

F4080 The amount of an owner-occupier's HCE is the amount in respect of service charge payments¹.

1 UC Regs, Sch 5, para 9

F4081 - F4119

Service charge free periods

F4120 Where

1. an owner-occupier is liable to pay service charge payments **and**
2. that liability includes periods where they have service charge free periods

to determine the monthly figure the amount of each payment must be multiplied by the number of payments (see F4121) in a 12 month period¹. This number must then be divided by 12 to find the calendar monthly amount.

F4121 The total number of weekly payments the owner is liable for in a 12 month period shall be established using the following formulae¹. For

- | | | |
|----|----------------------|----------|
| 1. | Weekly payments | 52 – RFP |
| 2. | Two-weekly payments | 26 – RFP |
| 3. | Four-weekly payments | 13 – RFP |

1 UC Regs, Sch 5, para 13(4A)

F4122 Where RFP is the number of service charge free periods in the 12 month period in question.

F4123 A service charge free period is a period where the owner-occupier has no liability to make one or more service charge payments¹.

1 UC Regs, Sch , para 13(5)

Note: for the purpose of this provision the DM should take service charge free periods to mean service charge free weeks

Example

David pays service charges of £12.50 every week. His agreement allows him to have a charge free period from 4th to 31st March. Although this is a single charge free period the DM treats it as 4 charge free weeks.

$52 - 4 = 48$ weeks for which service charge payments are paid

$48 \times £12.50 / 12 = £50$

David's calendar monthly service charge payment is £50.

F4124 – F4999

APPENDIX 1

Transitional End Day

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

1 IS Gen Regs, reg 17(e) & 18(1)(f); JSA Regs, reg 83(f) & 84(1)(g) & 86A; ESA Regs, reg 67(1)(c) & 68(1)(d); SPC Regs, Sch II, Para 1(1)(b) & 1(2)(c) & 8, 9, 11, 12; 2 LMI Regs, reg 18; 3., reg 19

Loan offer made before 6.4.18

2. 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 3 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)

3. For the purposes of paragraph 2.1 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 earliest ¹ 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 4 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).

- 4 For the purposes of paragraph **3.2.2.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

- 5 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 6 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)

- 6 For the purposes of paragraph 5.1 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)

7 Where 7.5.18 or the day described at 5.3 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)

8 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 5 to 7 do not apply and the owner occupier payments are removed, subject to paragraph 9, from 6.4.18¹.

1 LMI Regs, reg 19A(4)

9 Where paragraph 8 applies (and this is not because the claimant lacks capacity) and the 6.4.18 is not the first day of the claimant's 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

10 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)

11 The date referred to in paragraph 10 falls on the day that is the earlier of

1. the day described in paragraph 12 or paragraph 13 **or**
2. the day immediately following the day on which entitlement to a qualifying benefit ends¹.

1 LMI Regs, reg 20(2)

12 For the purposes of paragraph 11.1 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 12.2

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 12. 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.

- 13 Where more than one application for a decision (as described in the Note to paragraph 12) is made within the intervening period cited at 12.3 then the periods described in paragraph 12.3 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)

- 14 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 15 **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)

- 15 For the purposes of paragraph 14.1 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 ends¹.

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); 2 reg 20(10)(b)

- 16 Where 5.11.18 or the day described at 14.2 or paragraph 15 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)

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