

Regulation 2(4) will amend regulation 11(1) of the 2014 Regulations (ongoing awards of tax credits) to expand the circumstances covered by this regulation to cover claimants who enter the managed migration process. By doing so, it allows claimants, whose entitlement to tax credits has not yet been determined, to be treated as entitled to an award during the tax credits renewal period at the start of the tax year. This expansion allows tax credits to be terminated as part of the managed migration process and then finalised under regulation 12A of these Regulations.

Regulation 2(5) will amend regulation 15 of the 2014 Regulations (Modification of the Claims and Payments Regulations in relation to Universal Credit claimants) to extend the time for claiming UC for up to a month if the claimant's delay in making a claim under the managed migration process is attributable to official error.

Regulation 2(6) will insert new regulations 44 – 62 into the 2014 Regulations to provide for:

- the process which claimants with an award of an existing benefit will follow when they are managed migrated to UC;
- the termination of entitlement to existing awards if claimants or claimants and/or their partners fail to make a claim for UC within the deadline that they are given; and
- the ability to consider, calculate, pay and administer additional amounts of UC (referred to as transitional elements) and other provisions, designed to provide transitional protection for those existing benefit claimants who, upon managed migration, would otherwise have a lower entitlement to UC (including a nil entitlement) than had been their total entitlement to their existing awards.²

Regulation 2(6) will also insert regulation 63. This regulation will introduce a Gateway Condition into the 2014 Regulations so that claimants who are receiving:

- income-related Employment and Support Allowance (ESA(IR));
- income-based Jobseeker's Allowance (JSA(IB));
- Income Support (IS); or
- HB;

and have the Severe Disability Premium (SDP) included in their award will not be able to claim UC. Instead, rather than naturally migrate to UC, they will remain on their existing benefit if they have a change of circumstance that would require a new claim for a benefit that UC is replacing to be made.

This regulation will also introduce a transitional payment within UC for claimants who have already naturally migrated to UC, and prior to that migration had qualified for SDP as part of their JSA(IB), ESA(IR), IS or HB awards. This payment can be 'backdated' to the start of the UC award if certain conditions are met, and is based broadly on the amount of SDP that the claimant(s) were receiving prior to natural migration.

² Income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit and tax credits.

Regulation 3 will make a consequential amendment to allow existing benefit claimants who are in receipt of SDP and therefore can no longer make a new claim to UC, to make new claims to existing benefits.

Along with the draft regulations, I enclose an Explanatory Memorandum which gives more detail of the proposed amendments and provides background to the regulations as well as a Keeling Version.

I hope this letter and enclosures will be helpful to the Committee. Officials will attend the Committee's 20th June 2018 meeting to answer any queries that members may have and I would be happy to provide any further information that the Committee may require in the meantime.

Yours sincerely,

By email

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<p>Universal Credit Policy Division</p>	<p>EXPLANATORY MEMORANDUM FOR THE SOCIAL SECURITY ADVISORY COMMITTEE</p>
	<p>THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (MANAGED MIGRATION) REGULATIONS 2018</p>
<p>For the meeting of the Social Security Advisory Committee on 20th June 2018</p>	<p>DWP Department for Work and Pensions</p>

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**EXPLANATORY MEMORANDUM FOR THE SOCIAL SECURITY ADVISORY
COMMITTEE FROM THE DEPARTMENT FOR WORK AND PENSIONS**

**THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) (MANAGED
MIGRATION) AMENDMENT REGULATIONS 2018**

INTRODUCTION

1. One of the main elements of the Welfare Reform Act 2012 (WRA 2012) was the introduction of Universal Credit (UC), which:
 - improves work incentives by removing the need to claim different in- and out-of-work benefits and reducing the risks associated with moving from benefits into employment; and
 - simplifies the way existing benefits are calculated and delivered by replacing income-based Jobseeker's Allowance (JSA(IB)), Housing Benefit (HB), Child Tax Credit (CTC), Income Support (IS), Working Tax Credit (WTC), and income-related Employment and Support Allowance (ESA(IR)) into a single credit for people both in- and out-of-work.
2. The initial roll out of UC began in April 2013 and targeted a small subset of the unemployed population in the North West of England³ who had to meet certain Gateway Conditions. This was to allow the core structure, functionality and capability of UC to be tested in a live environment.
3. However, as announced to Parliament on 5th December 2013,⁴ the Department reshaped its approach to UC roll out:
 - to widen the Gateway Conditions and extend the original Live Service areas to new postcode districts; and
 - to start testing and learning from the introduction of an enhanced online digital service (Full Service),⁵ which would replace Live Service and deliver the full scope of UC for the full range of claimants' circumstances.
4. Since this announcement, the 'test and learn' approach to the implementation of UC has continued, and it is expected that UC will be fully rolled out across Great Britain by December 2018.⁶
5. Once UC is completely rolled out, it will not be possible to make new claims to any existing benefits. Instead, if claimants want to access financial support via benefits, they will have to make a claim for UC.
6. Claimants who are entitled to one or more of the existing benefits and who have a change of circumstances that would otherwise have triggered a new claim to a different existing benefit will not be able to claim that different benefit, but, instead, their existing benefits would terminate and they would

³ Tameside, Wigan, Oldham and Warrington.

⁴ <https://www.gov.uk/government/news/universal-credit-progress>

⁵ From 26th November 2014.

⁶ By December 2018 the majority of claimants will not be able to make new claims for the benefits UC is replacing. However, those claimants with more than two children who want to make a new claim for financial support will still need to claim the old benefits until January 2019.

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‘naturally’ migrate to UC. Similarly, claimants who are entitled to one or more existing benefits and who form a couple with an existing UC claimant will also naturally migrate onto UC.

7. Between July 2019 and 2023, the final phase of UC roll out will take place. During this phase, the Department will manage the migration of all the remaining claimants with awards of existing benefits to UC.
8. From January 2019, we intend to start testing the full managed migration process on a small scale, with the intention to increase volumes by July 2019. This will enable us to evaluate the initial process to ensure that it supports claimants effectively. This ‘test and learn’ approach will allow us to change the process, where necessary, before larger volumes of claimants are managed migrated to UC.
9. As a result, the Department proposes to introduce regulations that cover the process of managed migration. These are designed to be flexible enough to allow changes to the managed migration process without the need to make further legislative changes, and also to cater for the diverse needs of the different claimant groups that will be moved to UC.
10. During the passage of the Welfare Reform Act 2012, the Government also announced that existing benefit claimants who move to UC as part of the managed migration process (i.e., they are wholly migrated to UC by the Department rather than because of a change in their circumstances) who would otherwise be entitled to less UC at the point of their managed migration will be transitionally protected.⁷
11. Again the Department proposes to introduce regulations to consider, calculate and, where appropriate, pay and manage any award of transitional protection (TP). The Department has also reviewed the TP policy and made the following changes to ensure that work incentives are maintained. Consequently:
 - claimants whose UC award terminates due to their receiving additional earnings in an assessment period will be re-awarded the transitional element if they make a new claim to UC within 3 months. This will benefit those, for example, who have a salary payment cycle whereby they sometimes receive two ‘pay packets’ in the same assessment period or received an additional payment such as a bonus; or
 - claimants who are receiving the childcare element will not have their transitional element eroded if there is any increase in this element.
12. Provision has also been made so that full-time students in receipt of an existing benefit and tax credit claimants who have more than £16,000 capital can be entitled to UC even though these circumstances would normally mean that this would not be the case. For students, this easement will last until the end of their course, and, for those with capital, for 12 months.

⁷ <https://www.gov.uk/government/publications/transitional-protection-universal-credit-policy-briefing-note>

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13. For more information on why these refinements were made, please see **paragraphs 93 and 119 to 128** below. Also the regulations that cover the managed migration process and TP are explained in more detail below.
14. As well as providing for the managed migration and TP process, the regulations will also make provision for:
- claimants who are entitled to an award of JSA(IB), IS, HB or ESA(IR) that includes the SDP; and
 - claimants who have a change of circumstance that would otherwise have triggered a new claim to an existing benefit that UC is replacing and thus caused them to ‘naturally’ migrate to UC.
 - certain former SDP recipients who have already naturally migrated to UC.
15. More detail on why this has been made can be found at **paragraphs 129 to 132**.

COMMENCEMENT AND APPLICATION OF THE PROPOSED CHANGES

16. The overall effect of the proposed amendments before the Committee is outlined below. The Regulations will be subject to the affirmative resolution procedure and, as such, will need to be debated in both Houses of Parliament.

EXPLANATION AND EFFECT OF THE PROPOSED CHANGES

Amendment of the Universal Credit (Transitional Provisions) Regulations 2014

17. **Regulation 2** will insert new provisions into the 2014 Regulations to provide for the managed migration process and also the administration of TP. These are outlined in more detail below.
18. **Regulation 2(2)** would insert relevant definitions into the main interpretation provision in the 2014 Regulations. Most are only applicable to managed migration and the award and maintenance of TP, but some have a wider application, e.g., official error. Official error is based on an existing definition in the UC etc. (Decisions and Appeals) Regulations 2013,⁸ but is widened to cover Local Authorities.
19. As the Committee members are aware, legislation⁹ was brought before them at the December 2017 meeting, to introduce a transitional housing payment for claimants who naturally migrate to UC.¹⁰ This legislation inserted regulation 8A into the 2014 Regulations to allow claimants who were receiving HB immediately prior to that migration to continue to receive HB for their full

⁸ http://www.legislation.gov.uk/ukxi/2013/376/pdfs/ukxi_20130376_310515_en.pdf

⁹ The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018 <http://www.legislation.gov.uk/ukxi/2018/65/made>

¹⁰ Natural Migration claimants are those who have had a relevant change of circumstances, including forming a couple with an existing UC claimant, that would cause a new claim to be made for an existing benefit, but they cannot make such a claim to existing benefits, because these have been replaced by UC.

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eligible rent for the first two weeks of their UC award.

20. These payments are disregarded as unearned income for UC purposes so would not reduce the first UC payment. This will provide claimants with additional financial support until they receive their first payment of UC. Although this is the case, the amount being paid is still be subject to any change of circumstances that a claimant may have during that two-week period.

21. **Regulation 2(3)** will amend regulation 8A of the 2014 Regulations to mirror this approach for claimants who are being managed migrated to UC. In such cases, it also allows:

- for HB to continue for the full eligible rent;
- for the first two weeks of their UC award;

if the claimant was receiving HB immediately prior to making a new UC claim and had complied with the managed migration process. However, in these cases, the amount being received will not be subject to any change in circumstances during the two-week period but be ‘frozen’ from the point that they manage migrated to UC.

22. **Regulation 2(4)** will amend regulation 11(1) of the 2014 Regulations to expand the circumstances that it covers to include those claimants who undergo the managed migration process. By doing so, it will provide for claimants, whose entitlement to tax credits has not yet been determined, to be treated as entitled to an award of a tax credit during the tax credits renewal period at the start of the tax year.¹¹ The expansion allows HMRC to terminate the tax credit award in line with regulation 46 and In-Year Finalise the tax credit award.

23. **Regulation 2(5)** will substitute a new paragraph (2) into **regulation 15**. It will modify the way that the regulation 26 of the UC (Claims and Payments) Regulations 2013¹² currently applies to claimants who have been on existing benefits. The existing paragraph (2) of regulation 15 simply adds another ground for backdating the UC claim for claimants transferring from existing benefits, if the claimants could not have been expected to claim sooner because they had not been notified of the expiry of an existing benefit.

24. The new paragraph (ii) covers that scenario, but will also add another ground for extending the time for claiming UC if official error occurs during the managed migration process, e.g., if the notice was sent to the wrong address. As with the other prescribed criteria, the overall limit of one month still applies.

25. We feel that providing this extra safeguard would be prudent based on the numbers of claimants we expect to go through the managed migration process each month between July 2019 and 2023 (see **paragraph 100**).

¹¹ At the end of the tax year, payments continue during the tax credits renewal period while the previous year’s award is finalised while a determination of entitlement in the current tax year is made.

¹² <http://www.legislation.gov.uk/ukxi/2013/380/contents/made>

Migration notice

26. The high-level design for managed migration includes a comprehensive preparation period for claimants,¹³ which will last about four to six months. During this period, claimants will receive initial communications (which will be generic in content) to warm them up to the fact that their existing benefits will be ending and that they will have to make a claim for UC.
27. These communications will also outline any additional support that claimants can access during their migration to help them make a UC claim and what activities they can undertake prior to that migration to help them make their new UC claim, e.g., open a bank account or ensure that they have appropriate means of identification. Further information on the development of these communications is at **paragraph 138 to 143**.
28. Once this 'warm up' period has ended, new **regulation 44** (as inserted by regulation 2(4) of this package) will make provision for the Secretary of State to issue a notification to claimants of existing benefits informing them that they will need to make a new UC claim by a specific day (see **Annex 1** for the potential content of the notification), if they wish to continue to receive welfare support.
29. The notification will give the existing benefit claimants a timescale in which to make their UC claim. This will be a minimum of one month, but there is flexibility for this period to be extended, if it is identified that certain claimants require longer timescales to make a new UC claim, e.g., those who are vulnerable or have complex needs. A maximum period of 3 months will be contained in guidance.
30. Although not contained in the regulations, during the notification period, claimants who have not already made a UC claim by a certain point will also be reminded that they will have to make a UC claim by their specified day. Claimants will be reminded 2 weeks after the notification has been sent and then 1 week before the day that they need to make a UC claim.
31. Regulation 44 will allow for the cancellation of a notification if:
- The notice was issued in error;
 - the Secretary of State makes a determination under regulation 4 of the 2014 Regulations that UC claims should cease to be accepted in an area or category of case to safeguard the efficient administration of UC, or to ensure the effective testing of systems for the administration of UC; or
 - the Secretary State considers it necessary in other circumstances to cancel the notification in the interests of any claimant or class of claimant, or to safeguard the efficient administration of UC, e.g., where it is identified that a claimant has complex needs that would make it impossible to complete the managed migration at that time, or it had been discovered that the claimant has gone abroad temporarily.
32. Using notifications to roll out managed migration differs from the current

¹³ Including their partner where appropriate.

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migration approach of using Commencement Orders. This is because it gives the Department:

1. operational control of the 'flow' of notifications and, as a result, control of the volumes of claimants entering the migration process;
 2. the capacity to deal with certain claimants in alternative ways: e.g., if a claimant is in hospital or falls into another vulnerable group;
 3. the ability to sift out cases that may initially be complex to migrate, for example, cases where an application for mandatory reconsideration is outstanding in relation to an existing benefit so that they can be migrated at a later date once the reconsideration has been completed; and
 4. the ability to ensure notifications are not issued to some claimants whose entitlement to existing benefits is time limited, e.g., where they are an EEA jobseeker.
33. For information, the Department is currently investigating whether it is possible to identify those in groups 2 to 4 before they are managed migrated to UC. If not, then they will be treated the same as other claimants and issued a notification.

Extension of the deadline day

34. Once a notification has been issued, **regulation 45** will make provision so that the deadline day for making the new UC claim can be extended. Regulation 45(1(b)) will ensure that claimants who contact the Department because they:
- are having trouble completing the UC claim; or
 - cannot make a UC claim by the deadline day, e.g., because they have to go or have gone into hospital;
- will be able to ask for the deadline day to be extended as long as they have a good reason for doing so. There is already guidance on 'good reason' for other benefit requirements and we anticipate guidance in this instance will be in line with those circumstances.¹⁴
35. Regulation 45(1)(a) will also allow DWP staff to extend the deadline day if they also feel that there is a good reason to do so (see below), but will also allow them to extend the deadline day if a claimant asks for an extension on or before the deadline day and it is not possible, for example, either to:
- get the information needed to help make a determination on whether they have good reason (or not) to the Department by the deadline day; or
 - consider the request until after the deadline day due to resources.
36. Circumstances that may be treated as good reason may include the claimant:
- having a mental-health condition;
 - being disadvantaged, e.g., the claimant:

¹⁴https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/618970/admk2.pdf

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- is homeless;
 - has a disability;
 - has learning difficulties;
- having a domestic emergency; or
 - having caring responsibilities.
37. This list is not exhaustive and each case will be considered on its individual circumstances and merits.
38. Having such provision will allow the Department to tailor the process more effectively for claimants, especially those who have complex needs or fall into a vulnerable group. It also allows the Department to react to unexpected situations that a claimant may have and gives DWP staff the ability to extend the deadline day if they discover a claimant needs extra support at the reminder stage.
39. There is no limit to the number of times an existing benefit claimant can ask for an extension. However, on each occasion they will still have to demonstrate a good reason for the extension to be agreed.
40. In exceptional circumstances, if it was felt that a claimant was not in a position to make a UC claim, even if an extension can be applied, the Department would cancel the notification (using regulation 44(5)) and arrange to contact the claimant at a future date to check whether it is appropriate to re-issue a notification inviting the claimant to re-enter the managed migration process. This process will be contained in guidance.

Termination of existing benefits if no claim before the deadline

41. **Regulation 46** will provide that if existing benefit claimants or their partner do not make a new UC claim by the deadline day, their existing benefit(s) will terminate by action of law and will be paid up until the day before that day.¹⁵
42. However, before the existing benefits are stopped, agents will check for evidence of complex needs or vulnerability to safeguard these claimants. If it is considered that a claimant has complex needs or is vulnerable (as outlined above), the agent has the option either to suggest an extension of the deadline day, arrange a home visit, or remove the claimant from the managed migration process by cancelling the notification and re-issuing it at a later date.
43. As mentioned, if claimants do not make a UC claim by their deadline day, their existing benefits will end from the day before this day. However, if they do not make a claim but:
- a) contact the Department within one month of their existing benefits ceasing

¹⁵ In line with regulation 8 for tax credits, income support or housing benefit and under section 150(3) of the Act for income-related employment and support allowance or income-based jobseeker's allowance.

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to make a UC claim; and

- b) the reason that they could not make a UC claim by the deadline day fell within a prescribed category of case (within regulation 26 of the UC (Claims and Payments) Regulations 2013 (as will be modified by regulation 2(3) of these draft regulations), e.g.:
- if official error occurred; or
 - they have a disability; or
 - they can supply medical evidence that they had an illness that prevented them from making a claim; or
 - they were unable to make a claim by means of an electronic communication because the official computer system was inoperative;

they could ask for the date of their UC claim to start from their deadline day.

44. If they were successful, and it was decided that their new UC claim could start from the deadline day, claimants will be treated as complying with the managed migration process and, if appropriate, TP would be applied to the UC award. If, however, it was decided that the new UC claim could not start from an earlier date, claimants would not be treated as complying with the managed migration process, and, as a result, TP will not be applied to their new UC award.

45. For information, if claimants or their partners do make a claim by the deadline day, the current provisions within regulations 8 and 8A of the 2014 Regulations or under section 15 of the WRA 2012 would apply. As a result, if existing benefit claimants make a new UC claim on or before their given deadline day, their JSA(IB), ESA(IR), IS and tax credits will be paid up until the day before they make their UC claim at which point their awards will terminate. For example:

- a claimant is notified on 31.10.19 that they need to make a new UC claim by 30.11.19;
- as a result, they make a new UC claim on 15.11.19.
- their UC award starts on 15.11.19, and their existing benefits will end on 14.11.19.

46. However, as mentioned earlier, if claimants are entitled to HB and make a new claim for UC by the deadline day, their HB will continue for a further 2 weeks. Also, where claimants are in receipt of HB because they are in specified or temporary accommodation this would also not be terminated.

Single Universal Credit claim where a notified person was part of a couple

47. **Regulation 47** provides that where claimants are in receipt of an existing benefit as a couple, but for the purposes of UC may claim as single claimants¹⁶ as they are not part of the same benefit unit, e.g., the members of the couple live at a different address or polygamous marriages, the existing benefit awards will end:

¹⁶ See regulation 3 of the UC Regulations 2013.

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- from the day before the first member of that couple makes a claim for UC; or
- on the day before the deadline day, if they have not made a UC claim by the deadline day.

48. Regulation 47(3) will also provide that if a member of the existing benefit couple makes a new UC claim as a single person:

- on or before deadline day; or
- after the deadline day and has had the time for claiming UC extended in line with regulation 26 (see paragraphs 34 to 40);

both UC awards will start on the same day, i.e., the day after the award of existing benefit ends.

49. This will prevent payment gaps for claimants who make a UC claim as a single person on a later date than the other member of that couple (but within the deadline).

The meaning of ‘qualifying claim’

50. **Regulation 48** provides where TP can apply. As a result, paragraph (1) sets out what a qualifying claim for TP is, i.e., the claimant(s) must make a new UC claim:

- on or before the deadline day specified in the migration notice; or
- after the deadline day, but have the time for claiming UC extended back to the deadline day or before.

51. Regulation 48 will also set out circumstances where TP would not be applied to a UC award. As a result, paragraph (2) will provide that:

- the new UC claimant(s) must comply with The UC, PIP, JSA and ESA (Claims and Payments) Regulations 2013 and:
 - make the UC claim correctly; and
 - provide all the necessary information needed to substantiate their UC claim within the relevant timescales;

for TP to be applied to a UC award. If they do not comply and their UC claim is disallowed, no TP would be applied to any subsequent UC award, even if another new UC claim is submitted by or before the original deadline day specified in the migration notice; and

- the claimant(s) should not fall within the definition of a prisoner on termination day.¹⁷

Meaning of “migration day”

52. **Regulation 49** defines “migration day” with reference to regulation 46 and

¹⁷ See regulation 2 of the UC Regulations 2013.

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regulation 8A and states that this day is the last day of entitlement to an existing benefit.

Secretary of State to determine whether transitional protection applies

53. **Regulation 50** will allow the Secretary of State to determine whether a claimant qualifies for UC as a managed migration case. To do so, the Secretary of State must first consider whether:

- the transitional capital disregard applies (see **regulation 51**); or
- the claimant is entitled to a transitional element (see **regulations 52 to 55**).

54. Regulation 50 outlines where the Secretary of State does not need to consider whether TP applies to a qualifying claim. These are where a new UC claim is made by:

- a single person who was treated as a member of a couple whilst receiving an existing benefit;
- a single person who is a member of a polygamous marriage;
- a claimant who was a member of a couple in an existing benefit award but is no longer a member of a couple, i.e., the couple has separated when the claimants migrate to UC.

The transitional capital disregard

55. **Regulation 51** will disregard any capital over £16,000 for the purposes of section 5(1)(a) and 5(2)(a) (Financial conditions) of the WRA 2012 and for regulation 72 of the UC regulations 2013 (Assumed yield from capital) for those claimants or joint claimants who were previously receiving tax credits who move to UC as part of the managed migration process.¹⁸

56. The regulation will provide that this disregard will not apply for more than 12 Assessment Periods. Also, the disregard ceases to apply if the claimant's capital falls to £16,000 or below; it would not be re-applied if it subsequently rose above this level even if it was within 12 months of the UC award commencing. See **paragraph 119 to 122** for more details on why this has been included.

57. As a result, when tax credit claimants have their UC awards assessed, they will be treated the same as any other UC claimant, i.e., any capital up to £16,000 that they have will be taken into account, but they will also have access to the support that UC provides. This includes access to the Housing Element, even though they would not have access to such support previously via HB. For example:

(i) Jared is a lone parent who has one child and is receiving CTC of £277.08 a month. He has no housing costs. Jared also has £20,000 in capital and, therefore, does not have access to JSA(IB), ESA(IR) or IS, as these benefits are not available to claimants who have more than the £16,000 capital limit.

¹⁸ There is no capital limit in tax credits.

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Jared makes a claim for UC as part of the managed migration process and has capital above £16,000 disregarded. As a result, he can be awarded UC, but will have any capital in excess of £6,000 and up to £16,000 is treated as yielding an income of £4.35 per month for each complete £250 over £6,000. The capital deduction is therefore $£10,000 \div £250 \times £4.35 = £174$.

Jared's award of UC would be:

Child Element	£277.08 +
Standard Allowance	£317.82 +
Capital deduction	£174 -
Total monthly UC	£420.90

(ii) Gillian is a lone parent with one child and receives tax credits. She earns £936 a month and has £17,000 capital and £975 housing costs. Prior to the managed migration process, she was receiving £472.12 tax credits every 4 weeks.¹⁹ She cannot claim HB because it has a capital limit of £16,000.

As with Jared, her capital deduction is £174. However, Gillian also has her UC reduced because of her earnings. This is calculated as follows: £936 - £192 (work allowance) = £744. The taper of 63% is then applied, and this is deducted from £744 = £468.72 earnings deduction from UC.

Gillian's award of UC is:

Child Element	£277.08 +
Standard Allowance	£317.82 +
Housing Element	£975.00 +
Capital deduction	£174 -
Earnings deduction	£468.72 -
Total monthly UC	£927.18

(iii) Ava is single and earns £936 a month. She has no housing costs, and has £18,000 in capital. As a result she does not have access to JSA(IB), ESA(IR) or IS as these benefits are not available to people who have more than the £16,000 capital limit. Prior to the managed migration process, she was receiving £61.35 tax credits every 4 weeks.²⁰

As with Jared and Gillian, her capital deduction is £174. However, Ava also has her UC reduced because of her earnings. This is calculated by applying the taper of 63% to her earnings i.e. $63\% \times 936 = £589.68$ earnings deduction.

The transitional element

58. **Regulation 52** will allow for inclusion of a transitional element (TE) in the UC

¹⁹ This equates to £511.46 a month.

²⁰ This equates to £66.46 a month.

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award. Where appropriate, the TE is to be included in the calculation of the UC maximum amount when determining the UC award once a comparison has been made between:

- the total amount of all relevant existing benefits to which the claimant(s) are entitled at the point of managed migration, i.e., termination date of the existing benefit (the total legacy amount – **see regulation 53**); and
- the total amount of UC to which the claimant(s) would be entitled if calculated based on their circumstances at the point of managed migration on their termination day as reported in their existing claim (the UC indicative amount – **see regulation 54**).

59. The difference between these amounts is then calculated and if the amount paid via existing benefits is greater than the amount paid in UC, then a TE will be awarded as calculated by **Regulation 55(1)**.

60. An example of how the comparison will be made without earnings can be found at **Annex 2**.

The transitional element – total legacy amount

61. **Regulation 53** will provide for the calculation of a representative monthly rate of existing benefits so this can be used in the calculation to ascertain whether any TE is payable. The representative monthly rate is calculated thus:

Tax credits

- the daily rate of the tax credits award (as determined by HMRC) for the existing benefit claimant on the migration day, i.e., a snapshot of entitlement based on the circumstances on that day is converted to a monthly figure by multiplying it by 365 and dividing it by 12;

IS, ESA(IR), JSA(IB)

- the weekly rate of IS, ESA(IR) or JSA(IB) to which the existing benefit claimant is entitled on the migration day is converted to a monthly figure by multiplying it by 52 and dividing by 12;

Housing Benefit

- the weekly rate of HB to which the existing benefit claimant is entitled on the termination day is converted to a monthly figure by multiplying the total amount of HB by 52 and dividing by 12;
- Regulation 52(5)(b) also modifies the calculation to take into account any rent-free weeks that HB claimants may have. To convert weekly entitlement in these cases to a monthly figure, multiply the weekly rate by the number of weeks in the year for which the claimant is liable to pay rent and then divide by 12.

Regulation 52 (6) will also provide that in cases where an HB claimant managed migrates to UC during one of the rent-free weeks, the weekly

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amount to be taken into account for the purposes of determining the total amount of existing benefits will be the level of entitlement in the last complete week that was not a rent-free period.

62. The above amounts are then added together to give the monthly total legacy amount, which will be used in the calculation to determine whether any TE is payable. For example:

(i) John is a lone parent who has one child and is in receipt of IS, CTC and HB. On the day before he makes his UC claim, he is entitled to:

CTC daily rate of	£9.11
IS weekly amount of	£73.10
HB weekly rate of	£225

These are then turned into monthly amount as follows:

CTC daily rate	$£9.11 \times 365 \div 12 =$	£277.09
IS weekly amount	$£73.10 \times 52 \div 12 =$	£316.77
HB weekly rate	$£225 \times 52 \div 12 =$	£975.00
Total monthly legacy amount		£1,568.86

Benefit cap

63. Regulation 53(8) also caters for the application of the benefit cap where existing claimants had not been in receipt of HB at the point of their managed migration, or for cases where the benefit cap has been applied to existing claimants' HB, but they have been left entitled to the minimum amount of HB under regulations 75 and 75D of the Housing Benefit Regulations 2006.²¹

64. In these cases, regulation 52(8)(b) provides that the total existing benefit amount cannot be above the benefit cap's "relevant amount" as prescribed by section 8 of the Welfare Reform and Work Act 2016.

The transitional element – indicative UC amount

65. **Regulation 54** provides for the calculation of an indicative UC monthly amount, which will be compared with the total legacy amount to ascertain whether any TE is payable. The UC indicative amount will represent the amount of a UC award if that was calculated by reference to the claimant's or joint claimants' circumstances on their last day of entitlement to existing benefits (the day before their claim to UC starts). For example:

Harsha is a lone parent who on her last day of entitlement to existing benefits has one child and rental liability of £225 a week, (£975 a month). Based on these circumstances, her UC indicative award would be as follows:

Standard Allowance	£317.82
Child Element	£277.08

²¹ http://www.legislation.gov.uk/ukxi/2006/213/pdfs/ukxi_20060213_300617_en.pdf

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Housing Element	£975.00
Total monthly UC indicative amount	£1,569.90

66. The regulations prescribe a number of assumptions that should be made in calculating the UC indicative amount. These are:

- if claimants have an award of CTC, they are responsible for any child or qualifying young person in respect of whom the individual element of CTC is payable;
- that where claimants have had childcare costs, a rental liability or cost and earnings taken into account in the calculation of their total legacy amount as per regulation 53, the same amounts are to be used to calculate the UC indicative amount. This is so a like-for-like comparison can be made when calculating the TE;
- defining a claimant's earned income that will be used as part of the calculation based on what existing benefit a claimant is receiving:
 - if the claimant is in receipt of a tax credit, the annual employed or trading income is taken and a monthly representative figure taken by converting it to a net monthly amount by dividing it by 12 and deducting amounts for income tax and national insurance contributions;
 - if the claimant is in receipt of IS, JSA(IB), ESA(IR) or HB, the earnings applied are those used to calculate the monthly representative rate as per regulation 53, converted to a monthly figure by multiplying it by 52 and dividing it by 12.

67. Regulation 54 also provides for cases where a claimant does not meet the UC financial conditions prescribed in section 5(1)(b) and 5(2)(b) of the WRA 2012, e.g., where earnings (or other income) would mean that the claimant would not be entitled to UC. In these cases, the regulation will prescribe that the claimant's or joint claimants' indicative amount should be considered as nil. The amount of the TE will be adjusted to take into account the amount that the UC indicative award would have fallen below zero if it were possible. See 2nd bullet, **paragraph 70**. An example of how this comparison will be made can be found at **Annex 3**.

68. Regulation 54(6) prescribes that if a claimant's or joint claimants' earnings as prescribed in regulation 54(2)(d) are equal to or above the earnings level for exemption from the benefit cap as provided by regulation 82(1)(a) of the UC Regulations 2013, the benefit cap should not be applied to the calculation of the legacy amount. This is intended to mirror the HB provisions that provide that HB claimants should be exempt from the cap if entitled to WTC.

69. The regulation will allow the Secretary of State to use any evidence or information that was used to calculate the legacy amount and to supplement that as necessary. This will allow the Department to gather data from the legacy benefits but where certain information is unavailable, for example, request further information from the claimant, e.g., details of claimants' capital would not be available in their tax credit data if that is the only benefit that they receive.

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The transitional element – initial amount and adjustment where other elements increase

70. **Regulation 55** will establish how the initial award of the TE should be calculated having established the total legacy amount and the UC indicative amount. This would be calculated as follows:

- if the UC indicative amount is greater than zero, the TE should be the amount by which the legacy amount might exceed the UC indicative amount (i.e., the difference between the legacy amount and the UC indicative amount).
- if the income, earned and/or unearned bring the indicative UC amount to nil, the TE should be the amount of the legacy amount plus 63% of any of the earnings that fell to be deducted in calculating the UC indicative amount (in accordance with section 8(3) of the WRA 2012 and by 100% of any unearned income that so fell to be deducted).

71. This will ensure that the first UC award equals the amount that the claimant would have received on legacy benefits if they had remained in receipt of the same level of earnings and/or unearned income. Without this regulation, the claimant would receive a lower UC award at the end of their first assessment period, as it would be reduced by the amount that fell below zero.

72. The regulation will also ensure that once the TE is calculated it becomes part of the calculation of the UC Maximum Amount and that it is treated the same as other elements when the award of the UC is calculated after deductions are applied to the UC award.

73. This means that when earnings are applied to the UC Maximum Amount (once it has been calculated), TE will not erode or increase where a UC claimant's earnings fluctuate. Instead, the amount of TP included in the UC Maximum Amount will remain the same. See **Annex 4** for an example.

74. However, if earnings do cause the UC award to reduce to zero, and as a result the UC claim is terminated for more than 3 months, TP will cease to be applied to the UC award as this is one of the circumstances that causes TP to cease under **regulation 56**.

75. Regulation 55 will also allow the TE to be eroded by:

- an increase in the second or subsequent assessment period in an amount included in the UC award (except for the childcare costs element); (see **paragraph 123 to 126** for more details on why changes in the childcare element have been excluded); or
- a new UC element is applied to the UC award;

76. Where there is more than one change in an assessment period, i.e., there is an increase in one element but a decrease in another, it is **not** the net effect of these changes that reduces the TE, but the total increase in the relevant element. For example:

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Anna lives in Greater London and is in receipt of £1,901.57 UC, which is made up as follows:

Child Element for 2 children	£277.08 + £231.67
Standard Allowance	£317.82
Housing Element	£975.00
TE	£100.00
Total monthly UC indicative amount	£1,901.57

However, in an assessment period, she reports that one of the children that she is receiving the Child Element for has left the household and she has had her rent increased by £25 to £1,000. Based on this, her UC is adjusted as follows:

Child Element	£277.08
Standard Allowance	£317.82
Housing Element	£1000.00
TE	£75.00
Total monthly UC indicative amount	£1,669.90

77. Regulation 55 will also ensure that if the TE is reduced to nil, it is not to be included in the calculation of UC entitlement in any subsequent assessment period.

78. Further examples can be found at **Annex 5**.

Circumstances in which transitional protection ceases

79. **Regulation 56** provides other circumstances where the TE will cease to be applied to the UC award. The circumstances are:

- there is a sustained drop for more than 3 months where the claimant's or joint claimants' earned income is less than the relevant earnings threshold (as provided for by regulation 99(6)(a) or (b) of the UC Regulations 2013) and, in their first assessment period, their earnings or joint earnings had been equal to or above that threshold;
- the formation or separation of a couple;
- the termination of the UC award.

Application of transitional protection to subsequent awards

80. **Regulation 57** will ensure that where a UC award terminates, no TP should be applied to the calculation of any subsequent award except in the circumstances set out in regulation 57(2). It will also provide that, in cases where the transitional capital disregard (as provided by regulation 51) had been applied on a previous award, this would not be reapplied if claimants claim UC again even if that is within 12 months' assessment periods of their original UC award commencing, i.e., the maximum duration of the disregard.

81. However, in cases where the UC award or the transitional capital disregard is

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no longer applicable because earned income has increased (i.e., the claimant or joint claimant's earnings are such that they no longer meet the financial conditions in section 5(1)(b) and 5(2)(b) of the WRA 2012), TE can be re-awarded and the TE or the transitional capital disregard can be re-applied if the claimants or joint claimants reclaim and they are awarded UC within 3 months of the end of the assessment period in which the earnings originally increased.

82. Any time spent off UC in these cases will not be taken into account for determining whether the claimant has reached the maximum duration of 12 assessment periods for the application of the transitional capital disregard. This is to ensure that claimants with varying wage frequency do not lose out when they receive, for example, two 'pay packets' in the same UC assessment period (see **paragraphs 127 to 128** for more details).

Qualifying claim – Secretary of State may set later commencement day

83. **Regulation 58** will allow the Department to defer the start day of a UC award to a later date no later than one month from the day the UC claim was made.

84. We have included this because it would offer further legislative flexibility so that the UC start days could be deferred if, for example, the number of claims that need to be assessed would put undue pressure on operational capacity thus threatening service delivery to claimants.

85. This regulation will be used sparingly, but if it were used, we would inform claimants that there would be a delay in the start day of their UC claim, and that their existing benefits would remain in payment until the start day came into force.

Minimum income floor not to apply for first 6 months

86. **Regulation 59** will make provision for self-employed claimants who are managed migrated to UC and are found to be 'Gainfully Self-Employed' (GSE).

87. Currently, anyone with a work expectation who makes a new UC claim and has self-employed earnings needs to have the extent of their self-employment assessed to determine their Labour Market conditionality requirements. Those who are found to be GSE, i.e., self-employment is their main employment and the work is organised, regular, developed and in expectation of profit, are exempt from work-search requirements, but may be subject to the Minimum Income Floor (MIF).²²

88. Those who commenced their self-employment a year or less before they were found to be GSE will benefit from a "Start-up Period", i.e., a period of up to 12

²² The MIF is an assumed level of income that is designed to encourage individuals to increase their earnings by developing their self-employment. It is determined by multiplying the number of hours claimants can reasonably be expected to work or be looking for work by the relevant national minimum wage or National Living Wage for their age, minus notional income tax and National Insurance contributions that would be payable on actual earnings at that level, to produce a net figure.

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months during which the MIF is not applied. This means that self-employed claimants with a work expectation who managed migrate (the bulk of these will be receiving tax credits) will need their GSE, and any entitlement to a Start-up Period, assessed before they are asked to agree a claimant commitment in readiness for setting that commitment.

89. Where self-employed claimants are managed migrated and found to be GSE, and are not entitled to a Start-up Period, they will be allowed a 6-month 'grace period' before the MIF will be applied to them, regardless of how long the claimant has been in self-employment prior to managed migration. This means the MIF will not be applied to their UC award for the first 6 assessment periods.

90. This includes existing benefit claimants who are self-employed and are not found to have been GSE when they initially make their UC claim, but are found to have been GSE at a later point in the 6-month 'grace period'. For example, self-employed existing benefit claimants who upon migration:

- are not subject to the MIF because there is no work expectation on them; but
- within a short period of time do have such an expectation placed upon them; and
- are therefore required to undergo the GSE test and could have the MIF applied to their UC award.

91. Where this is the case, the balance of time of the 'grace period' will be applied to their UC award before the MIF is applied. For example, if a new UC claim is made on 01.04.19 and the claimant is found to have been GSE 2 months after that day, then the remaining 4 months of the 6-month 'grace period' would apply to the UC award.

92. Once the 6-month 'grace period' ends, the UC claimant would be subject to the MIF and the overall UC award (that may include TP) would be reduced accordingly (see UC Regulations 2013, regulation 62).

Students

93. **Regulation 60** will ensure that where claimants are receiving an existing benefit and are also undertaking a full-time course of education, but upon managed migration:

- do not meet the UC entitlement conditions, i.e., because they come within section 4(1)(d) of WRA 2012 ('WRA 2012'); as they
- fall within the definition of receiving education;²³

they would be treated as meeting that condition and, therefore, be able to make a claim for UC. Once they do make a claim, they would also be entitled to UC including TP if applicable. The exemption from section 4 of the WRA 2012 would last until the course that they were on at the point of their managed migration ends.

²³ See regulation 12(2) of the UC Regulations.

Rounding

94. **Regulation 61** will ensure that where a calculation relating to TP results in an amount that contains a fraction of a penny, regulation 6 of the UC Regulations 2013 would apply and that fraction is to be disregarded if it is less than half a penny or otherwise treated as a penny.

Effect of revision, appeal etc. of an existing award

95. Finally, **regulation 62** will provide that where it is discovered that the information used to calculate the total legacy amount (**regulation 53**) or the indicative amount (**regulation 54**) was incorrect where there:

- has been misrepresentation or;
- has been a failure to report information where that failure was advantageous to the claimant; or
- had been official error; or
- has been a revision of or successful appeal on an earlier existing benefit decision on an outstanding mandatory reconsideration or appeal.

these amounts could be revised or superseded and the result applied to the new UC claim or an existing award of UC.

96. For information, if a claimant wishes to dispute the amount of the TE then this can only be done by disputing the UC decision – done under normal dispute rules. Once the migration decision has been made, the legacy amount used in the calculation cannot be changed through the normal disputes process as it is not an appealable decision.

Claimants in receipt of severe disability premium: restriction on new claims for UC and transitional payments

97. New **Regulation 63** has been introduced to address the specific circumstances of disabled people who:

- live alone, and who have no carer; and
- are in receipt of the Severe Disability Premium (SDP) in JSA(IB), IS, HB or ESA(IR).

98. As UC does not have an equivalent to the SDP, claimants who are receiving the SDP are likely to lose the most in monetary terms should they migrate naturally to UC. If they were manage migrated to UC, they would have access to TP. Ministers have decided that they wish to offer transitional payments to those in this group who have already naturally migrated to UC to help mitigate some of the financial loss and to prevent such losses for existing claimants.

99. This is in recognition of the very specific circumstances of this group of claimants, who experience a significantly less favourable financial outcome than other groups. The SDP claimant group is notable not least because most live alone and have no carer and are less likely to have had any recent connection with the labour market.

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100. New regulation 63 introduces provision for claimants who:
- are entitled to the SDP in JSA(IB), IS, HB or ESA(IR); and
 - have a change of circumstances that would otherwise have triggered a new claim to an existing benefit UC is replacing and thus caused them to migrate 'naturally' to UC.
101. In these cases, regulation 63 introduces a Gateway Condition so that claimants who would normally have naturally migrated to UC, will no longer be required to do so. They will remain on their existing benefits or be able to claim another existing benefit instead.
102. This protection will not extend to wider changes of circumstance, i.e., the formation of a new benefit unit: for example, existing benefit claimants who form a partnership with a UC claimant will still have to make a joint UC claim with that claimant.
103. The formation of a couple in the legacy benefits might have meant the cessation of entitlement to the SDP. The protection provided is aimed at claimants whose circumstances, other than the trigger for natural migration, remain the same.
104. Regulation 63 will also make provision so that claimants:
- who have already been naturally migrated to UC and who are still entitled to UC; and
 - who were entitled to the SDP via JSA(IB), HB, IS or ESA(IR) immediately prior to migration;
- can have transitional payments added to their UC award.
105. The regulation provides for a one-off check, which would:
- a. ensure that the transitional payment would be restricted to claimants who are still entitled to UC. This is because claimants who have ceased to be so entitled would have had changes of circumstance which means that they cannot be considered as being in an equivalent position to someone still on UC and requiring support;
 - b. would exclude claimants who, since they migrated naturally to UC, have formed a couple or become single. They would be excluded on the basis that such wider changes would have been likely to affect entitlement to the SDP had they remained on legacy benefits, and that protection should not cover such wider lifestyle changes;
 - c. both the above criteria are also criteria by which it is proposed to end transitional protection for the managed migration cases, thereby providing a continuity of treatment.
106. There would also be a check as to whether:
- a. the claimant (or partner) has, since natural migration, got a carer who gets either Carer's Allowance or the carer element of UC in respect of

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- them. This is because their care needs would be met elsewhere in the benefit system; and
- b. the claimant/partner is still getting Disability Living Allowance or Personal Independence Payments, the main qualifying benefits for SDP.
107. These are designed as a necessarily broad brush check to shadow some of the basic qualifying conditions for the SDP and as such, had they still been on legacy benefits, SDP would not have ceased.
108. The payments themselves would be broadly based on the amount of SDP that the claimant(s) were receiving prior to naturally migrating, but would also take account of whether they are in the UC Limited Capability for Work and Work-Related Activity Group (LCWRA), and thus receiving an additional amount for having LCWRA as part of their UC award. The amounts would be:
- a flat rate of £280.00 a month for claimants not in the UC LCWRA group (i.e. the broad monthly equivalent of lower rate SDP at £64.30 a week); or
 - a flat rate of £80.00 a month where the UC claimant has been determined as having LCWRA.
109. As the Committee can see, the amount payable to those who have been determined as having LCWRA is lower. This is to reflect the policy design of UC for claimants with health conditions where the LCWRA rate was set at a much higher rate than its ESA equivalent to ensure that financial support was targeted more effectively at claimants who are severely disabled.
110. The calculation methodology is based upon the lower rate entitlement of SDP. There is a higher rate, where couples both satisfy the qualifying conditions. In those cases, the proposed flat rate would be £360 a month. There is only one rate for the couples who got the higher rate of SDP in legacy, as we consider it highly unlikely that in such cases, where both members of the couple were deemed as requiring assistance with care costs in existing benefits that neither partner would be in the UC LCWRA group. A summary of the proposed rates is in the table below:

Single People	
Not getting UC LCWRA ²⁴ element	£280.00
Getting LCWRA element	£80.00
Couples (got lower rate SDP in legacy)	
Not getting UC LCWRA element	£280.00
Getting LCWRA element	£80.00
Couples (got higher rate SDP in legacy)	
	£360.00

111. As with TP applied upon managed migration, there will be circumstances that end the additional payment. These are where a UC claimant:
- forms a couple or separates from their partner; or

²⁴ Limited Capability for Work and Work-Related Activity.

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- entitlement to UC ends.

112. These mirror some of the conditions where TP would end. However, the circumstance that ends TP where there has been a 3 month sustained drop in earnings, has not been applied in this case because it is unlikely that claimants previously receiving the SDP would be engaged in such work.

113. Regulation 63 also makes provision to backdate entitlement to the additional payment where JSA(IB), ESA(IR), IS or HB claimants who had been receiving SDP have naturally migrated to UC. In these cases, they will receive a lump sum payment of the relevant flat rate determined upon their circumstances at the one-off check stage to cover the period from the date of their UC claim to the date from which additional monthly payments are made. This is as long as they had not had a change of circumstances that would end the additional payment immediately prior to the date upon which it comes to the attention of the Secretary of State that the claimant is a former SDP recipient.

114. As some of these backdated payments could be substantial, regulation 63 ensures that any lump sum that is paid can be disregarded for the purposes of UC for a duration determined by the period covered by the arrears payment, or 12 months, whichever is longer. For example, if a claim receives an arrears payment for 14 months, the lump sum will be disregarded for a 14-month period. If a claimant receives an arrears payment for 9 months, the lump sum will be disregarded for 12 months.

115. These transitional payments will eventually be converted to payments of TP at some point in the future, to be decided by the Secretary of State, after the managed migration of existing benefit claimants begins in July 2019. Once these payments have been converted they will be subject to the usual rules associated with TP and will erode (if their UC award rises) or end in certain circumstances. See **paragraph 70 to 79**.

Amendment consequential on restriction on claims by certain severely disabled persons

116. **Regulation 3** will make a consequential amendment to allow existing benefit claimants who are in receipt of SDP and therefore can no longer make a new claim to UC to be able to make new claims to existing benefits.

Existing provisions to apply to claims by notified persons

117. The current provisions for claimants who naturally migrate to UC that are contained in the 2014 Regulations; the WRA 2012 (Commencement Order No. 9 etc. (Amendment) Order 2013; and Schedule 2 of The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017;²⁵

will continue to apply to those existing benefit claimants who are managed migrated to UC (see **Annex 6**). For example this covers:

²⁵ http://www.legislation.gov.uk/uksi/2017/204/pdfs/uksi_20170204_en.pdf

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- transfer of certain aspects of an existing benefit award, e.g., any sanctions or loss of benefit penalties applied to existing benefit awards are applied to the UC award;
- protection for claimants who are disabled or have a health problem when they transition to UC from ESA or incapacity benefits. Such protections include:
 - ensuring that a capability for work determination for ESA can automatically be applied to the UC award; and
 - paying the Limited Capability for Work addition in UC if they have been continuously entitled to ESA and entitled to the Work-Related Activity Component in ESA prior to 3rd April 2017.

Impacts of the proposed changes

Managed migration volumes

118. Between January 2019 and 2023 there will be approximately 2.09 million households (2.87 million individuals) who will managed migrate from existing benefits to UC. This equates to 69,000 households (95,000 individuals) per month when migrating at pace. Of those being managed migrated, the bulk will be those receiving ESA(IR) and tax credits. See **table 1** below.

Table 1. Breakdown of claimants being managed migrated to UC by existing benefit group

Existing Benefit	Number	Percentage
JSA (JSA only / JSA & CTC and/or HB)	39,000	2%
ESA (ESA only / JSA & CTC and/or HB)	745,000	36%
IS (IS only / JSA & CTC and/or HB)	119,000	6%
CTC (CTC only / CTC & HB)	395,000	19%
WTC+CTC (WTC & CTC only / WTC & CTC & HB)	620,000	30%
WTC (WTC only / WTC & HB)	102,000	5%
HB (HB only)	72,000	3%
Total	2,092,000	101%

Note: Percentage exceeds 100% due to rounding.

Transitional Protection

Capital above £16,000

119. Having considered the possible provision of TP more fully, the Department has made some refinements to the policy intention as announced in 2011 – 2012. Part of this has focused on those tax credit claimants who have more than £16,000 in capital at the point of managed migration, as in UC there would normally be no entitlement if capital exceeds that amount.
120. The Department considered various options but decided the most efficient was to legislate to disapply the capital limit in these cases and apply a deduction for these claimants' "assumed yield" from their capital based on the £16,000 threshold.
121. However, as these claimants will have a level of resource that can be used to help support themselves whilst out of work or when in receipt of low earnings, access to UC will only be permitted for 12 months while their capital exceeds £16,000. This will give them time to adjust before the Department notifies them that their UC award will end. Later, if their capital falls to £16,000 or below, subject to their meeting UC's other conditions of entitlement, UC will be available to them and they can make a claim.
122. The number of tax credit claimants with capital in excess of £16,000 likely to be managed migrated is relatively small. It is estimated, across Great Britain, to be around 50,000 and analysis shows that approximately 80% of these are estimated to have capital over £20,000, with approximately 50% estimated to have capital greater than £40,000.

Childcare

123. Once a TP award has been made, the announced policy was that it would be eroded if a new UC element was awarded or an existing one increased. This would include terminating the TP award if there was a sufficient increase in another element of the UC award. If that other UC element were subsequently withdrawn or reduced, the TP award would not be restored to its previous level.
124. The Department has reviewed this intention with respect to TP's interaction with the UC childcare element. The childcare element will either be initially awarded because claimants have started work that has led to them incurring childcare costs, or have increased their hours of work and so increased their childcare requirement.
125. Reducing or terminating the TP element in these circumstances would likely be a major disincentive for UC claimants to start work or increase their hours, since any increase of their UC award for additional childcare costs would simply be correspondingly reduced from their TP award. This disincentive would only be intensified if the claimants were aware that their TP would not return to its original level if the hours and the childcare costs (and

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so their childcare element) would fall again shortly in the next or any subsequent assessment period.

126. The Government has, therefore, decided that either the new award of the childcare element or any changes in the amount will be disregarded with regard to the calculation and maintenance of the TE. The childcare element will, however, impact on the overall award of UC.

Wage payment frequency

127. UC claimants receiving earnings weekly, fortnightly or four weekly could receive an additional wage payment in one assessment period from the amount they would normally receive. As a result, this may result in their UC award terminating if total net earnings received in that assessment period reduce their UC award to nil. For example:

(i) Earnings paid weekly

AP1	AP2	AP3	AP4	AP5	AP6
4 x 1 weeks UC paid	4 x 1 weeks UC paid	5 x 1 weeks Reduced/ No UC paid	4 x 1 weeks UC paid	5 x 1 weeks Reduced/ No UC paid	4 x 1 weeks UC paid
AP7	AP8	AP9	AP10	AP11	AP12
4 x 1 weeks UC paid	5 x 1 weeks Reduced/ No UC paid	4 x 1 weeks UC paid	5 x 1 weeks Reduced/ No UC paid	4 x 1 weeks UC paid	4 x 1 weeks UC paid

(ii) Earnings paid fortnightly

AP1	AP2	AP3	AP4	AP5	AP6
2 x 2 weeks UC paid	2 x 2 weeks UC paid	2 x 2 weeks UC paid	2 x 2 weeks UC paid	3 x 2 weeks Reduced/ No UC paid	2 x 2 weeks UC paid
AP7	AP8	AP9	AP10	AP11	AP12
2 x 2 weeks UC paid	2 x 2 weeks UC paid	3 x 2 weeks Reduced/ No UC paid	2 x 2 weeks UC paid	2 x 2 weeks UC paid	2 x 2 weeks UC paid

(iii) Earnings paid four weekly

AP1	AP2	AP3	AP4	AP5	AP6
1 x 4 weeks UC paid	2 x 4 weeks Reduced/ No UC paid	1 x 4 weeks UC paid			
AP7	AP8	AP9	AP10	AP11	AP12
1 x 4 weeks	1 x 4 weeks	1 x 4 weeks	1 x 4 weeks UC paid	1 x 4 weeks UC paid	1 x 4 weeks UC paid

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UC paid	UC paid	UC paid			
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128. Having reviewed the TP policy interaction with wage payment frequency, the Department has decided that TP will be re-awarded if UC terminates in these circumstances as long as the new UC claim is made within 3 months of the previous UC award ending. It has also been decided that TP can be re-awarded in those circumstances where UC entitlement ended due to any 'spike' in earnings received, such as the receipt of a bonus or a period of overtime.

Claimants receiving Severe Disability Premium

129. In addition, existing DWP benefit claimants receiving the SDP, part of the protected characteristics (disability) group, who naturally migrate to UC are likely to experience or have already experienced a significantly less favourable financial outcome than other groups. The SDP claimant group is notable not least because most live alone and have no carer and are less likely to have had any recent connection with the labour market.

130. It was, therefore, decided that some provision should be include in the draft Managed Migration Regulations to provide that these claimants will not naturally migrate to UC and so are always managed migrated and, consequently, always have the amount of their awards protected.

131. There are a number of claimants in this situation who were receiving the SDP and who have already migrated naturally (c. 4,000 claimants at February 2018). Transitional payments will be introduced for this group to help mitigate the financial loss.

132. These transitional payments will be paid retrospectively for the period from when they were first awarded UC and on an on-going basis. These claimants will, at some point, have their payment converted to a TE which will be awarded where applicable to those that are managed migrated, and which will then be subject to the usual rules of TP erosion and cessation.

Impact on equality and diversity

Managed migration process

133. During the managed migration process a large proportion of the caseload being migrated from existing benefits will have a disability or health condition. To give an indication of this, an estimated 36% of those being managed migrated to UC will be ESA(IR) claimants.²⁶

134. In recognition of this, we have made the process and legislation as flexible as possible to accommodate the varying needs of claimants when they are managed migrated to UC. This will entail not only providing different levels of support throughout the claim process, but also making it possible to adapt the process easily if it is identified that this needs to be done through the 'test-

²⁶ Other existing benefits could also have claimants who have a disability or health problem but it is not currently possible to identify how many.

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and-learn' approach.

135. From an operational perspective, UC currently accepts claims from all claimant types, including those with a disability or health condition. Most claims are made via the online channel. However, claimants have an option to claim via telephone and face-to-face channels. Arrangements are also in place (using the DWP Visiting Service) for claimants who are not able to use any of these channels and do not have an appointee to administer their claim to enable them to claim UC.

136. As mentioned in **paragraph 98**, as part of the managed migration process, we will also mirror the approach being taken via natural migration for certain vulnerable claimants. As a result:

- claimants who rely upon an appointee to administer their existing benefit claims, because they suffer from particular health conditions, including mental health problems, which makes communication with the Department or HMRC difficult, will be able to have their appointee administer their move from existing benefits to UC when they are notified that they need to make a new UC claim. This is covered by regulation 16 (Persons unable to act) of the 2014 Regulations;
- regulations 19 to 24, 26 and 27 will continue to protect claimants who are disabled or have a health problem when they transition to UC from ESA or incapacity benefits. Such protections include paying the Limited Capability for Work element in UC if they have been continuously entitled to ESA and entitled to the Work-Related Activity Component in ESA prior to 3rd April 2017 and are migrated to UC.

137. Finally, we have put in a number of safeguards so that:

- claimants with health conditions can extend the time by which they need to make a new UC claim, if they are finding it difficult to complete the claim within the timescales they have been given;
- where it is identified that existing benefit claimants are vulnerable or have complex needs and they have not made a new UC claim by the deadline day, their existing benefit claims are not terminated immediately but can be delayed until such time that it is felt that the claimant is capable of continuing with the managed migration process or for a home visit to be arranged to help them make a new UC claim.

Communications and notifications

138. Communications and notification products have been developed using an Agile process, which is an iterative, or test-and-learn, approach. To do so, user researchers have been speaking to claimants to validate assumptions.

139. Qualitative testing is still being carried out on the main products in the customer journey so that claimants can:

- express their views on the content;
- understand what they are being told; and

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- suggest improvements to make them more effective.
140. This is being carried out by a mixture of:
- ‘Lab sessions’ where user researchers have recruited claimants; and
 - ‘Pop-up testing’ where researchers have visited Jobcentres, HMRC offices and support organisations (e.g., homeless shelters, parent and child organisations) to talk to claimants and staff.
141. So far, over 25 visits have been made to stakeholder organisations to carry out consultations on the products listed below. These products have already undergone a number of iterations after user researchers, business analysts and content designers have reviewed claimants’ understanding of the current versions and developed a revised version for further testing:
- ‘Warm up’ letter 3 versions (version 4 out for testing currently);
 - Notification letter 4 versions ;
 - Poster (awareness product) 4 versions.
142. As well as the above communications, future testing will also be carried out on:
- Pre-awareness – messages that educate about UC and managed migration prior to the start of migration;
 - Reminders; and
 - What TP a claimant is receiving and how it was calculated.
143. Work is currently in hand to consider the extent and nature of the communications needed for claimants affected by the SDP provisions.

Monitoring and evaluation

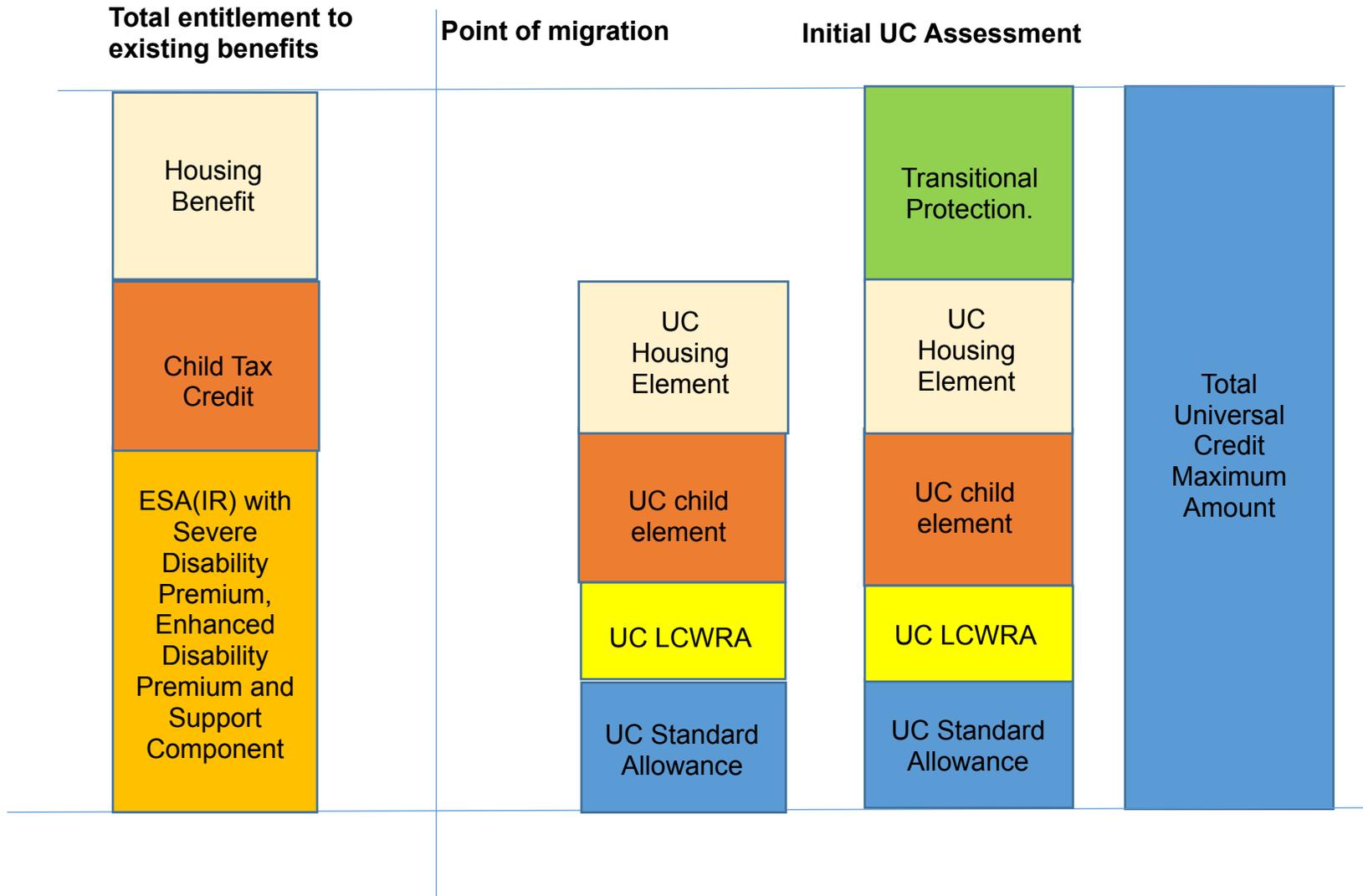
144. The continuing roll out of the Full Service in this final phase will be closely monitored. We will continue to take a ‘test-and-learn’ approach to managed migration and will start testing this process on a small scale with the intention to increase volumes to full operational capacity by July 2019.
145. Using a ‘test-and-learn’ approach will enable the Department to evaluate the managed migration process robustly to ensure it supports claimants effectively. Where it is identified that changes are needed, it will allow the Department to do so before larger volumes of claimants are managed migrated to UC.

CONTENT OF THE NOTIFICATION

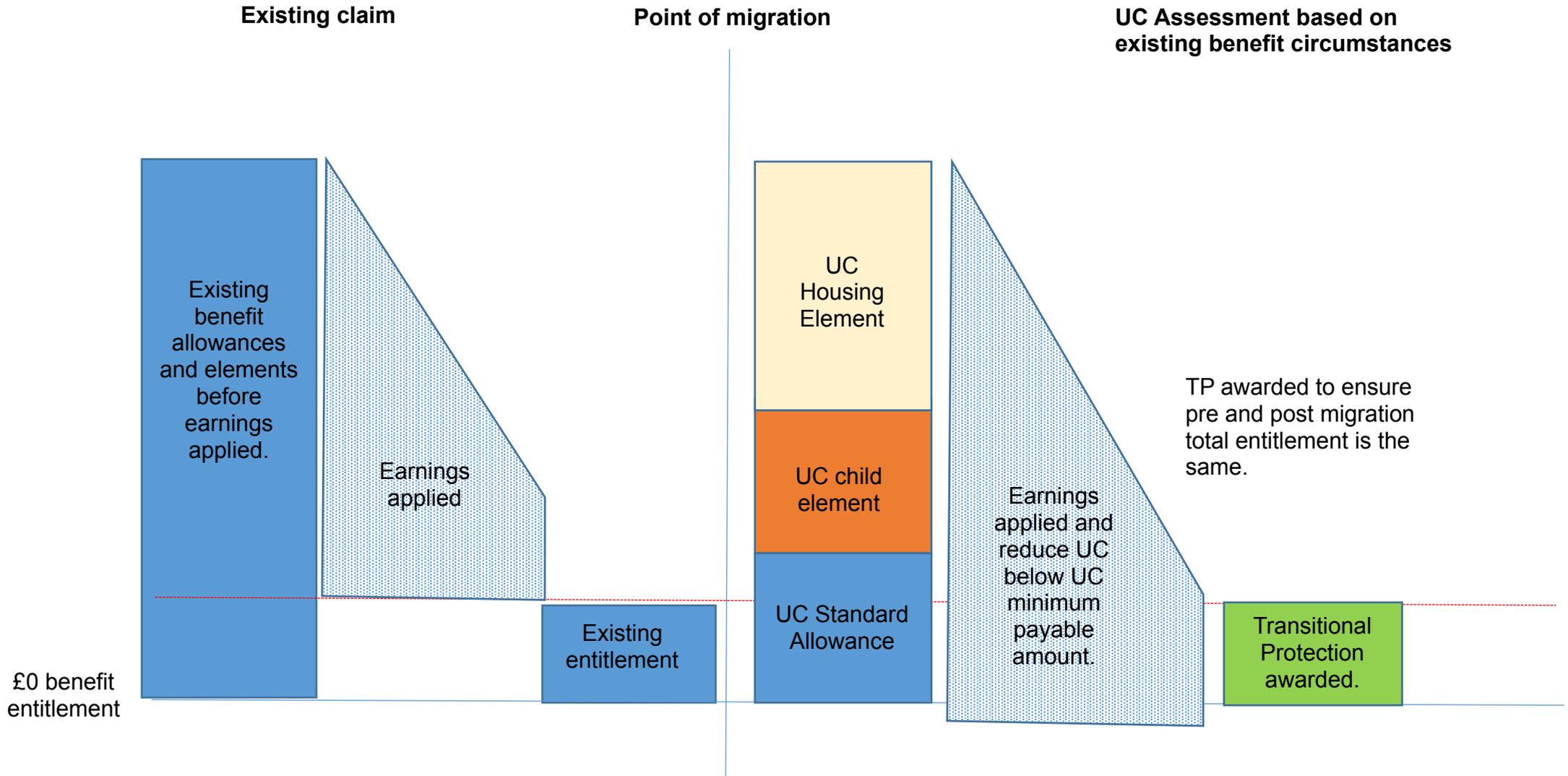
The notification will provide the claimant (and partner if part of a couple) with the following information:

- the list of applicable benefits that will end to enable claimants/partners to understand that if they are receiving any of these benefits they will be terminated and the migration process is applicable to them;
- if they wish to continue to receive welfare support they will have to make a new UC claim by a specified day to:
 - a. ensure there is no gap in benefit entitlement; and
 - b. receive any TP if they are eligible for it;
- if they are part of a couple, both members will need to apply to make a joint claim;
- if they are part of a couple and have lived apart or are likely to live apart for at least 6-months they will each have to make a separate claim to UC;
- if they make their new UC claim by the specified day their existing benefits will end from the day before their UC claim was made (except HB);
- they will be able to extend the time that they have to make the new UC claim if they fall into certain criteria;
- if they fail to make a new UC claim by the specified day, all their existing benefits will end from the day before that day;
- what will happen if they have a change of circumstances between receiving the notification and making a UC claim; and
- we will notify them of the day that their UC award will start from.

TRANSITIONAL PROTECTION CALCULATION NO EARNINGS

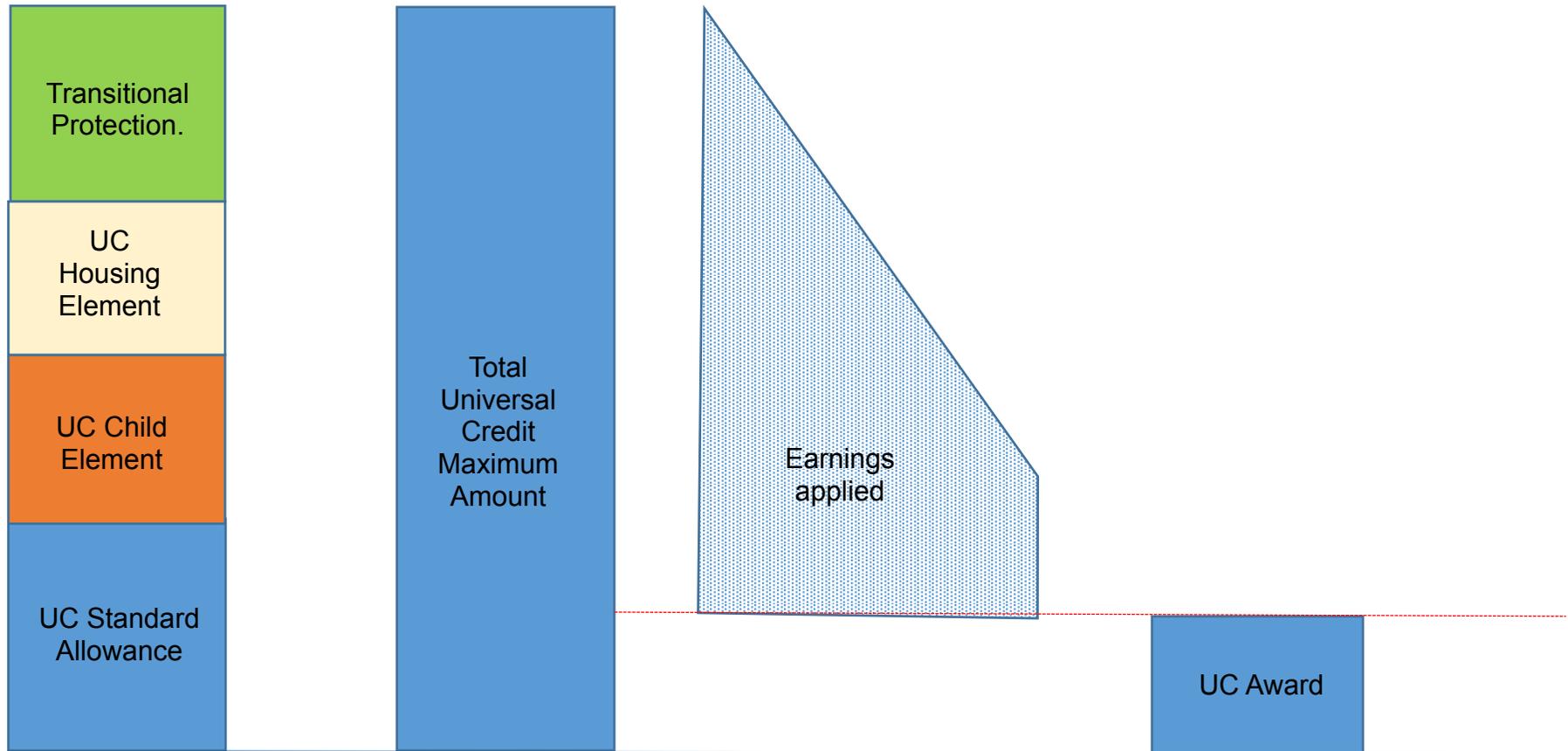


TRANSITIONAL PROTECTION CALCULATION WITH EARNINGS



TRANSITIONAL PROTECTION AND EARNINGS

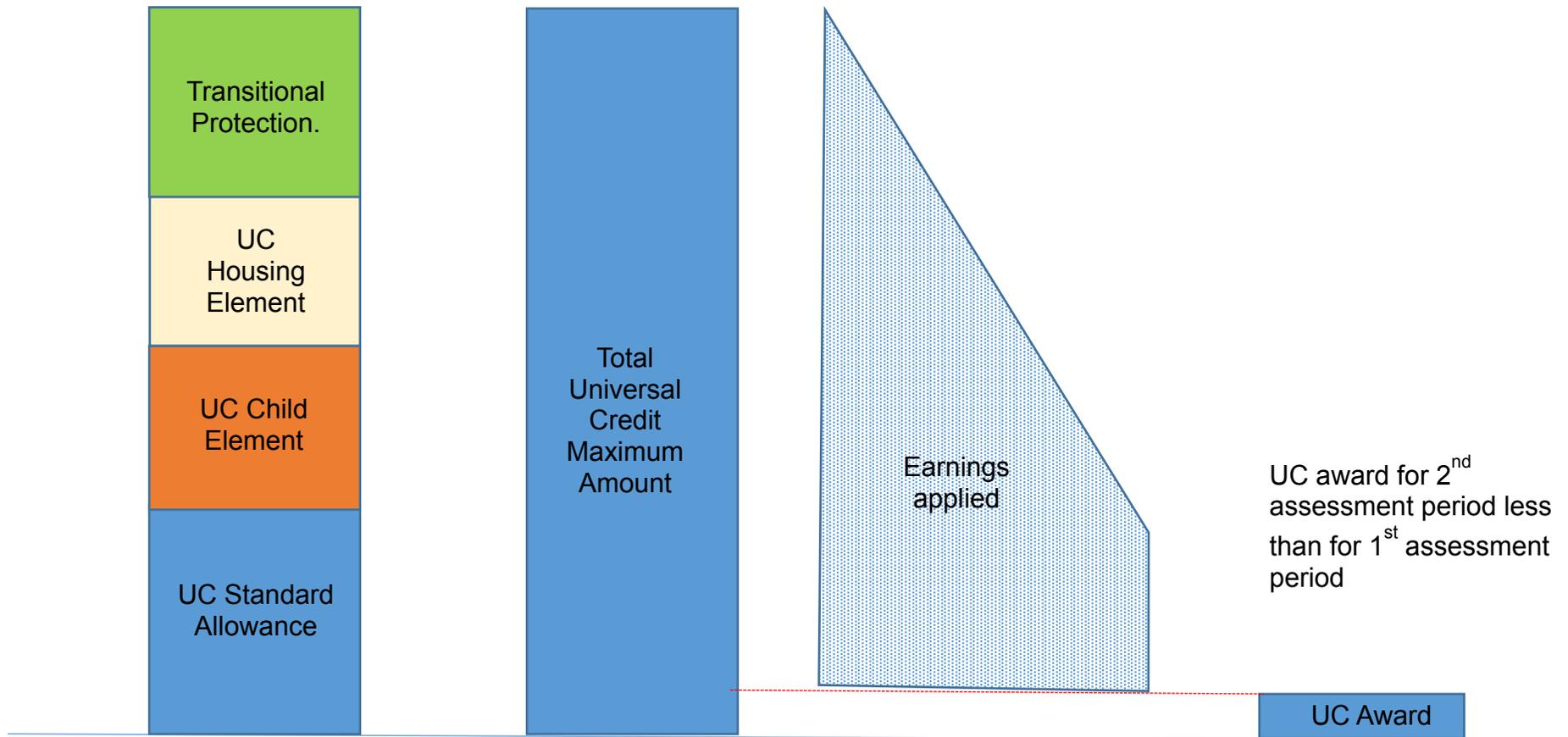
Earnings at the end of assessment period 1



Earnings in assessment period 2 more than earnings in assessment period 1

TP element is the same as assessment period 1

End of assessment period 2

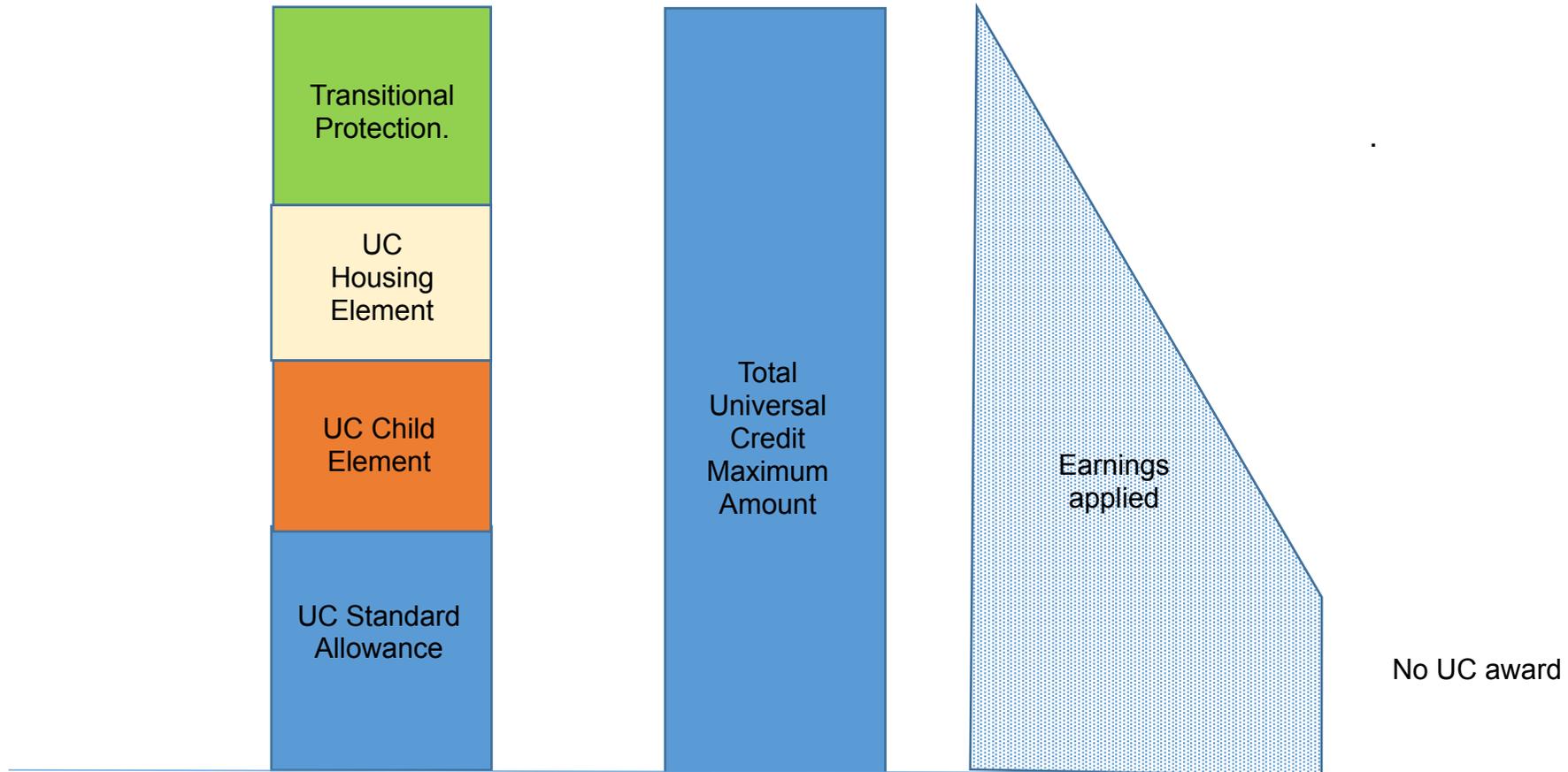


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Earnings in assessment period 3 increase and reduce UC entitlement to £0 for 1 month

TP element is the same as assessment period 1

End of assessment period 3

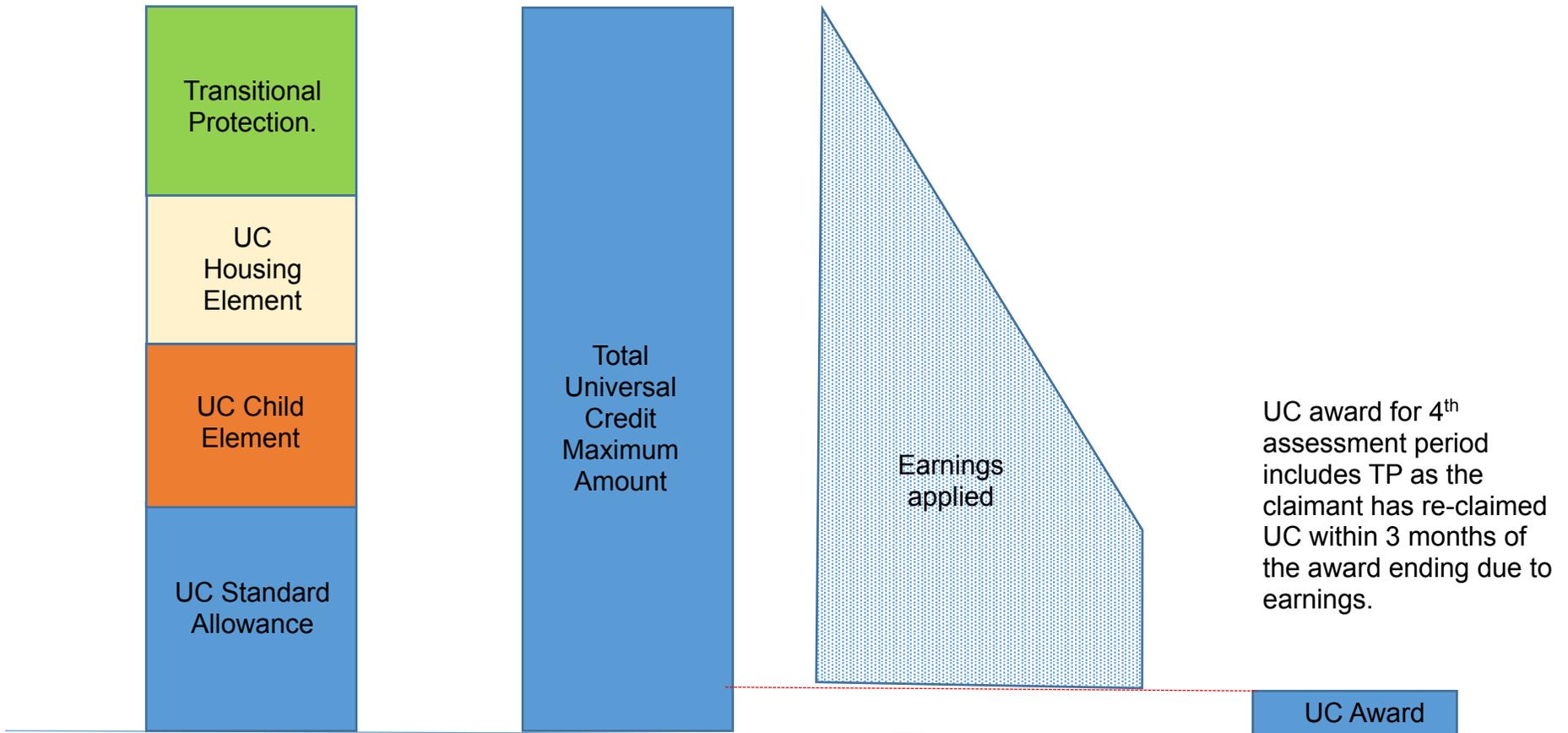


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Application of earnings in assessment period 4

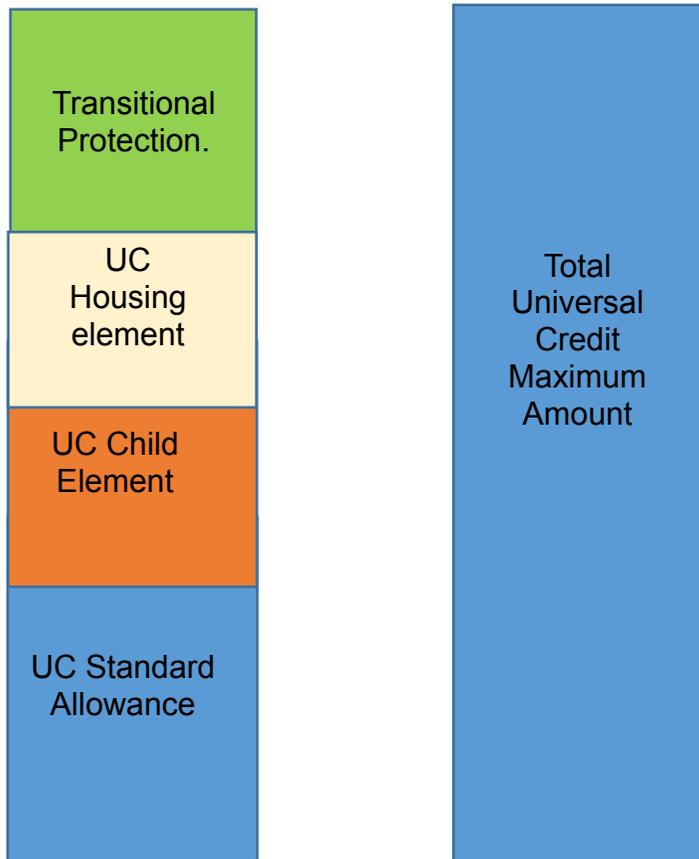
TP element is the same as assessment period 1

End of assessment period 4

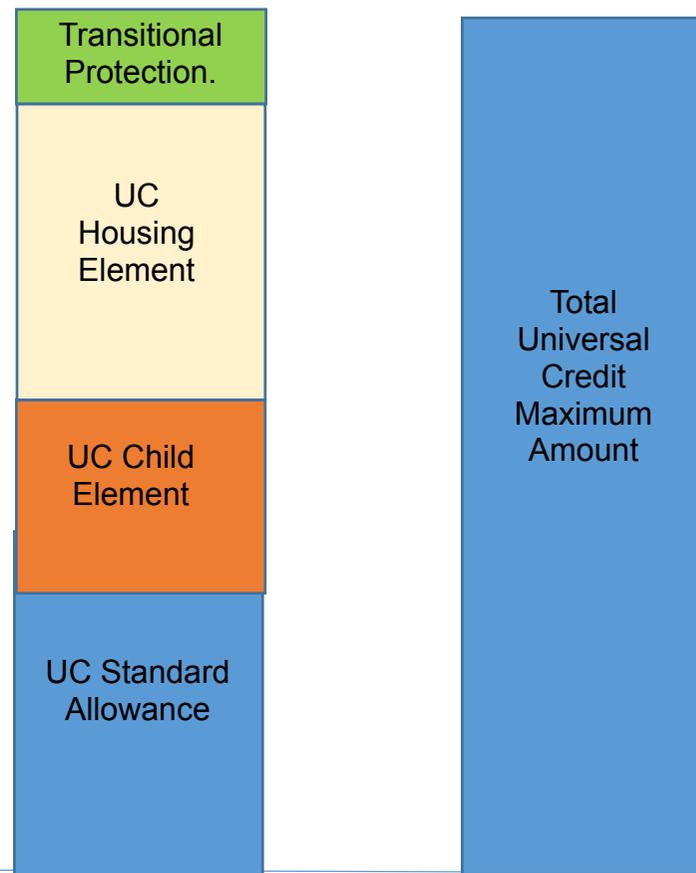


MAINTENANCE OF A UC AWARD WITH TP IF AN ELEMENT IS INCREASED

UC assessment for assessment period 1

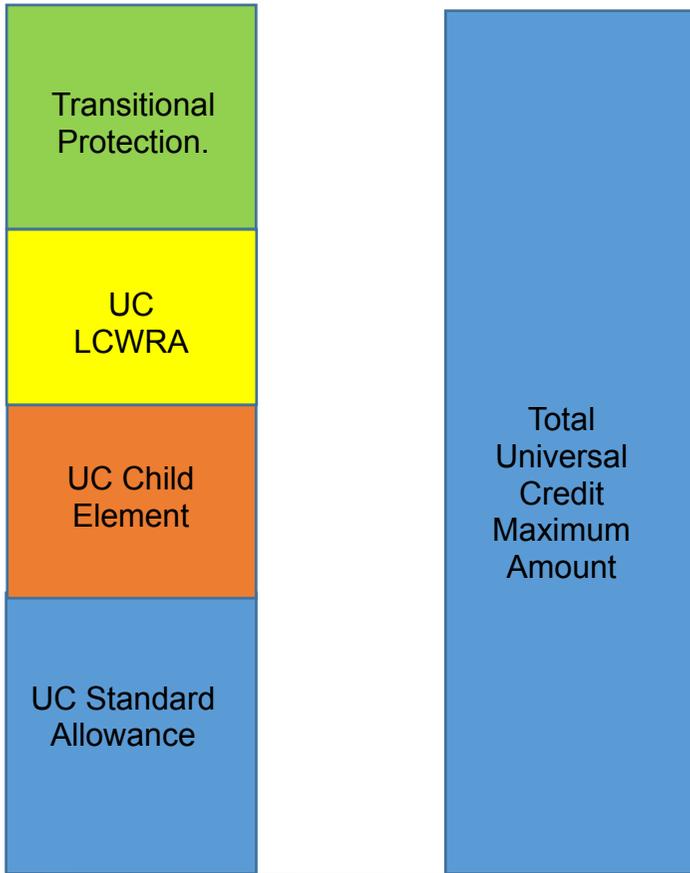


UC assessment for assessment period 2 – Housing Element increased

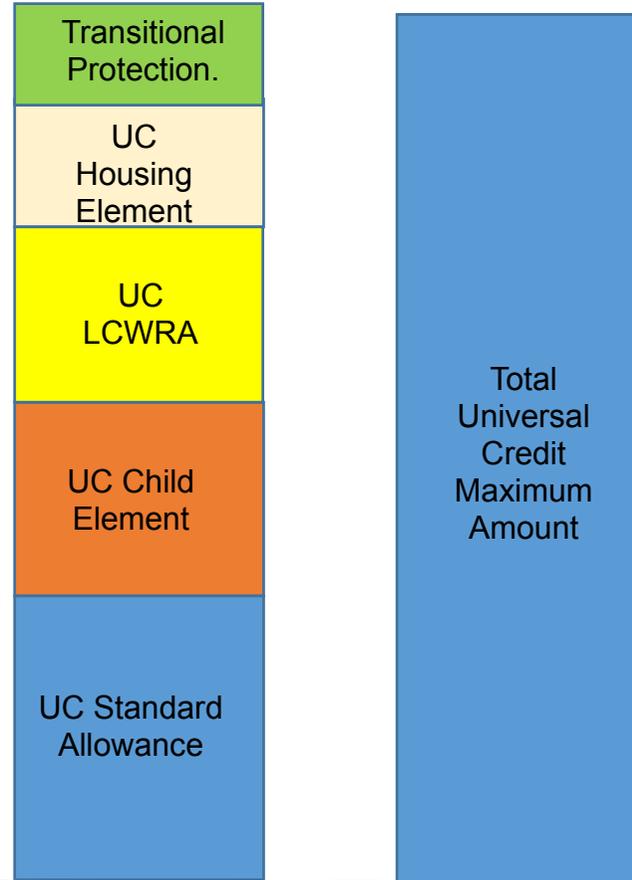


MAINTENANCE OF A UC AWARD WITH TP IF A NEW ELEMENT AWARDED

UC for previous assessment period



UC assessment for assessment period 2 – Housing Element awarded



CURRENT NATURAL MIGRATION PROVISIONS TO BE MIRRORED AS PART OF MANAGED MIGRATION

UC (Transitional Provisions) Regulations 2014	Provision
Regulation 9	<p>Benefit Cap – benefits that have previously been taken into account</p> <p>Ensures that benefits are not taken into account more than once for the purposes of the benefit cap. It provides that if a claimant successfully backdated a claim for UC or is a new claimant partner and was entitled to HB during the first assessment period for UC, any benefits which they had been entitled to during this period will be disregarded for the purposes of calculating whether the benefit cap should be applied.</p>
Regulation 10	<p>Treatment of Overpayments of existing benefits</p> <p>Provides for circumstances where an overpayment of an existing benefit (as defined in regulation 2 but excluding tax credits or joint-claim JSA) arises as a result of payment of that benefit in respect of a period when the claimant is entitled to UC. Such an overpayment will be offset against entitlement to UC by treating it as unearned income, but with special provision dis-applying regulation 73 of the UC Regulations 2013 so that only the actual amount is offset.</p>
Regulation 11	<p>Ongoing awards of tax credits</p> <p>Provides for a claimant to be treated as entitled to an award of a tax credit where at the end of the tax year, payments continue during the tax credits renewal period while the previous year's award is finalised and until a determination of entitlement in the current tax year is made.</p>
Regulation 12	<p>Modification of tax credits legislation – overpayments and penalties</p> <p>Ensures that a tax credits penalty may be applied to a part-year award, and that any overpayments of tax credits may be recovered from payments of UC.</p>
Regulation 12A	<p>Modification of tax credits legislation: finalisation of tax credits</p> <p>This applies when a claim for UC is made and the Secretary of State is satisfied that the claimant meets the basic conditions of entitlement. Once the claim UC is made, regulation 12A allows the tax credits award to be finalised during the tax year (i.e., in-</p>

UC (Transitional Provisions) Regulations 2014	Provision
	year), rather than after the end of the tax year. However, amendments have been made as part of the UC (Transitional Provisions) (Managed Migration) Regulations 2018 to extend this to claimants whose claimants have been terminated because they have not made a new UC claim by the deadline day.
Regulation 13. Article 24 of the No. 9 Commencement Order 2013.	<p>Appeals etc. relating to certain existing benefits</p> <p>Allows the outcome of the appeal or revision in respect of a previous IS, HB or tax credit claim to be applied, where appropriate, to the UC award.</p> <p>Allows the outcome of the appeal or revision in respect of a previous JSA or ESA claim to be applied, where appropriate, to the UC award.</p>
Regulation 16.	<p>Persons unable to act</p> <p>Deals with cases where a person has been appointed to act on behalf of an existing benefit claimant who migrates to UC; appointees can be treated as if they were so appointed to deal with the UC claim and award.</p>
Regulation 17.	<p>Advance payments of Universal Credit</p> <p>Ensures existing benefit or tax credit recipients will be able to request an advance payment of UC in the first month they are migrated to UC to support the move from weekly, fortnightly or 4 weekly payments to monthly payments of UC.</p>
Regulation 19 and 2017 Regulations savings.	<p>Transition from Employment and Support Allowance</p> <p>Deals with cases where ESA claimants had the Support Component (SC) or Work-Related Activity Component (WRAC) applied to their award immediately before they make a claim for UC. In these cases, if ESA claimants have the SC applied to their ESA award the Limited Capability for Work and Work-Related Activity (LCWRA) element in UC would be applied to their UC award, without the need for a Work Capability Assessment (WCA), from the start of their first assessment period.</p>
Regulations 20.	<p>Transition from Employment and Support Allowance before the end of the assessment phase</p> <p>Deals with cases where the ESA assessment phase has not ended at the point the claimant claims UC. It ensures that any unspent portion of the 13-week ESA assessment phase is carried forward and, if awarded, the appropriate UC element will apply</p>

UC (Transitional Provisions) Regulations 2014	Provision
	<p>from the start of the first assessment period that follows the day on which that 13-week period expires.</p> <p>Where the ESA assessment phase has not ended at the point that the claimant becomes entitled to UC but has already lasted for more than 13 weeks; it also ensures that, if awarded, the LCWRA or LCW element will apply from the start of the first UC assessment period.</p>
Regulations 20A.	<p>Transition from Jobseeker’s Allowance following an extended period of sickness</p> <p>Ensures that if claimants are in the JSA extended period of sickness, i.e., a period expected to last more than two weeks but less than 13 weeks), and they migrate to UC where they decide to enter the UC relevant period upon that migration, i.e., decide to claim UC because they are not fit for work, they will enter the UC relevant period and have time spent in the JSA extended period of sickness counted towards time in that period.</p>
Regulations 21 and 2017 Regulations savings.	<p>Other claimants with limited capability for work: credits only cases</p> <p>Provision to safeguard the position of claimants who, at the point they claim or are treated as claiming UC, are entitled to a National Insurance Credit on the grounds that they have LCW, but who are not entitled to any award of ESA if they make a new UC claim. This regulation ensures that, for the purposes of any award of the appropriate elements in UC, these claimants are treated in regulations 19 and 20 in the same way as their counterparts, who are entitled to benefit.</p>
Regulation 22 and 2017 Regulations savings.	<p>Transition from Income Support payable on the grounds of incapacity for work or disability and other incapacity benefits</p> <p>Deals with cases where claimants are in receipt of Incapacity Benefit (IB), Severe Disablement Allowance (SDA) or Income Support on the grounds of incapacity for work or disability (IS) whilst or prior to making a new UC claim. In these cases, no element will be paid in the UC award initially. However, if, following a UC WCA, it is subsequently determined that the claimant has either LCW or LCWRA, the claimant will not have to serve the UC relevant period in the normal way, rather, the appropriate element will be awarded from the start of the first UC assessment period.</p>
Regulation 23 and 2017 Regulations savings.	<p>Transition from other incapacity benefits: assessment under the 2010 Regulations</p> <p>Deals with cases where claimants are in receipt of Incapacity Benefit (IB), Severe Disablement Allowance (SDA) or Income Support on the grounds of incapacity for work or disability whilst or prior to making a new UC claim and are undergoing</p>

UC (Transitional Provisions) Regulations 2014	Provision
	conversion to contributory ESA. Once they have completed conversion and the relevant component is applied to their ESA award, the LCW or LCWRA element in UC will be applied to their UC award as per regulation 19.
Regulation 24 and 2017 Regulations savings.	<p>Transition from other incapacity benefits: claimants approaching pensionable age</p> <p>Deals with cases where claimants are in receipt of IB or SDA who are within a year of pension age who are not undergoing conversion to contributory ESA, when they make a new UC claim. As they are not undergoing conversion, entitlement to the LCW or LCWRA element in UC is determined if they are entitled to certain components of Disability Living Allowance, Attendance Allowance, Personal Independence Payment, Constant Attendance Allowance or the Armed Forces Independence Payment.</p>
Regulation 25.	<p>Transition from other incapacity benefits: supplementary</p> <p>Deals with cases where an award of UC is made to a person who is also entitled to IB or SDA, so the amount of that benefit being received will be taken into account as unearned income when calculating the amount of UC the claimant(s) are entitled to.</p>
Regulation 26 and 2017 Regulations savings.	<p>Other claimants with incapacity for work: credits only cases where claimant is approaching pensionable age</p> <p>This provision applies to claimants who, when they claim or are treated as claiming UC, are entitled to a National Insurance Credit on the grounds that they have incapacity for work, but are not entitled to any award of Incapacity Benefit and are not subject to the ESA conversion process because they are approaching pension age, who make a new UC claim. In these cases, the effect of regulation 26 mirrors that in regulation 24.</p>
Regulation 27 and 2017 Regulations savings.	<p>Other claimants with incapacity for work: credits only cases</p> <p>This provision applies to claimants who, when they claim or are treated as claiming UC, are:</p> <ul style="list-style-type: none"> • entitled to a National Insurance Credit on the grounds that they have incapacity for work; • not entitled to any award of Incapacity Benefit (and, as a consequence, are not subject to the ESA conversion process); and • not approaching pension age who make a new UC claim. <p>This maintains parity of treatment between these claimants and claimants receiving Incapacity Benefit who are subject to ESA conversion, i.e., they would have to undergo a Work Capability Assessment to qualify for the appropriate element from the</p>

UC (Transitional Provisions) Regulations 2014	Provision
	beginning of their first assessment period.
Regulation 28.	<p>Meaning of “qualifying young person”</p> <p>Ensures that, where a person is entitled to an existing benefit in their own right, that person cannot be treated as a qualifying young person for the purposes of the UC Regulations 2013.</p>
Regulation 29.	<p>Support for housing costs</p> <p>Currently covers the application of days served or payments being made towards Support for Mortgage Interest in existing benefits to the UC award. This will change to loans from April 2018, but SMI service charges will still need to be carried over. After discussing with Housing colleagues, we feel no changes are required to these regulations to allow for this. For information, provisions for claimants who transfer from one benefit to another will be contained in the ‘loans’ legislation. This is because a loan is not a payment of UC.</p>
Regulation 30.	<p>Sanctions: transition from Employment and Support Allowance</p> <p>Applies existing sanctions applied to an ESA award to the UC award.</p>
Regulation 31.	<p>Escalation of sanctions: transition from Employment and Support Allowance</p> <p>Where an existing benefit sanction is applied to the UC claim it will also count towards the escalation of sanctions in UC.</p>
Regulation 32.	<p>Sanctions: transition from Jobseeker’s Allowance</p> <p>Applies existing sanctions applied to an old style JSA award to the UC award.</p>
Regulation 33.	<p>Escalation of sanctions: transition from Jobseeker’s Allowance</p> <p>Where an existing benefit sanction is applied to the UC claim it will also count towards the escalation of sanctions in UC.</p>
Regulation 35.	<p>Loss of benefit penalties: transition from existing benefits other than tax credits</p> <p>Where JSA, ESA, HB, IS, or Pension Credit claimants have a fraud loss of benefit penalty applied to their award and they make a UC claim within 1 calendar month of their existing benefit claim ceasing, the fraud loss of benefit penalty will be transferred to the UC award in a particular way.</p>

UC (Transitional Provisions) Regulations 2014	Provision
Regulation 36.	<p>Loss of benefit penalties: reduction of Universal Credit</p> <p>Ensures that where more than one fraud penalty has been applied to an existing benefit or credit award upon the transition to UC, these penalties will not exceed the amount of the UC standard allowance in any assessment period.</p>
Regulation 37.	<p>Loss of benefit penalties: transition from Working Tax Credit</p> <p>Where WTC claimants have a fraud loss of benefit penalty applied to their award and they make a UC claim, the fraud loss of benefit penalty will be transferred to the UC award.</p>
Regulation 38.	<p>Loss of benefit penalties: maximum total reduction</p> <p>Ensures that where more than one fraud penalty has been applied to an existing benefit or credit award upon the transition to UC, i.e., a fraud penalty that has been applied to a WTC and a DWP benefit award, such as Housing Benefit, that the combination of these penalties will not exceed the amount of the UC standard allowance in any assessment period.</p>
Regulations 40 to 42	<p>Claimants with more than two children</p> <p>These set out the circumstances in which a child or qualifying young person, who is the third or subsequent child or qualifying young person in the claimant's household, is transitionally protected for the purpose of entitlement to the child element.</p> <p>Different criteria apply during and after the interim period. During the interim period (as for Child Tax Credit (CTC)), the protection depends on the child or qualifying young person being born before 6th April 2017. After the interim period it also depends on their having been part of an award of UC since the end of the interim period or part of an IS or JSA in the 6 months before becoming part of a UC award.</p> <p>Those who are not protected by these regulations will only receive the child element for a maximum of 2 children, unless an exception applies..</p>
Regulation 43.	<p>Abolition of higher amount of the child element for first child or qualifying young person – saving where claimant responsible for a child or qualifying young person born before 6th April 2017</p> <p>This regulation provides that the higher amount of the child element in respect of the first child or qualifying young person</p>

UC (Transitional Provisions) Regulations 2014	Provision
	continues to be payable to claimants who are responsible for a child or qualifying young person born before 6 th April 2017. Those who are not protected by this regulation will not receive the higher amount of the child element in respect of the first child or qualifying young person.