Chapter E1: Introduction and entitlement

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Chapter E1: Introduction and entitlement

Introduction

This chapter contains an overview of UC including the conditions of entitlement and information for DMs on where to find detailed guidance.

UC is introduced in the Pathfinder area from 29.4.13. It will be introduced nationally at a later date.

Benefits replaced by Universal Credit

UC will replace

1. JSA(IB)
2. ESA(IR)
3. IS
4. HB
5. CTC and
6. WTC

which are being abolished.

Note 1: JSA and ESA will continue as contributory benefits.

Note 2: CTB is also being abolished and is being replaced with localised council tax support schemes.

However, people entitled to the benefits listed at E1003 above before the introduction of UC will continue to receive them until

1. entitlement ends or
2. there is migration to UC.

Who can claim

Single claimant

A single claimant is entitled to UC if they meet

1. the basic conditions and
2. the financial conditions for a single claimant.  

Joint claimant

Joint claimants are entitled jointly to UC if
1. each of them meets the basic conditions and
2. they meet the financial conditions for joint claimants.

One of a couple does not meet all the conditions

Where one of a couple does not satisfy all the basic conditions, there are special rules for how to treat such claims. See ADM Chapter E2: Awards, benefit unit and maximum amount for details.

Entitlement

Basic conditions

The basic conditions are met if the person
1. is at least 18 years old (see E1024)
2. has not reached the qualifying age for SPC (see E1071)
3. is in GB (see E1091)
4. is not receiving education (see E1101) and
5. has accepted a claimant commitment (see E1121).

Financial conditions

The financial conditions
1. for a single claimant are that the claimant's
   1.1 capital does not exceed the prescribed amount and
   1.2 income is such that if the claimant were entitled to UC, the amount payable would not be less than any prescribed minimum or
2. for joint claimants are that their combined
   2.1 capital is not greater than the prescribed amount and
   2.2 income is such that if they were entitled to UC, the amount payable would not be less than any prescribed minimum.

Note: See E1151 et seq for further details.
Restrictions on entitlement

E1015 There will be no entitlement to UC\(^1\)

1. in certain prescribed circumstances (see E1171 et seq) or
2. if the conditions in paragraphs E1010 - 11 are satisfied for a period shorter than the prescribed period or
3. for a prescribed period at the beginning of the period that the requirements in paragraphs E1010 - 11 are met.

Prescribed period

E1016 Primary legislation allows for a period of up to 7 days at the beginning of a claim for UC (during which the UC entitlement conditions are met) to be treated as days where entitlement to UC does not arise\(^1\). However, currently legislation does not provide for a prescribed period.

Note: See E1171 et seq for further details of restrictions on entitlement.

Basic conditions

Minimum age

E1024 There are circumstances when the minimum age for entitlement can be 16\(^1\). These circumstances are where a person

1. has LCW\(^2\) (see ADM Chapter G2: Limited capability for work) or
2. is awaiting assessment for LCW and has a medical certificate\(^3\) saying that the person is not fit for work or
3. has regular and substantial caring responsibilities (see ADM Chapter F6: Carer element) for a severely disabled person\(^4\) or
4. is responsible for a child\(^5\) (see ADM Chapter F1: Child element) or
5. is a member of a couple either of whom is responsible for a child or a qualifying young person (but only where the other member of the couple satisfies the conditions in E1013 above) or
6. is pregnant and it is 11 weeks or less before her EWC or
7. was pregnant and it is 15 weeks or less since her ADC or
8. is without parental support.

\(^1\) UC Regs, reg 8(1); 2 reg 2(1); reg 27; 3 SS (Med Ev) Regs Sch 1, Part 1; 4 UC Regs, reg 30; 5 reg 2(1); reg 4
Care leavers

E1025 Where a person falls into any of the categories in E1024 3., 6., 7., or 8. above and is also a care leaver, they cannot satisfy the minimum age condition as a 16 year-old.  

1 UC Regs, reg 8(2)

E1026 Care leaver means

1. in England, an eligible child or relevant child or
2. in Scotland, a person under the age of 18 who
   2.1 is looked after by a local authority or
   2.2 has ceased to be looked after by a local authority but is a person who
      2.2.a the local authority is obliged to provide advice and assistance to or
      2.2.b is being provided with continuing care and
   who since reaching the age of 14 has been looked after by a local authority for a period or periods totalling 3 months or more (excluding any period when the person has been placed with a member of their family
3. in Wales, a category 1 or 2 young person.

1 UC Regs, reg 8(4); 2 Children Act 1989, Sch 2, para 19B; 3 s 23A; 4 Scotland Act 95, s 29(1); 5 s 26A; 6 Social Services and Well-being (Wales) Act 2014, s 104(2)

E1027 Legislation defines a child who is “looked after” as one who is in LA care (i.e. subject to a care order or supervision order) or who is provided with their accommodation by their LA.

1 Children Act 89, s 22; Children (Scotland) Act 95; The Social Services and Well-being (Wales) Act 2014, s 74

Note: The definition of ‘care leaver’ includes a person who did not leave care until their eighteenth birthday, provided that they fell within E1026 when aged 16 or 17.

Eligible child (England and Wales)

E1028 An eligible child is a child who

1. is aged 16 or 17 and
2. has since the age of 14, been looked after by the LA for a period of at least 13 weeks, or aggregated periods amounting to at least 13 weeks, which ended after the child reached the age of 16.

1 Children Act 1989, Sch 2, para 19B(2)

E1029 The exception to this is where

1. an LA has placed the child in a pre-planned series of short-term placements, none of which individually exceed four weeks (although they may amount in all to 13 weeks) and
2. at the end of each placement the child returns to their parents, or the person who has parental responsibility for the child\textsuperscript{1}.

\textsuperscript{1} Children Leaving Care (England) Regs, reg 3(2) & 3(3); Children Leaving Care (Wales) Regs, reg 3(2)(a)

E1030 In Wales there is one further exception where

1. a child is subject to a care order and
2. has been placed with a carer or family under relevant legislation\textsuperscript{1} and has stayed for at least 6 months\textsuperscript{2}.

\textsuperscript{1} Children Act 1989, s 23(4); 2 Children Leaving Care (Wales) Regs, reg 3(2)(b)

Relevant child (England and Wales)

E1031 A relevant child is a child who is aged 16 or 17

1. who
   1.1 is not being looked after by an LA and
   1.2 was an eligible child before ceasing to be looked after by an LA or
2. is not subject to a care order and
   2.1 on reaching 16 was detained or admitted to hospital and
   2.2 immediately before had been looked after by an LA for a period or periods amounting to at least 13 weeks, which began after the child reached age 14\textsuperscript{1}.

\textsuperscript{1} Children Act 1989, s 23A(2); Children Leaving Care (England) Regs, reg 4(1) & 4(2); Children Leaving Care (Wales) Regs, reg 4(1) & 4(2)

E1032 The 13 weeks referred to in E1031 2.2 above do not include any periods where the child was

1. looked after by an LA on any period of pre-planned short term placements which individually lasted for four weeks or less and
2. at the end of each placement the child returned to the care of their parents or the person who has parental responsibility for the child\textsuperscript{1}.

\textsuperscript{1} Children Leaving Care (England) Regs, reg 4(3); Children Leaving Care (Wales) Regs, reg 4(2A)

E1033 “Detained” in E1031 2.1 above means detained in a remand centre, a young offenders institution or a secure training centre or other institution as a result of a court order\textsuperscript{1}.

\textsuperscript{1} Children Leaving Care (England) Regs, reg 4(4)(a); Children Leaving Care (Wales) Regs, reg 4(3)

E1034 “Hospital” in E1031 2.1 above means\textsuperscript{1}

1. a health service hospital within the meaning of certain legislation\textsuperscript{2} or
2. a care home\textsuperscript{3}.

\textsuperscript{1} Children Leaving Care (England) Regs, reg 4(4)(b); Children Leaving Care (Wales) Regs, reg 2;
\textsuperscript{2} NHS Act 06; \textsuperscript{3} Care Standards Act 2000, s 3
Where a child has been placed with a person or family under the relevant legislation and has stayed for six months, the child is not a relevant child, despite falling within the definition. This applies whether or not the six month period began before or after the child ceased to be looked after by the LA.

1 Children Act 1989, s 22C; 2 Children Leaving Care (England) Regs, reg 4(5); Children Leaving Care (Wales) Regs, reg 4(4); Support and Assistance of Young People Leaving Care (Scotland) Regs, reg 13; 3 Children Leaving Care (England) Regs, reg 4(6); Children Leaving Care (Wales) Regs, reg 4(5); Support and Assistance of Young People Leaving Care (Scotland) Regs, reg 13

In England only, where the child ceases to live with the person or family, they should be treated as a relevant child.

1 Children Leaving Care (England) Regs, reg 4(7)

Young person without parental support

A person is without parental support in E1024 above where the person is not being looked after by a local authority and

1. has no parent or
2. cannot live with their parents because
   2.1 the person is estranged from their parents or
   2.2 there is a serious risk to the person’s physical or mental health or that the person would suffer significant harm if they lived with their parents or
3. is living away from their parents and neither parent is able to financially support them because that parent
   3.1 has a physical or mental impairment or
   3.2 is detained in custody pending trial or awaiting sentence or in prison or
   3.3 is not allowed to enter or re-enter GB (no specific prohibition order is necessary). 1

1 UC Regs, reg 8(3)

Parent includes any person acting in the place of a parent.

1 UC Regs, reg 8(4)

Estranged

Estranged is not defined in legislation and should be given its ordinary, everyday meaning of alienated in feeling or affection. Examples of when young people are estranged from their parents include where they

1. have no intention or wish to live with them or
2. have no wish for any prolonged physical or emotional contact with them or
3. the parents feel the same way towards the young person.

A young person may be estranged even though the parent is providing some financial support. However, it takes more than the young person saying that estrangement exists. It must also be shown that the young person of necessity has to live away from the parents because of estrangement.

\[ Cooze v. Brutus \] [1972] 3 WLR 521

E1052 Estrangement should be determined using the young person's statement. There is no requirement to corroborate such evidence or contact parents. The young person should be believed unless their statement is self-contradictory or improbable.

E1053 Estranged also includes estrangement from a community home or foster parents where the young person has been placed by the LA. The existence of a care order does not mean that the young person cannot be estranged from the LA. The DM should have regard to the young person's circumstances to determine if estrangement exists. The young person has of necessity to live away from the LA. The DM should find out the reasons why the young person cannot live in accommodation provided by the LA.

**Serious risk to physical or mental health**

E1054 Whether the young person is at serious risk to their physical or mental health and has to live away from their parents is a question of fact. The DM will need to determine the degree of risk in each case taking into account that the danger

1. need not be from the parents
2. includes any form of danger to their physical or mental health which causes the young person to live away from their parents.\(^1\)

The DM should accept the evidence from the young person or representative unless there is stronger evidence to the contrary or the evidence is self-contradictory.

\[ R(IS) 9/94 \]

E1055 Examples of serious risk might be where the young person

1. has a brother/sister who is a drug addict and this poses a risk to the young person who is exposed to the drugs at the parental home or
2. has a history of mental illness which is made worse by the parent's attitude or
3. suffers from chronic bronchitis which is made worse by the damp conditions at the parent's home and

there is a serious risk that the young person's health will be adversely affected by staying in the parent's home.
Young person living away from and cannot be supported by parents

E1056  There is no definition of what constitutes a physical or mental impairment so it should be given its normal everyday meaning. The DM should have regard to whether the impairment has a substantial effect on a person’s ability to carry out normal day-to-day activities. Some examples of what this could cover are people who are

• registered as disabled with the LA
• paraplegic
• mentally ill
• polio victims
• suffering with rheumatoid arthritis and have difficulty with day to day tasks.

This list is not exhaustive.

Where claimant has both parents

E1057  Where the young person has both parents then

1. both parents have to satisfy the conditions in paragraph E1037 above
2. the parents do not have to satisfy the same conditions. For example, the father may be in prison and the young person is estranged from their mother.

Note: 1. and 2. above apply where more than one person is acting in place of the parents. For example, both sets of grandparents.

E1058 – E1070

Claimant has not reached the qualifying age for state pension credit

E1071  Where a claimant has reached the qualifying age for SPC, they will not satisfy the basic condition for entitlement to UC. The qualifying age for SPC is

1. for a woman - pensionable age or
2. for a man - the age which would be pensionable age for a woman born on the same day as the man.

Note: See DMG Chapter 75: Retirement pension, for guidance on pensionable age.

E1072  Where however one partner of a couple is over the qualifying age for SPC, they are still able to make a claim for UC.

E1073 – E1090
Being in Great Britain

E1091 One of the basic entitlement conditions for UC is that the person is in GB\(^1\). Guidance on
1. whether a person is to be treated as being or not being in GB\(^2\)
2. how to deal with Crown servants and members of Her Majesty’s Forces
posted abroad\(^3\) and
3. temporary absence from GB\(^4\)
is to be found in ADM Chapter C1: Universal credit.

E1092 – E1100

Receiving education

E1101 One of the basic entitlement conditions is that the person is not receiving education\(^1\)
(see E1013 4. above). For the purposes of this condition, a qualifying young person
is to be treated as receiving education, unless that person is participating in a
relevant training scheme\(^2\). For detailed guidance on receiving education see ADM
Chapter H6: Students.

E1102 – E1120

Claimant commitment

E1121 A claimant commitment is a record of a claimant’s responsibilities in relation to an
award of UC and is to be prepared, reviewed and updated as the Secretary of State
thinks fit\(^1\). Full guidance is to be found in ADM Chapter J1: Claimant commitment.

E1122 – E1150

Financial conditions

Capital limit

E1151 For the purpose of the financial conditions in E1014 1.1 and 2.1, the capital limit for
1. a single claimant and
2. joint claimants
is £16,000\(^1\).
Where a claimant is a member of a couple but makes a claim to UC as a single person, the claimant’s capital is to be treated as including the capital of the other member of the couple. See ADM Chapters H1: Capital and H2: Capital disregards for full guidance on the treatment and calculation of capital.

1 UC Regs, reg 18(2)

Minimum amount payable

For the purpose of the financial conditions in E101 1.2 and 2.2, the prescribed minimum amount payable would not be less than one penny for an assessment period.

1 UC Regs, reg 17

Income

Full guidance on the treatment and calculation of different types of income can be found in ADM Chapter H3: Earned income – employed earnings, ADM Chapter H4: Earned income – self-employed earnings and ADM Chapter H5: Unearned income.

Restrictions on entitlement

Where a person is

1. a member of a religious order who is fully maintained by their order
2. a prisoner or
3. serving a sentence of imprisonment detained in hospital

they are not entitled to UC, subject to certain exceptions. Full guidance on this can be found in the ADM Chapter E3: Special cases.

1 UC Regs, reg 19(1)

Assessment process

Once the entitlement conditions have been satisfied, the DM should then

1. identify the benefit unit
2. calculate the UC maximum amount
3. calculate the amount of UC a benefit unit is entitled to
4. calculate the UC payment.

Awards

An award is calculated by reference to
1. a standard allowance\(^1\)
2. an amount for responsibility for children and young persons\(^2\)
3. an amount for housing\(^3\) and
4. amounts for other particular needs or circumstances\(^4\).

**Note:** See ADM Chapters

- E2: Awards, benefit unit and maximum amounts
- F1: Child element
- F2: Housing costs element: general
- F3: Housing costs element: eligible rent
- F4: Housing costs element: home finance payments
- F5: Work capability elements
- F6: Carer element
- F7: Child care element

for full guidance on elements of the award.

\(^1\) WR Act 12, s 1(3)(a) & 9; \(^2\) s 1(3)(b) & 10; \(^3\) s 1(3)(c) & 11; \(^4\) s 1(3)(d) & 12

E1193 – E1999

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