

Chapter F1: Child Element

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Chapter F1: Child Element

Introduction

F1001 Support for children will be made within UC by a child element and, where appropriate, a disabled child addition. The eligibility for the inclusion of such amounts is based on each child or qualifying young person for whom the claimant is responsible.

F1002 – F1003

Child element qualifying conditions

General

F1004 The claimant's maximum amount should include an amount for a maximum of two

1. children **or**
2. qualifying young people

for whom the claimant is responsible¹. But see F1007 – F1008.

1 WR Act 12, s 10

F1005

Restrictions

F1006 For the period from 6.4.17 to 31.1.19 the child element was awarded only in respect of the first and second child or qualifying young person in the claimant's household¹. For guidance on if, and when, a third or subsequent child or qualifying young person may qualify during that period, see Appendix 1.

1 UC Regs, reg 24A(1)(a)

F1007 From 1.2.19 all children or qualifying young people born before 6.4.17, for whom the claimant is responsible, are transitionally protected¹ and a child element will be payable.

1 UC Regs, reg 24A(3)

F1008 From 28.11.18, children who are adopted or in non-parental caring arrangements are disregarded when determining the order of children. (see paragraphs F1018 – 1021)¹ A child element is payable for any child or qualifying young person in these arrangements, plus the first and second child in the household, as well as any other children or qualifying young people who qualify for the exceptions in F1016 et seq.

1 UC Regs, reg 24A(za); Sch 12, para 3,4

F1009 A child element will not be payable for the third or subsequent child or qualifying young person born on or after 6.4.17, unless they qualify for an exception (F1016).

F1010 – F1015

Exceptions

F1016 There are 3 categories that fall into the exception specified at paragraph F1008

1. multiple births (paragraph F1017)
2. non-consensual conception (paragraphs F1022 – F1024)
3. continuation of existing exception (paragraphs F1030 – F1031).

Multiple births

F1017 An exception applies where

1. the claimant is a parent (other than an adoptive parent) of the child
2. the child was one of two or more children born as a result of the same pregnancy
3. the claimant is responsible for at least two of the children born as a result of that pregnancy
4. the child is not the first in the order of multiple birth children established under paragraph F1033¹.

1 UC Regs, Sch 12, para 2

Example

Couple have three children, Tom aged 4, Jack born 10.5.17, and Jill born 18.6.18. Twins Alex and Luke are born on 20.12.19. The claimant is the parent of and responsible for the twins, they were born as a result of the same pregnancy and the DM decides that Alex is first in the child order of the twins. The claimant is entitled to a child element for Tom (born before 6.4.17) Jack, Jill and a child element for Luke under the multiple birth exception criteria. (Luke is not considered to be the first child in the DMs order of the twins).

Adoptions

F1018 An exception applies¹ where

1. the child or qualifying young person has been
 - 1.1 adopted **or**

1.2 placed for adoption
with the claimant under legislation².

1 UC Regs, Sch 12, para 3; 2 Adoption and Children Act 2002, Adoption and Children (Scotland) Act 2007

- F1019 The exception at paragraph F1018 does not apply where the claimant or, if the claimant is a member of a couple, the other member
1. was immediately prior to the child's adoption, a step parent of the child **or**
 2. has at any time been a parent of the child **or**
 3. adopted the child under a convention adoption order or an external adoption¹
or
 4. had already adopted the child under the law of any country or territory outside the British Islands (see paragraph F1038).

1 Adoption and Children Act 2002, s 144 & Adoption and Children Scotland Act 2007, s 119(1)

Non-parental caring arrangements

- F1020 An exception applies where the claimant is
1. a friend or family carer of the child **or**
 2. responsible for a child who is also a parent of a child¹.

1 UC Regs, Sch 12, para 4

Example

Couple have two children Jack aged 10 and Jill aged 15, Jill has a son Alex born on 20.12.17. As the claimant is responsible for Jill (who is the parent of Alex) he is entitled to a child element for Jack and Jill (as they were born before 6.4.17) and also for Alex under the exception criteria.

- F1021 For the purposes of paragraph F1020 **1.** the term friend or family carer means a person who is responsible for the child, but is not that child's parent or step parent **and**
1. is named in a child arrangements order, under legislation¹, as a person with whom the child is to live **or**
 2. is a guardian² or special guardian³ of the child **or**
 3. is entitled to a guardian's allowance⁴ in respect of that child **or**
 4. in Scotland
 - 4.1 has a kinship care order⁵ in respect of that child **or**
 - 4.2 is a guardian⁶ of that child **or**

- 4.3** one or more of the parental responsibilities or parental rights⁷ are vested by a permanence order made in respect of that child under legislation⁸ **or**
- 4.4** fell within any of the above (1. to 4.) immediately prior to the child's 16th birthday and has since continued to be responsible for that child⁹ **or**
- 4.5** has taken care of the child in circumstances in which it is likely that child would otherwise be looked after by a local authority¹⁰.

Note: the family carer should provide evidence from a social worker to support the declaration that the child would otherwise be looked after by a local authority.

*1 Children Act 1989, s 8; 2 s 5; 3 s 14A; 4 C & B Act, s 77;
5 Children and Young People (Scotland) Act 2014, s 72(1); 6 Children (Scotland) Act 1995, s 7; 7 s 1 or 2;
8 Adoption and Children (Scotland) Act 2007, s 80; 9 UC Regs, Sch 12, para 4(2)(g); 10 para 4(2)(h)*

Non-consensual conception

F1022 An exception applies where

- 1.** the claimant is the child's parent **and**
- 2.** the DM determines (see paragraph F1024) that
 - 2.1** the child is likely to have been conceived as a result of sexual intercourse to which the parent did not agree by choice or did not have the freedom and capacity to agree by choice **and**
 - 2.2** the parent is not living at the same address as the other party to that sexual intercourse¹.

Note: For **2.2** the DM should accept the claimant's statement confirming that they were not living at the same address as the other party².

1 UC Regs, Sch 12, para 5(1); 2 para 5(4)

F1023 The freedom or capacity to agree by choice, as required at paragraph F1022 **2.** includes, at or around the time the child was conceived, such circumstances in which

- 1.** the parents were personally connected **and**
- 2.** one parent was repeatedly or continuously engaging in behaviour towards the other parent that was controlling or coercive **and**
- 3.** that behaviour had a serious effect on the recipient¹.

Note 1: the parents are personally connected if they are in an intimate personal relationship with each other or they were living together and were members of the same family or they were living together and had previously been in an intimate personal relationship with each other².

Note 2: the behaviour will have had a serious effect where it causes fear, on at least two occasions, that violence will be used against the parent or it causes serious alarm or distress which has a substantial adverse effect on the parent's day to day activities³.

1 UC Regs, Sch 12, para 5(2); 2 para 5(5); 3 para 5(6)

- F1024 The DM can only make the determination, as described at paragraph F1022 **2.1**, where
1. the child's parent provides evidence (that evidence will probably take the form of a completed pro forma) from an approved person that shows
 - 1.1 they had contact with that approved person (see paragraph F1037) or another approved person **and**
 - 1.2 their circumstances are consistent with those of a person to whom **1.** and **2.1** of paragraph F1022 would apply **or**
 2. there has been
 - 2.1 a conviction for an offence of rape under legislation¹ **or**
 - 2.2 a conviction for an offence of controlling or coercive behaviour in an intimate or family relationship under legislation² **or**
 - 2.3 a conviction for any offence under the law of a country outside GB that the DM considers to be comparable to either offence mentioned above **or**
 - 2.4 an award under the Criminal Injuries Compensation Scheme in respect of a relevant criminal injury sustained by the parentand the DM considers it likely that the offence or injury (**2.1 to 2.4** above)
 - 2.5 was caused by one parent **or**
 - 2.6 diminished the other parents freedom or capacity to agree to the sexual intercoursewhich resulted in the conception of the child³.

Note 1: no time limit is placed on when the report needs to be made to the approved person after the actual incident that resulted in the pregnancy, in order to be eligible for the exception.

Note 2: There is no requirement to provide evidence from an approved person where the DM is satisfied that the same evidence had already been provided to HMRC in relation to a CTC exception⁴.

*1 Sexual Offences Act 2003, s 1 & Sexual Offences (Scotland) Act 2009, s 1;
2 Serious Crime Act 2015, s 76; 3 UC Regs, Sch 12, para 5(3); 4 UC (TP) Regs, reg 42(2)*

Continuation of existing exception – previous UC award

F1030 An exception applies¹ where none of the exceptions listed at **1.** to **4.** of paragraph F1016 are triggered and the claimant

- 1.** is the child's step parent **and**
- 2.** had previously been entitled to UC as a member of a joint claim couple with the child's parent where that child fell under one of the multiple birth, adoption or non-consensual conception exceptions **and**
- 3.** since the previous award ended each subsequent UC award was as a consequence of
 - 3.1** the previous award having ended when the claimant ceased to be a member of a couple **or**
 - 3.2** the previous award ending when they became a member of a couple with another claimant **or**
 - 3.3** any other circumstances which result in retaining assessment periods for that award that begin on the same day of each month² as the assessment period for a previous award.

1 UC Regs, Sch 12, para 6; 2 UC Regs, reg 21

F1031 Where in the previous award mentioned at F1030 **2.** a multiple birth exception applied

- 1.** the step parent was also responsible for one or more children or qualifying young persons born as a result of the same pregnancy as the child **and**
- 2.** the child was not the first in the order established under paragraph F1033¹.

1 UC Regs, Sch 12, para 6(e)

Continuation of an exception from a previous CTC/IS/JSA award

F1032 The claimant is treated as satisfying¹ the exception described at paragraph F1030 where the claimant

- 1.** is the step-parent of a child or qualifying young person **and**
- 2.** within the 6 months immediately preceding the first day on which the claimant became entitled to UC they had an award of CTC, IS or JSA in which an exception corresponding with the UC exceptions of
 - 2.1** multiple birth
 - 2.2** adoption
 - 2.3** non-consensual conception
 - 2.4** continuation of an existing exception

applied.

Note: Where it is **2.4** (the continuation exception equivalent) that is considered, the claimant should be treated as satisfying the test of paragraph F1030.2 despite the previous award not being an award of UC.

1 UC (TP) Regs, reg 41(1)

Order of children

F1033 The order of children or qualifying young persons in the claimant's household is established by reference to the date of birth of each child or qualifying young person for whom the claimant is responsible, taking the earliest date first¹.

1 UC Regs, reg 24B(1)

F1034 Any child or qualifying young person to whom F1018 – F1020 and F1030 applies is to be disregarded when determining the order of children¹.

1.UC Regs reg 24B(2A)

Example

Kevin and Penny already have three children, Tom aged 5, Samuel born 15.5.17 and Mary born 20.6.18, when they adopt Harry who is aged 6. For the purposes of the two child limit a child element is payable for Harry, who is disregarded as he is adopted and for Tom, who is transitionally protected as he was born before 6.4.17. A child element is also payable for Samuel and Mary as the first and second children in the household.

F1035 The order of the children or qualifying young persons in the claimant's household should be determined by the DM to ensure the greatest number of children qualify for the child element¹.

1 UC Regs, reg 24B(2)

F1036

Definitions

Approved person

F1037 An approved person is a person of a description specified on an approved list.

Note: the approved list will be of professionals who are trained to deal with such sensitive situations and with whom it would be beneficial for the claimant to engage in order to obtain relevant guidance and support.

British Islands

F1038 The British Islands means the UK, the Channel Islands and the Isle of Man.

Criminal Injuries Compensation Scheme

F1039 Criminal injuries compensation scheme has the meaning specified in legislation¹.

1 Criminal Injuries Compensation Act 1995

Members of the same family

F1040 Parents are members of the same family where

1. they are, or have been married to or civil partners of each other
2. they are relatives as specified in legislation¹
3. they have agreed to marry each other
4. they have entered into a civil partnership agreement under specified legislation²
5. they are both parents of the same child
6. they have, or have had, parental responsibility³ for the same child.

1 Family Law Act 1996, s 63(1); 2 Civil Partnership Act 2004, s 73; 3 UC Regs, reg 4A(2)

Relevant criminal injury

F1041 Relevant criminal injury means

1. a sexual offence (including a pregnancy sustained as a direct result of being the victim of a sexual offence)
2. physical abuse of an adult, including domestic abuse
3. mental injury

as described in the tariff of injuries in the Criminal Injuries Compensation Scheme.

Step-parent

F1042 In relation to a child or qualifying young person a step-parent is a person who is not the child's parent but

1. is a member of a couple, the other member of which is a parent of the child, where both are responsible for that child **or**
2. was previously a member of a couple, the other member of which was a parent of the child, where immediately prior to ceasing to be a member of that couple the person was, and has since continued to be, responsible for that child¹.

1 UC Regs, reg 2

F1043 – F1055

Who is the responsible person?

F1056 The responsible person is

1. the person with whom the child or qualifying young person normally lives¹ **or**
2. where the child or qualifying young person normally lives with two or more persons who are not a couple, the person who has main responsibility².

1 UC Regs, reg 4(2); 2 reg 4(4)

F1057 – F1059

Normally lives

F1060 “Normally lives” is not defined in legislation, and should be applied with a focus on the normal pattern of living, rather than the amount of time spent with a particular person, or in a particular place, and “normally lives with” can include both minority and majority carers.

Note: which person gets CHB is not taken into account.

Example 1

Alan and Frances have a daughter, Gail, who lives from Monday to Friday with her grandmother. She spends the majority of weekends and all school holidays with her mother and father. This arrangement has been in place for some time and is Gail's normal pattern of living. She therefore normally lives with her parents and normally lives with her grandmother. The DM will need to determine who has main responsibility for Gail

Example 2

Alan's 14 year old son Eric has recently left LA care. He spends Monday to Thursday nights with his mother, Frances, and Friday to Sunday nights with his father Alan and step mother Barbara. Eric normally lives with Frances for part of each week and normally lives with Alan for the balance of each week.

Example 3

Marcus and Leanne are separated and share the care of their twins girls April and Amber. April lives with Marcus on weekdays, as he lives closer to her school, but spends weekends and part of the school holidays with her mother and sister. She is registered with her school as living at Marcus's address. Amber is disabled and Leanne cares for her at home full time. Amber has been awarded Disability Living Allowance. Marcus works full time and has not claimed any benefits. Leanne makes a new claim to Universal Credit for herself, April and Amber.

The DM decides April normally lives with Marcus, and also normally lives with Leanne. Leanne is awarded the child element and the disabled child addition for Amber but the DM will need to determine who has main responsibility for April.

F1061 – F1062

Main responsibility

F1063 Where the child or qualifying young person normally lives with two or more persons who are not a couple, the deciding factor will be the person who has main

responsibility. Who has that main responsibility¹ should be decided between the persons with whom the child or qualifying young person normally lives.

1 UC Regs, reg 4(4)

F1064 If

1. joint agreement cannot be reached as to which person has main responsibility
or
2. in the opinion of the DM the choice of person with main responsibility does not reflect the actual arrangements

the DM may determine which person has main responsibility¹.

1 UC Regs, reg 4(5)

Who can have main responsibility?

F1065 If the DM is required to determine who has main responsibility they should note that; main responsibility is not defined in regulations and should be given the meaning of the person who is normally answerable for, or called to account for the child or young person. In determining who has the main responsibility for a child or young person consideration should be given to

1. Who makes day to day decisions about the child's welfare including, for example, arranging and taking them to visits to the doctor or dentist or enrolling and taking the child to and from school?
2. Who provides the child with clothing, shoes, toiletries and other items needed for daily use?
3. Who is the main contact for the child's school, doctor and dentist?
4. Who cares for the child when the child is ill?

This list should not be considered exhaustive.

Example 1

Alan lives with his partner Barbara, his daughter Caroline aged 15 and Caroline's 1 year old daughter, Danielle. Alan and Barbara support Caroline to care for Danielle. Caroline has returned to school and does not receive any support from Danielle's father. Danielle has a long term health condition. As Caroline is 15, Alan has registered Danielle with the GP and is also the main contact for the hospital where Danielle has regular appointments. Caroline usually takes Danielle to appointments accompanied by Alan. When Danielle is ill, Alan and Barbara take care of her so Caroline can attend school and complete her coursework. Alan becomes unemployed and claims Universal Credit for Barbara, Caroline and Danielle.

As Danielle lives with both Caroline and Alan equally they need to nominate which of them has main responsibility; they cannot decide. The decision falls to the DM who decides that Alan has main responsibility for her as he provides food, clothing,

toiletries and all other items needed for her welfare and maintenance. He also is the main contact for the GP and hospital although Caroline also attends the appointments. The DM also takes Caroline's age into account as, at 15, she is below the minimum age needed to make her own claim to Universal Credit and Alan is still responsible for her.

Note: When Caroline becomes 16 the family may agree that she should now have main responsibility for Danielle and Caroline can claim Universal Credit as a lone parent. Danielle and Caroline would be removed from Alan's claim.

Example 2

Philip and Susan are divorced and have a son, Michael, who is 12 years old. Michael spends alternate weeks living with Philip or Susan throughout the year. Philip and Susan both pay equal fixed sums into a joint account each month which is used to buy clothing, shoes and other items Michael needs as well as paying for any school related expenses. Philip works part time and Susan is unemployed. Philip and Susan each claim Universal Credit with their new partners. Both want to add Michael to their claim and cannot agree on which of them should receive the child element.

The DM decides that Michael normally lives with both of his parents and that they both contribute equally to his day to day needs. However, the DM discovers that Susan makes appointments and takes Michael to the GP and to dentist appointments even if it is a week in which Michael is staying with Philip. Philip and Susan jointly decide which school to enrol Michael in but Susan is the primary contact and always attends parent's evenings. Susan also shops for items that Michael needs. The DM decides that Susan has main responsibility and awards the child element to her.

F1066 – F1068

Who is not the responsible person?

F1069 A person cannot be responsible for a qualifying young person with whom they live as part of a couple¹.

1 UC Regs, reg 4(3)

Example

Jane is aged 17 living as a couple with Tom aged 20. Jane is still in education and meets the criteria to be a qualifying young person therefore Tom cannot be responsible for her.

F1070 A child or qualifying young person is not treated as being the responsibility of any person when the child or young person is

1. being looked after by a LA¹ (other than in the circumstances described at F1073) **or**

2. being held in custody pending trial or sentencing **or**
3. in custody serving a sentence imposed by a court **or**
4. on temporary leave from prison under specified legislation².

1 UC Regs, reg 2 (1); 2 UC Regs, reg 4(6)

Example

Jason (a qualifying young person) and part of his parents UC benefit unit is sent to prison for 4 months. Although Jason will be absent for less than 6 months his parents are no longer treated as responsible for him and the child element is removed from the first day of the assessment period in which he became a prisoner.

Note: As Jason's imprisonment is for a period of less than 6 months his parents can retain their renter's bedroom allocation.

Looked after by a LA

F1071 A looked after child is one where the LA has responsibility for that child's maintenance and care including a duty¹ to accommodate the child and have a care plan. The child may be placed with a foster parent, another family member, their parent or a person who has parental responsibility.

1 Children Act 89 s 22; Children (Scotland) Act 95 s 17(6)

F1072 If the child is looked after, the LA will be obliged to provide financial support and the responsible parent will no longer be eligible for the child element, other than in the circumstances described in F1073.

Example

3 year old Tom had been in LA care following the death of his mother. His grandmother, Susan, applied for and was granted a Special Guardians Order and awarded Special Guardianship Allowance. The LA ceased to have responsibility for Tom from the date of the Special Guardians Order and Susan became the responsible person. Susan is entitled to the child element and the Special Guardianship Allowance is not taken into account (ADM H5002).

Looked after child at home

F1073 A child or qualifying young person is treated as still normally living with the responsible person during a period where they are looked after by a LA because they are on

1. a short break **or**
2. a series of short breaks¹

for the purpose of providing respite for the person who normally cares for the child or qualifying young person.

1 UC Regs, reg 4A

Note: Children receiving respite care will not all be looked after. The LA can provide short breaks without giving the child looked after status.

Example 1

Stan is taken into LA care and is placed with foster parents. He is looked after by the LA therefore no temporary absence period is allowed and he is removed from his parent's award for the first day of the assessment period in which he was taken into care.

Example 2

Rueben has a severely disabled son, Ryan, who normally lives with him and for whom Rueben is a full time carer. Ryan's social worker, Rebecca, has assessed that Rueben needs a break from caring and that Ryan might benefit from interacting with other people. She puts a care plan in place under which she arranges for Ryan to spend one weekend each month living in a local authority run residential care home for children. Rebecca confirms that while he is accommodated in the residential care home, Ryan will be considered looked after by the local authority, but that this status ends when Ryan is returned home.

The DM decides that Rueben will continue to be eligible for the child element and disabled child addition during Ryan's series of short breaks for respite care and during which he has looked after status.

Example 3

Rueben successfully applies for Ryan to attend a residential school for disabled children in another town. Over the course of a year, Ryan will stay at the school for three terms each lasting for 10 to 12 weeks, separated by school holidays. He will return home to Rueben during school holidays and on some weekends. Ryan will not stay in the residential school for longer than 12 weeks before returning home.

Rebecca confirms that Ryan will not be considered looked after by the local authority while accommodated in the school. Reuben is able to visit Ryan at the school when he wishes to do so.

Rueben is able to continue to receive the child element and disabled child addition as for each of Ryan's absences from home he is not considered to be looked after.

F1074 A child or qualifying young person is treated as still normally living with the responsible person where they are looked after by a LA and placed with

1. their parent **or**
2. a person who has parental responsibility for them¹

1 UC Regs, reg 4A

Note: A person does not have parental responsibility if they are a foster parent or, in Scotland, a Kinship carer.

F1075 The duration of a short break, described at F1073, is not prescribed but DMs should note that any single period of absence (for whatever reason) that exceeds or is expected to exceed 6 months will mean the person is no longer responsible for the child.

Note: See ADM chapter F3 for how this effects the room allocation for housing costs

Example

Rebecca visits Rueben and Ryan and her assessment shows that Ryan is benefiting from his time in the residential care home for children. She arranges for Ryan to spend three months living in the residential care home for medical reasons after which time he will return home to Rueben. Rebecca confirms that Ryan will be looked after by the local authority while he is in the residential care home.

Rueben will not be eligible for the child element or the disabled child addition as Ryan has become looked after for a reason other than respite care.

Note: Rueben will become eligible for the child element and disabled child addition when Ryan returns home.

F1076 – F1079

Child or qualifying young person temporarily absent

General absence

F1080 A child or qualifying young person may be absent and living away from the responsible person and benefit unit. In certain circumstances a claimant will cease to be responsible for an absent child or qualifying young person.

F1081 Do not treat the claimant as responsible for a child or young person where that child or young person is

1. absent from the household **or**
2. expected to be absent from the household

for 6 months¹ or more.

1 UC Regs, reg 4(7)(a)

Example 1

Nick is absent from his mother's house for 6 weeks during the school holidays during which time he is living with his father in Brighton. Nick is temporarily absent and still included in his mother's benefit unit for the whole period of absence.

Example 2

Stan is absent in hospital for an unknown period. He is considered to be temporarily absent for the next 6 months. After 5 months Stan's parents report that he will have to remain in hospital for at least a further 3 months. The DM is now aware that the absence period will exceed 6 months (5 months already passed + anticipated 3 months) and so Stan is removed from his parents benefit assessment. This change in circumstances will be effective from the first day of the assessment period in which the notification of Stan's prolonged stay is received.

Temporarily absent from GB

F1082 Do not treat the claimant as responsible for a child or young person where that child or young person is

1. absent **or**
2. expected to be absent

from GB for 1 month¹ or more.

1 UC Regs, reg 4(7)(b)

F1083 The absence period in F1082 above can be extended by up to a further month¹ if the temporary absence is in connection with the death of a close relative of the child or qualifying young person. See F1141 for the meaning of close relative.

1 UC Regs, reg 4(7)(b)

Example 1

Nick is absent from his mother's house for 6 weeks during the school holidays during which time he lives with his father in Spain. No temporary absence period is allowed and he is removed from his mother's assessment from the outset of his absence.

Example 2

Nick is absent from his mother's house for 4 weeks during the school holidays during which time he lives with his father in Spain. Nick is temporarily absent during which time his Mother retains the child element.

F1084 The absence period in F1082 can also be for a duration of up to 6 months¹ where that absence is in connection with the child or qualifying young person undergoing

1. treatment for an illness or physical or mental disability by, or under the supervision of, a qualified practitioner **or**
2. medically approved convalescence or care as a result of treatment for an illness or physical or mental disability, where the person had that illness or disability before leaving GB.

1 UC Regs, reg 4(7)(b)

Note: “medically approved” means¹ certified by a medical practitioner

1 UC Regs, reg 11(5)

F1085 – F1099

Run on after death

F1100 Where

1. a claimant’s award of UC includes an amount for a child or qualifying young person for whom they are responsible **and**
2. that child or qualifying young person dies

the appropriate child element will continue in payment until the end of the second assessment period following the assessment period in which the death occurred¹.

1 UC Regs, reg 37

Example

Steve and Janet are entitled to UC for themselves including an allowance for their son Max, their assessment period runs from the 10th of each month. Max dies on 12.08.14. The Child element is included in the UC award until 09.11.14.

F1101 – F1109

Rates of allowance

F1110 There will be a separate rate of child element¹ for the

1. first child or qualifying young person, born before 6.4.17²
2. first child or qualifying young person born on or after 6.4.17 and the second and each subsequent child or qualifying young person

1 UC Regs, reg 36(1); 2 UC(TP) Regs, reg 43

Child element	
First child or qualifying young person born before 6.4.17	£277.08
First child or qualifying young person born on or after 6.4.17, second and each subsequent child or qualifying young person	£231.67

F1111 – F1119

Disabled child addition

F1120 In addition to the child element described at F1055, a further amount is included in the calculation of the UC maximum amount for each child or qualifying young person who is disabled¹. This will be awarded at either a lower or a higher rate. If a child

element is not in payment for a child or qualifying young person solely because of the two child limit (F1004), a disabled child addition can be paid for that child or qualifying young person.

1 UC Regs, reg 24(2)

F1121 Disabled is not defined but for the purpose of this addition should be taken to mean a person who is

1. blind **or**
2. entitled to DLA or PIP.

Rate of disabled child addition

F1122 Unless F1123 applies, the lower rate of disabled child addition¹ is included where the child or qualifying young person is

1. entitled to DLA **or**
2. entitled to PIP.

1 UC Regs, reg 24(2)(a)

F1123 The higher rate of disabled child addition¹ is included where the child or qualifying young person is

1. entitled to the care component of DLA at the highest rate **or**
2. entitled to the daily living component of PIP at the enhanced rate **or**
3. blind².

1 UC Regs, reg 24(2)(b); 2 reg 22

Additional amount for disabled child or qualifying young person	
Lower rate	£126.11
Higher rate	£367.92

Run on after death

F1124 Where

1. a claimant's award of UC includes a disabled child addition for a child or qualifying young person for whom they are responsible **and**
2. that child or qualifying young person dies

the disabled child addition will continue in payment until the end of the second assessment period following the assessment period in which the death occurred¹.

1 UC Regs, reg 37

F1125 – F1138

Definitions

Blind

F1139 A person is blind¹ where they are certified by a consultant ophthalmologist as

1. blind or
2. severely sight impaired.

1 UC Regs, reg 2

Child

F1140 Child means¹ a person under the age of 16.

Note: There is no need for the child to be receiving education for this definition to apply.

1 WR Act 12, s 40

Close relative

F1141 A close relative in relation to a person means¹

1. parent
2. parent-in-law
3. son
4. son-in-law
5. daughter
6. daughter-in-law
7. step-parent
8. step-son
9. step-daughter
10. brother
11. sister
12. where any of 1. – 11. is a member of a couple, the other member of the couple.

1 UC Regs, reg 2

Parental responsibility

F1142 Parental responsibility means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property¹.

1. Children Act 1989, s 3: Children (Scotland) Act 1995, s 1 or 2

Qualifying young person

- F1143 A qualifying young person is a person who has reached the age of 16 but not the age of 20 and who is
1. aged 16 years, but only for the period up to, but not including, the 1st September that next follows their 16th birthday
 2. aged up to 19 years, but only for the period up to, but not including, the 1st September that next follows their 19th birthday where they are enrolled on, or accepted for
 - 2.1 approved training¹ or
 - 2.2 a course of education
 - 2.2.a which is not advanced education
 - 2.2.b at a school, college or other establishment that is approved by the Secretary of State
 - 2.2.c where they spend on average more than twelve hours a week during term time in receiving tuition doing examinations or practical work or supervised study
- this must not include meal breaks or unsupervised study, including homework, whether done on or off the premises of the educational establishment².
- Note 1:** Where the young person at 2. above is aged 19, they must have started the course of education or training, or been accepted or enrolled on it before reaching that age.
- Note 2:** The education or training described in 2.1 and 2.2 does not include education or training that is provided through a contract of employment⁴.
- Note 3:** A person shall be treated as undertaking a course of FTE during the period between the end of one course and the start of another where the person is accepted for or enrolled on the latter course³.
- Note 4:** Where a child or qualifying young person turns 16 or 19 on the 31st August the period described at 1. and 2. will end on that same day.

1 UC Regs, reg 5(4); 2 UC Regs, reg 5(1); 3 reg 5(2); 4 reg 5(3)

- F1144 Any person who falls within F1143 is not a qualifying young person if they are receiving UC, JSA or ESA¹.

1 UC Regs, reg 5(5)

Approved training

- F1145 Approved training means training arranged under prescribed legislation¹ and approved by the Secretary of State, and includes

1. Foundation Learning
2. Programme led apprenticeships that started before 31st July 2011
3. Access to apprenticeships
4. Apprenticeships in Olympic/Paralympics and Commonwealth games, Deep sea fishing
5. In Wales, foundation apprenticeships or traineeships
6. In Scotland, Skillseekers or Get ready for work.

1 Employment and Training Act 1973, s 2(1); Enterprise and New Towns (Scotland) Act 1990, s 2(3)

Non-advanced education

F1146 Non-advanced education means any course up to, and including, the standard of

1. ordinary national diploma
2. BTEC national diploma
3. national certificate of the Scottish Qualifications Authority
4. GCE (advanced level)
5. Scottish certificate of education (higher grade)
6. Scottish certificate of sixth year studies
7. National certificate of Edexcel.

F1147 – F9999

Appendix 1 – Interim period for two child maximum

- 1 A third and any subsequent child or qualifying young person in the claimant's household will only qualify for a child element if that child or qualifying young person is
1. transitionally protected or (see paragraph 2 to 4)
 2. an exception¹ (see paragraphs 5 - 16).

1 UC Regs, reg 24A(1)(b)

Existing awards – transitional protection

Interim period

- 2 For the purposes of these provisions an interim period¹ is set beginning with 6.4.17 and ending on 31.1.19. A child (the 3rd or subsequent child) is transitionally protected², as described at paragraph 1.1., where an award of UC
1. is in respect of an assessment period that
 - 1.1 includes 6.4.17 **or**
 - 1.2 falls wholly within the period from 6.4.17 to 31.1.19 **and**
 2. includes the child in question, who was born before 6.4.17 **and**
 3. there are at least 2 other children or qualifying young persons who were
 - 3.1 born before 6.4.17
 - 3.2 higher in the order (see paragraph 17) than the child at 2.³.

1 UC (TP)Regs, reg 39(2); 2 UC Regs, reg 24A(3); 3 UC (TP)Regs, reg 40(2)

Example

Kevin is a single parent with 5 children. On 24.3.17 he is made redundant and makes his first UC claim. Kevin's 3rd, 4th and 5th child will be transitionally protected and he is entitled to a child element in respect of all of his children.

After the interim period

- 3 A child (the 3rd or subsequent child) is transitionally protected, as provided at paragraph 1.1. above, where an award of UC is in respect of an assessment period that includes 31.1.19 or begins on a date after 31.1.19 **and**
1. includes the child in question, who was born before 6.4.17¹ **and**
 2. the claimant or either joint claimant was
 - 2.1 on 31.1.19
 - 2.1.a entitled to UC **or**

2.2.b in a period of non-entitlement between connected awards (see paragraph 4) **or**

2.2 where **2.1** does not apply the claimant became entitled to UC on a date after 31.1.19 and within the 6 months immediately preceding that date was in receipt of CTC/IS/JSA which included an allowance for that child **and**

throughout these periods (**2.1** or **2.2**) the claimant has not ceased to be responsible for that child or ceased to be entitled to UC (apart from a period of non-entitlement between connected awards)² **and**

3. there are at least 2 other children or qualifying young persons who were born before 6.4.17

3.1 for whom the claimant or either joint claimant satisfied the conditions described at **2.** **and**

3.2 are higher in the order (see paragraph 17) than the child under consideration³.

1 UC (TP) Regs, reg 40(3)(a); 2 reg 40(3)(b); 3 reg 40(3)(c)

Example

Kevin is a single parent with 5 children (all born before 6.4.17). He is made redundant and on 20.2.19 makes his first UC claim. Although the new claim restriction is now lifted Kevin doesn't satisfy all the transitional provisions (in particular previous entitlement within 6 months) and so is only paid a child element in respect of his two eldest children.

Connected awards

4 For the purposes of paragraph **3.2** awards are connected awards where the later award was made

1. as a result of the other award terminating when the claimant

1.1 ceased to be a member of a couple **or**

1.2 became a member of a couple

2. in any other circumstances which resulted in retaining the same assessment period for that award, that is where the new assessment period begins on the same day of each month as the assessment period of the previous award¹.

1 UC (TP) Regs, reg 40(4)

Exceptions

5 There are 5 categories that fall into the exception specified at paragraph **1 2.**

1. multiple births (paragraph 6)

2. adoptions (paragraph 7 -8)

3. non-parental caring arrangements (paragraph 9-10)
4. non-consensual conception (paragraph 11 - 13)
5. continuation of existing exception. (paragraph 14 - 16)

Multiple births

6 An exception applies where

1. the claimant is a parent (other than an adoptive parent) of the child
2. the child was one of two or more children born as a result of the same pregnancy
3. the claimant is responsible for at least two of the children born as a result of that pregnancy
4. the child is not the first in the order of multiple birth children established under paragraph 17¹.

1 UC Regs, Sch 12, para 2

Example

Couple have two children Jack aged 5 and Jill aged 3, twins Alex and Luke are born on 20.12.17. The claimant is the parent of and responsible for the twins, they were born as a result of the same pregnancy and the DM decides that Alex is first in the child order of the twins. The claimant is entitled to a child element for Jack, Jill and a child element for Luke under the multiple birth exception criteria. (Luke is not considered to be the first child in the DMs order of the twins).

Adoptions

7 An exception applies¹ where

1. the child or qualifying young person has been
 - 1.1 adopted **or**
 - 1.2 placed for adoptionwith the claimant under legislation².

1 UC Regs, Sch 12, para 3; 2 Adoption and Children Act 2002, Adoption and Children (Scotland) Act 2007

8 The exception at paragraph 7 does not apply where the claimant or, if the claimant is a member of a couple, the other member

1. was immediately prior to the child's adoption, a step parent of the child **or**
2. has at any time been a parent of the child **or**
3. adopted the child under a convention adoption order or an external adoption¹
or

4. had already adopted the child under the law of any country or territory outside the British Islands (see paragraph 22).

1 Adoption and Children Act 2002, s 144 & Adoption and Children Scotland Act 2007, s 119(1)

Non-parental caring arrangements

9 An exception applies where the claimant is

1. a friend or family carer of the child **or**
2. responsible for a child who is also a parent of a child¹.

1 UC Regs, Sch 12, para 4

Example:

Couple have two children Jack aged 10 and Jill aged 15, Jill has a son Alex born on 20.12.17. As the claimant is responsible for Jill (who is the parent of Alex) he is entitled to a child element for Jack and Jill and also for Alex under the exception criteria.

10 For the purposes of paragraph 9 **1.** the term friend or family carer means a person who is responsible for the child, but is not that child's parent or step parent **and**

1. is named in a child arrangements order, under legislation¹, as a person with whom the child is to live **or**
2. is a guardian² or special guardian³ of the child **or**
3. is entitled to a guardian's allowance⁴ in respect of that child **or**
4. in Scotland
 - 4.1 has a kinship care order⁵ in respect of that child **or**
 - 4.2 is a guardian⁶ of that child **or**
 - 4.3 one or more of the parental responsibilities or parental rights⁷ are vested by a permanence order made in respect of that child under legislation⁸ **or**
 - 4.4 fell within any of the above (**1.** to **4.**) immediately prior to the child's 16th birthday and has since continued to be responsible for that child⁹ **or**
 - 4.5 has taken care of the child in circumstances in which it is likely that child would otherwise be looked after by a local authority¹⁰.

Note: the family carer should provide evidence from a social worker to support the declaration that the child would otherwise be looked after by a local authority.

1 Children Act 1989, s 8; 2 s 5; 3 s 14A; 4 C & B Act, s 77;

5 Children and Young People (Scotland) Act 2014, s 72(1); 6 Children (Scotland) Act 1995, s 7; 7 s 1 or 2;

8 Adoption and Children (Scotland) Act 2007, s 80; 9 UC Regs, Sch 12, para 4(2)(g); 10 para 4(2)(h)

Non-consensual conception

11 An exception applies where

1. the claimant is the child's parent **and**
2. the DM determines (see paragraph 13) that
 - 2.1 the child is likely to have been conceived as a result of sexual intercourse to which the parent did not agree by choice or did not have the freedom and capacity to agree by choice **and**
 - 2.2 the parent is not living at the same address as the other party to that sexual intercourse¹.

Note: For 2.2 the DM should accept the claimant's statement confirming that they were not living at the same address as the other party².

1 UC Regs, Sch 12, para 5(1); 2 para 5(4)

12 The freedom or capacity to agree by choice, as required at paragraph 11 2. includes, at or around the time the child was conceived, such circumstances in which

1. the parents were personally connected **and**
2. one parent was repeatedly or continuously engaging in behaviour towards the other parent that was controlling or coercive **and**
3. that behaviour had a serious effect on the recipient¹.

Note 1: the parents are personally connected if they are in an intimate personal relationship with each other or they were living together and were members of the same family or they were living together and had previously been in an intimate personal relationship with each other².

Note 2: the behaviour will have had a serious effect where it causes fear, on at least two occasions, that violence will be used against the parent or it causes serious alarm or distress which has a substantial adverse effect on the parent's day to day activities³.

1 UC Regs, Sch 12, para 5(2); 2 para 5(5); 3 para 5(6)

13 The DM can only make the determination, as described at paragraph 11.2.1, where

1. the child's parent provides evidence (that evidence will probably take the form of a completed pro forma) from an approved person that shows
 - 1.1 they had contact with that approved person (see paragraph 21) or another approved person **and**
 - 1.2 their circumstances are consistent with those of a person to whom 1. and 2.1 of paragraph 11 would apply **or**
2. there has been

- 2.1** a conviction for an offence of rape under legislation¹ **or**
- 2.2** a conviction for an offence of controlling or coercive behaviour in an intimate or family relationship under legislation² **or**
- 2.3** a conviction for any offence under the law of a country outside GB that the DM considers to be comparable to either offence mentioned above **or**
- 2.4** an award under the Criminal Injuries Compensation Scheme in respect of a relevant criminal injury sustained by the parent

and the DM considers it likely that the offence or injury (**2.1 to 2.4** above)

- 2.5** was caused by one parent **or**
- 2.6** diminished the other parents freedom or capacity to agree to the sexual intercourse

which resulted in the conception of the child³.

Note 1: no time limit is placed on when the report needs to be made to the approved person after the actual incident that resulted in the pregnancy, in order to be eligible for the exception.

Note 2: There is no requirement to provide evidence from an approved person where the DM is satisfied that the same evidence had already been provided to HMRC in relation to a CTC exception⁴.

*1 Sexual Offences Act 2003, s 1 & Sexual Offences (Scotland) Act 2009, s 1;
2 Serious Crime Act 2015, s 76; 3 UC Regs, Sch 12, para 5(3); 4 UC (TP) Regs, reg 42(2)*

Continuation of existing exception – previous UC award

14 An exception applies¹ where none of the exceptions listed at **1. to 4.** of paragraph 5 are triggered and the claimant

- 1.** is the child's step parent **and**
- 2.** had previously been entitled to UC as a member of a joint claim couple with the child's parent where that child fell under one of the multiple birth, adoption or non-consensual conception exceptions **and**
- 3.** since the previous award ended each subsequent UC award was as a consequence of
 - 3.1** the previous award having ended when the claimant ceased to be a member of a couple **or**
 - 3.2** the previous award ending when they became a member of a couple with another claimant **or**

- 3.3** any other circumstances which result in retaining assessment periods for that award that begin on the same day of each month² as the assessment period for a previous award.

1 UC Regs, Sch 12, para 6; 2 UC Regs, reg 21

15 Where in the previous award mentioned at 14.2 a multiple birth exception applied

1. the step parent was also responsible for one or more children or qualifying young persons born as a result of the same pregnancy as the child **and**
2. the child was not the first in the order established under paragraph 17¹.

1 UC Regs, Sch 12, para 6(e)

Continuation of an exception from a previous CTC/IS/JSA award

16 The claimant is treated as satisfying¹ the exception described at paragraph 14 where the claimant

1. is the step-parent of a child or qualifying young person **and**
2. within the 6 months immediately preceding the first day on which the claimant became entitled to UC they had an award of CTC, IS or JSA in which an exception corresponding with the UC exceptions of

2.1 multiple birth

2.2 adoption

2.3 non-consensual conception

2.4 continuation of an existing exception applied.

Note: Where it is **2.4** (the continuation exception equivalent) that is considered, the claimant should be treated as satisfying the test of paragraph 21.2 despite the previous award not being an award of UC.

1 UC (TP) Regs, reg 41(1)

Order of children

17 The order of children or qualifying young persons in the claimant's household is established by reference to a specific date¹ in relation to each child or qualifying young person for whom the claimant is responsible.

1 UC Regs, reg 24B

18 The specific date for each child is

1. the child's date of birth¹, where the claimant or if the claimant is a member of a couple, the other member, is the child's parent or step parent **or**
2. where 1. does not apply

- 2.1 the date on which the claimant became responsible for the child **or**
- 2.2 in the case of joint claimants where each of them became responsible for the child on a different date, the earliest date².

Note: When placing the children in specific date order the earliest date will equate /relate to the first child.

Note: From 28.11.18, children who are adopted or in non-parental caring arrangements will be disregarded when determining the order of children. A parent or carer will be able to receive a child element for any children in these arrangements, plus the first and second child in the household, as well as any other children who qualify for the other exceptions³.

1 UC Regs, reg 24B(1)(a); 2 reg 24B(1)(b); 3 reg 24A (1)(za), 24(B)(2A), Sch 12 para 3,4 & 6

Example

Kevin and Penny already have two children, Tom aged 5 and Dick aged 3, when they adopt Harry who is aged 6. For the purposes of the two child limit the order of children arranged by considering date of birth and date of responsibility is Tom, Dick then Harry.

19 Where

- 1. the same date is established, under paragraph 18 above, in relation to two or more children or qualifying young persons for whom the claimant is responsible **or**
- 2. the claimant gave birth to a child less than 10 months after becoming responsible for a child or qualifying young person under the non-parental caring exception (paragraph 9)

the order of the children or qualifying young persons in the claimant's household should be determined by the DM to ensure the greatest number of children qualify for the child element¹.

1 UC Regs, reg 24B(2)

Example:

Kevin and Penny are the parents of Dick aged 3 and the guardian of Tom aged 5, when Harry is born. They became Tom's guardian on 10.7.17 and Harry was born on 20.11.17. For the purposes of the two child limit the order of children arranged by considering date of birth and date of responsibility should be Dick, Tom then Harry however under this configuration Kevin wouldn't qualify for a child element for Harry. The order is re-arranged in to the more beneficial order of Dick, Harry then Tom. Kevin now qualifies for the child element for all 3 children as Tom falls into an exception.

Claims for HB, IS or a TC

- 20 M5025 gives a definition of “digital service area”¹, also known as the Full Service. Claims for HB, IS or a TC cannot normally be made in a digital service area if a claim for UC could be made instead (see M5090). However, this does not apply where UC claims cannot be made as in paragraph F1005¹.

1 WR Act 12 (Commencement No. 23 etc.) Order, art 7(2); The Social Security (Restrictions on Amounts for Children and Qualifying Young Persons) Amendment Regulations 2017, reg 4

Definitions

Approved person

- 21 An approved person is a person of a description specified on an approved list.
- Note: the approved list will be of professionals who are trained to deal with such sensitive situations and with whom it would be beneficial for the claimant to engage in order to obtain relevant guidance and support.

British Islands

- 22 The British Islands means the UK, the Channel Islands and the Isle of Man.

Criminal Injuries Compensation Scheme

- 23 Criminal injuries compensation scheme has the meaning specified in legislation¹.

1 Criminal Injuries Compensation Act 1995

Members of the same family

- 24 Parents are members of the same family where
1. they are, or have been married to or civil partners of each other
 2. they are relatives as specified in legislation¹
 3. they have agreed to marry each other
 4. they have entered into a civil partnership agreement under specified legislation²
 5. they are both parents of the same child
 6. they have, or have had, parental responsibility³ for the same child.

1 Family Law Act 1996, s 63(1); 2 Civil Partnership Act 2004, s 73; 3 UC Regs, reg 4A(2)

Relevant criminal injury

25 Relevant criminal injury means

1. a sexual offence (including a pregnancy sustained as a direct result of being the victim of a sexual offence)
2. physical abuse of an adult, including domestic abuse
3. mental injury

as described in the tariff of injuries in the Criminal Injuries Compensation Scheme.

Step-parent

26 In relation to a child or qualifying young person a step-parent is a person who is not the child's parent but

1. is a member of a couple, the other member of which is a parent of the child, where both are responsible for that child **or**
2. was previously a member of a couple, the other member of which was a parent of the child, where immediately prior to ceasing to be a member of that couple the person was, and has since continued to be, responsible for that child¹.

1 UC Regs, reg 2

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