

Chapter E1: Introduction and entitlement

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Chapter E1: Introduction and entitlement

Introduction

- E1001 This chapter contains an overview of UC including the conditions of entitlement and information for DMs on where to find detailed guidance.
- E1002 UC is introduced in the Pathfinder area from 29.4.13¹. It will be introduced nationally at a later date.

1 WR Act 12 (Commencement No. 8) Order 2013, art 3

Benefits replaced by Universal Credit

- E1003 UC will replace
1. JSA(IB)
 2. ESA(IR)
 3. IS
 4. HB
 5. CTC **and**
 6. WTC

which are being abolished¹.

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

Note 2: CTB is also being abolished² and is being replaced with localised council tax support schemes.

1 WR Act 12, s 33(1)(a) – (d) & (f) & 33(2); 2 s 33(1)(e)

- E1004 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.

E1005 – E1009

Who can claim

Single claimant

- E1010 A single claimant is entitled to UC if they meet
1. the basic conditions **and**

2. the financial conditions for a single claimant¹.

1 WR Act 12, s 3(1)

Joint claimant

E1011 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 claimants¹.

1 WR Act 12, s 3(2)

One of a couple does not meet all the conditions

E1012 Where one of a couple does not satisfy all the basic conditions, there are special rules for how to treat such claims¹. See ADM Chapter E2: Awards, benefit unit and maximum amount for details.

1 UC Regs, reg 3

Entitlement

Basic conditions

E1013 The basic conditions¹ 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).

1 WR Act 12, s 4(1)

Financial conditions

E1014 The financial conditions

1. for a single claimant¹ 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 claimants² 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.

1 WR Act, s 5(1); 2 s 5(2)

Restrictions on entitlement

E1015 There will be no entitlement to UC¹

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.

1 WR Act 12, s 6(1)

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 arise¹. However, currently legislation does **not** provide for a prescribed period.

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

1 WR Act 12, s 6(2)

E1017 - E1023

Basic conditions

Minimum age

E1024 There are circumstances when the minimum age for entitlement can be 16¹. These circumstances are where a person

1. has LCW² (see ADM Chapter G2: Limited capability for work) **or**
2. is awaiting assessment for LCW and has a medical certificate³ 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 person⁴ **or**
4. is responsible for a child⁵ (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-old¹.

1 UC Regs, reg 8(2)

E1026 Care leaver¹ means

1. in England, an eligible child² or relevant child³ **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 to⁴ **or**
 - 2.2.b is being provided with continuing care⁵ **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 person⁶.

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 LA¹.

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 16¹.

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 child¹.

*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 legislation¹ and has stayed for at least 6 months².

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 14¹.

*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 child¹.

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 order¹.

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 means¹

1. a health service hospital within the meaning of certain legislation² **or**
2. a care home³.

*1 Children Leaving Care (England) Regs, reg 4(4)(b); Children Leaving Care (Wales) Regs, reg 2;
2 NHS Act 06; 3 Care Standards Act 2000, s 3*

E1035 Where a child has been placed with a person or family under the relevant legislation¹ and has stayed for six months, the child is not a relevant child, despite falling within the definition². This applies whether or not the six month period began before or after the child ceased to be looked after by the LA³.

*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*

E1036 In England only, where the child ceases to live with the person or family, they should be treated as a relevant child¹.

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

Young person without parental support

E1037 A person is without parental support in E1024 **8.** 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)

E1038 Parent¹ includes any person acting in the place of a parent.

1 UC Regs, reg 8(4)

E1039 – E1050

Estranged

E1051 Estranged is not defined in legislation and should be given its ordinary, everyday meaning¹ 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.

1 Cozens 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 parents¹.

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.

1 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 UC¹. The qualifying age for SPC² 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.

1 WR Act 12, s 4(1)(b) & (4); 2 SPC Act 02, s 1(6)

E1072 Where however one partner of a couple is over the qualifying age for SPC, they are still able to make a claim for UC¹.

1 WR Act, s 4(2); UC Regs, reg 3(2)(a)

E1073 – E1090

Being in Great Britain

E1091 One of the basic entitlement conditions for UC is that the person is in GB¹. Guidance on

1. whether a person is to be treated as being or not being in GB²
2. how to deal with Crown servants and members of Her Majesty's Forces posted abroad³ **and**
3. temporary absence from GB⁴

is to be found in ADM Chapter C1: Universal credit.

1 WR Act 12, s 4(1); 2 UC Regs, reg 9; 3 reg 10; 4 reg 11

E1092 – E1100

Receiving education

E1101 One of the basic entitlement conditions is that the person is not receiving education¹ (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 scheme². For detailed guidance on receiving education see ADM Chapter H6: Students.

1 UC Regs, reg 12(1); 2 reg 12(1A)

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 fit¹. Full guidance is to be found in ADM Chapter J1: Claimant commitment.

1 WR Act 12, s 14

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 £16,000¹.

1 UC Regs, reg 18(1)

E1152 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 couple¹. 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

E1153 For the purpose of the financial conditions in E1014 **1.2** and **2.2**, the prescribed minimum amount payable would not be less than one penny for an assessment period¹.

1 UC Regs, reg 17

Income

E1154 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.

E1155 – E1170

Restrictions on entitlement

E1171 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 UC¹, subject to certain exceptions. Full guidance on this can be found in the ADM Chapter E3: Special cases.

1 UC Regs, reg 19(1)

E1172 – E1190

Assessment process

E1191 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

E1192 An award is calculated by reference to

1. a standard allowance¹
2. an amount for responsibility for children and young persons²
3. an amount for housing³ **and**
4. amounts for other particular needs or circumstances⁴.

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