



SPC: UC CLAIMANTS WHO REACH THE QUALIFYING AGE

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INTRODUCTION

1. This memo gives guidance on the UC (Persons who have attained state pension credit qualifying age) (Amendment) Regulations 2020¹, in relation to SPC claimants. The regulations came into force on 25.11.20. The memo should be read with Memo ADM 28/20, which gives guidance on how the regulations affect UC claimants, including the UC run-on for claimants who reach the qualifying age, and changes to the restrictions on entitlement to SPC and HB during the first and last UC assessment periods.

Note: This memo replaces the guidance at DMG 77035 **Note 2** which is **cancelled** and should no longer be followed.

1 UC (SPCQA) Amdt Regs; SI 2020 No. 655

2. The memo gives guidance on the regulations which



1. provide for the treatment of mixed-age couples in cases where a claimant who has reached the SPC qualifying age would otherwise not be entitled to SPC or UC¹ **and**
2. add UC to the list of benefits disregarded as income for the purposes of SPC².

1 UC (SPCQA) Amdt Regs, reg 2(2); 3 reg 2(3)

DEFINITIONS

Meaning of mixed-age

3. For the purposes of this memo, mixed-age, whether for a couple or a marriage, means where one member has reached the qualifying age and the other member has not¹. This includes a polygamous marriage where at least one party to the marriage has reached the SPC qualifying age and at least one party has not².

Note 1: This is a different definition of mixed-age couple from that for the purposes of entitlement to the SPC savings credit which remains as it is (see DMG 77167).

Note 2: See DMG 77033 for the meaning of qualifying age.

1 SPC Regs, reg 5(6)(b); 2 reg 5(6)(c)

Meaning of polygamous marriage

4. A polygamous marriage is one
 1. during which a party to the marriage is married to more than one person **and**
 2. which took place under the laws of a country that permits polygamy¹.

1 SPC Regs, reg 5(6)(d)

MEMBERSHIP OF THE HOUSEHOLD

5. Since 15.5.19 claimants have been excluded from claiming SPC where they are a member of a mixed-age couple¹ – see DMG 77031 and 77035. See also DMG 77035 **Note 1** for savings where the exclusion does not apply. The guidance at paragraphs 7 - 16 applies where² a claimant who has reached the qualifying age would otherwise not be entitled to SPC or UC because they are

1. excluded from SPC as a member of a mixed-age couple **and**



2. not entitled to UC as

2.1 joint claimants with a partner **or**

2.2 a single claimant

in one of the cases in paragraphs 7 or 12.

1 SPC Act 02, s 4(1A); 2 SPC Regs, reg 5(3) & (4)

6. Where the claimant falls within one of those cases, the UC rules for treatment of couples or effective dates apply, enabling the claimant who has reached the qualifying age to claim SPC from the first date from which those rules apply¹.

*1 SPC Regs, reg 5(5); UC Regs, reg 3(3), (4) & (6);
UC, PIP, JSA & ESA (D&A) Regs, reg 23(1), 35(1) & Sch 1 para 20*

UC treatment of couple rules

7. The first case is where the claimant is not entitled to UC because they have reached the qualifying age and under UC rules they are¹

1. a member of a couple who may only make a claim for UC as a single person due to the other member of the couple being in one or more of the following categories²

1.1 under 18 (see ADM E2017) **or**

1.2 not in GB (see ADM E2017) **or**

1.3 a prisoner (see ADM E2021) **or**

1.4 a member of a religious order (see ADM E2021) **or**

1.5 a PSIC (see ADM E2022) **or**

2. a party to a polygamous marriage who is

2.1 treated as a couple where the other party has also reached the qualifying age **or**

2.2 treated as a single person by virtue of not being treated as part of a couple³ (see ADM E2041) **or**



3. a member of a couple where the other member is temporarily absent from the claimant's household and that absence is expected to exceed or does exceed 6 months⁴ (see ADM E2030).

1 SPC Regs, reg 5(4)(a); 2 UC Regs, reg 3(3); 3 reg 3(4); 4 reg 3(6)

8. For the purposes of SPC, unless any of the exceptions in DMG 77117 – 77130 apply, the couple, including parties to a polygamous marriage, would be treated as members of the same household, and therefore excluded from claiming SPC¹. From 25.11.20, the UC rules apply so that, from the date on which any of the circumstances in paragraph 7 apply, the claimant may claim SPC². See paragraphs 9 - 11 for details.

Note: See DMG 77100 – 77131 for detailed guidance on membership of the household.

1 SPC Regs, reg 5(1)-(2); reg 5(5)

Polygamous marriage

9. Where the claimant is treated as a member of a couple as in paragraph 7 **2.1**, they are treated as members of the same household as each other, but not as members of the same household as the other parties to the polygamous marriage¹.

1 SPC Regs, reg 5(4)(a)(ii) & (5)(a); UC Regs, reg 3(4)

Example

Ravi, Imina and Kara are a polygamous unit, who make a claim for SPC. Ravi and Imina's marriage was the earliest and, as they are both over the qualifying age, they are able to make a claim for SPC and pension age HB as a couple. However, as Kara has not reached the qualifying age, she has to make a claim for UC as a single claimant. Once Kara reaches the qualifying age, Ravi, Imina and Kara will be entitled to SPC as a polygamous unit.

10. Where the claimant is treated as single as in paragraph 7 **2.2**, they are treated as not being members of the same household as the other parties to the polygamous marriage¹.

1 SPC Regs, reg 5(4)(a)(ii) & (5)(b); UC Regs, reg 3(4)

Example

Ravi, Imina and Kara are a polygamous unit. Ravi and Imina are both over the qualifying age, while Kara is not. Kara's marriage was the earliest, and she and Ravi are able to make a claim for UC as a mixed-age couple. As Imina has



reached the qualifying age, she can make a claim for SPC as a single claimant. Once Kara reaches the qualifying age, Ravi, Imina and Kara will be entitled to claim SPC as a polygamous unit.

Claimant treated as single

11. Where the claimant is treated as single as in paragraph 7 **1.** or **3.**, they are treated as not being members of the same household as the other member of the couple¹.

1 SPC Regs, reg 5(4)(a)(i), (iii) & (5)(b); UC Regs, reg 3(3) & (5)

Example

Andy and Gemma are a mixed-age couple claiming UC. Gemma moves into their daughter's home to help care for their grandchild while her daughter recovers from an operation. When it becomes clear she will be absent from her normal home for more than 6 months, they cease to be treated as a couple for UC. As Andy is over the qualifying age, he cannot remain on UC as a single claimant but can claim SPC and pension age HB as a single person until Gemma returns home.

UC entitlement as mixed-age couple ends: effective date rules

12. The second case is where entitlement to UC as joint claimants who are members of a mixed-age couple ends due to a change of circumstances (see paragraphs 14 - 16) which for the purposes of UC takes effect from the first day of the assessment period. This is earlier than the date that change normally takes effect for the purposes of SPC, i.e. the date of the change, leaving a gap in entitlement to either UC or SPC.
13. From 25.11.20, for the purposes of SPC, the change takes effect from the day after UC entitlement ends rather than the date the change occurs. This allows claims for SPC to be made from the day after the last day for which UC was awarded¹. See paragraphs 14 – 16 for further details.

1 SPC Regs, reg 5(5)

Separation or bereavement

14. Where the claimant who has reached the qualifying age is no longer a member of a mixed-age couple due to separation, divorce or bereavement, the claimant is treated as single from the date UC entitlement ends¹ (see paragraph 15) rather than from the date that the couple separated or the younger member of the couple died.

1 SPC Regs, reg 5(4)(b)(i) & (5)



15. UC entitlement normally ends from the first day of the assessment period in which the couple separates, is treated as separated or divorces¹. In bereavement cases, the surviving member of the couple may remain entitled to UC for up to two assessment periods after the assessment period in which the partner died. This also applies to mixed-age couples where the surviving member has reached the qualifying age at the date of the bereavement. They may choose instead to relinquish entitlement to UC at any time during the three months run-on period. See Memo ADM 28/20 for further details.

1 UC, PIP, JSA & ESA (D&A) Regs, reg 35 & Sch 1 para 20

Example

Chantel and Paschal are a mixed-age couple entitled to UC. Their assessment period begins on the 9th of the month. Chantel has already reached the qualifying age. Paschal dies on 28.11.20. Chantel can remain entitled to UC as if she were still a joint claimant until 8.2.21, and claim SPC from 9.2.21 as a single claimant. Alternatively, she can choose to give up her entitlement to UC earlier. Chantel decides to give up her UC on 3.12.20. Her award of UC terminates on 8.11.20, and she can be treated as a single claimant from 9.11.20 and claim SPC from the same date.

Marriage no longer polygamous

16. Where

1. the claimant who has reached the qualifying age is a party to a marriage that is no longer polygamous, whether through separation, divorce or bereavement **and**
2. the remaining spouse has reached the qualifying age

the claimant is no longer a party to a polygamous marriage, and they and their partner are treated as members of the same household as each other from the date UC entitlement ends¹.

1 SPC Regs, reg 5(4)(b)(ii) & (5)

INCOME DISREGARD

17. Normally all SS benefits are regarded as income for the purposes of SPC¹ – see DMG 85003 – 85004. However, some SS benefits are disregarded as income² – see DMG 85280. From 25.11.20, UC is added to the list of benefits which are disregarded as income³.



Note: See Memo ADM 28/20 for guidance on where UC may be paid to a claimant entitled to SPC.

1 SPC Act 02, s 15(1)(e); 2 SPC Regs, reg 15(1); 3 reg 15(1)(za)

Example

Leigh is a single claimant entitled to UC, and his assessment period begins on the 8th day of the month. On 15.2.21 he reaches the qualifying age. Leigh's entitlement to UC terminates on 7.3.21. Leigh claims SPC from 15.2.21. His UC award for the period 15.2.21 to 7.3.21 is disregarded as income when calculating his SPC entitlement.

ANNOTATIONS

Please annotate the number of this memo (Memo DMG 24/20) against the following DMG paragraphs:

77016, 77035, 77115 main heading, 77140, 78600 heading, 78601, 78602, 85280

Memo ADM 28/20

CONTACTS

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E zone E, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in Memo DMG [4/19](#) Requesting case guidance from DMA Leeds for all benefits.

DMA Leeds: December 2020

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