

# Explanatory Memorandum for the Social Security Advisory Committee

Universal Credit Regulations 2012

For the meeting of the Social Security Advisory Committee on  
Wednesday 13 June 2012

# Introduction

1. The Government has made the commitment to overhaul the benefit system to promote work and personal responsibility. Too many people on current benefits are intimidated by the perceived financial risks of moving into work. At present, for some groups, the advantages to working, particularly for only a few weekly hours, are small.

2. On 8 March the Welfare Reform Act 2012 received Royal Assent. The Act introduces a wide range of reforms to make the benefits and tax credits system fairer and simpler by:

- combining out-of-work benefits with in-work support in a single system;
- creating the right incentives to get more people into work by ensuring work always pays;
- protecting the most vulnerable in our society: and
- delivering fairness to those claiming benefit and to the tax payer.

3. Universal Credit is the Government's key reform to tackle the two key problems of poor work incentives; and complexity. It will enable the system to help people to move into and progress in work, while supporting the most vulnerable. It will be simple to understand and administer and it will protect both the welfare of those most in need and the public purse. It will be a dynamic benefit, preparing the claimant for work wherever possible.

4. The Universal Credit Regulations 2012 contain the detailed provisions to support the basic framework created by Part 1 of the Act. They also contain regulations under sections 96 and 97 of the Act to apply the benefit cap through reductions to Universal Credit.

5. The following paragraphs set out the proposals for how entitlement to Universal Credit is to be determined, how awards are to be calculated, the work-related requirements applicable to claimants and the sanctions and hardship proposals. Draft regulations are also provided, so that the Committee can see how the drafts attempt to reflect those proposals.

6. We will continue to refine the draft regulations between now and the Autumn - ensuring they reflect the final policy fully and accurately and improving the drafting where appropriate.

## Entitlement

7. There are a number of basic conditions of entitlement to Universal Credit which must be met unless exceptions apply: to be 18 or over, to be under state pension credit age, to be in Great Britain, to not be in education, to have accepted a claimant commitment.

### Couples

8. Where a couple claim Universal Credit and one of the members do not meet one or more of the basic conditions of entitlement then differing rules apply depending on the condition that is not met. If one member of the couple:

- is over State Pension Credit age or in full-time education then they are to be treated as though they were a standard couple for Universal Credit purposes;
- is under 18 or treated as not resident in Great Britain then that 'ineligible adult' is to be ignored for the purposes of calculating the Universal Credit Maximum Amount - although their capital, income and earnings shall still be taken into account; or
- fails to sign a Claimant Commitment then subject to a 'cooling off period' the couple will not be entitled

### Young people aged 16 and 17

9. Universal Credit is to be payable to parents in respect of 16 and 17 year olds (and 18/19 year olds) in non-advanced education or training. Ordinarily, young people aged under 18 are not to be able to get Universal Credit in their own right. However, there are some exceptions to this rule.

10. There are five categories of young people aged 16 and 17 who are to be able to get Universal Credit in their own right:

- those with dependent children - lone parents or couples;
- sick or disabled young people who have satisfied the Work Capability Assessment or are waiting to be assessed with medical evidence;
- those who are caring for a severely disabled person;

- young women who are pregnant between 11 weeks before and 15 weeks after the expected date of confinement;
- young people who are without parental support.

11. Young persons without parental support may be in non-advanced education, training or work. Entitlement depends on specified criteria (eg estrangement) set out in regulations, but there will no longer be complex hardship rules that apply in current benefits such as Jobseeker's Allowance. Entitlement to Universal Credit for young persons without parental support in non-advanced education can continue up to age 21 (or the end of the academic year in which they are 21).

12. For other groups of eligible 16 and 17 year-olds entitlement is subject to the rules on education. Where the local authority is responsible for the young person under the Children Leaving Care Act there is either no entitlement or, in the case of those with dependent children or disability, no entitlement to the housing element.

## **People from Abroad**

13. Section 4 of the Welfare Reform Act 2012 provides that, to be eligible for Universal Credit, a claimant must be in Great Britain. Section 4 also permits regulations to be made concerning the circumstances in which a person is to be treated as being or not being in Great Britain.

## **The Habitual Residence Test**

14. Our intention is that Universal Credit will be paid only for people who are living in Great Britain. We propose to use the regulation-making powers in a way that is similar to the existing legislation for income-related benefits. Consequently, a person meets the entitlement condition if they are present in Great Britain, have a right to reside, and are factually habitually resident in the United Kingdom, the Channel Islands, Isle of Man, or the Republic of Ireland (known as the 'Common Travel Area').

## **EU Migrants**

15. EU nationals in the UK can only be entitled to Universal Credit if they have a "right to reside" under EU law and satisfy the Habitual Residence Test. This means that EU migrants who are workers, self-employed or work seekers will be able to claim Universal Credit.

16. Students and people who are inactive (which would include lone parents who do not actively seek work) have a legal right to reside but have to be self sufficient and are not entitled to claim Universal Credit.

17. It is proposed that EU migrants who are workers or self-employed will be eligible for all elements of Universal Credit. We are currently considering whether EU work seekers they should also be eligible for all elements, or just the standard allowance.

18. EU claimants who come to the UK to seek work and EU claimants who retain worker status because they become unemployed only have a “right to reside” if they are in fact seeking work. Any such claimants who are not seeking work are not to be entitled to Universal Credit. Conditionality requirements for Universal Credit will enable us to check whether such claimants continue to have a right to reside on the basis of seeking work.

19. EU claimants who come to the UK to seek work and those who retain worker status because they become unemployed will not benefit from the exemptions from conditionality under the Act, because this would prevent us from verifying whether they can claim entitlement to Universal Credit based on a right to reside under EU law.

## **Other Claimants with an EU Right to Reside**

20. We are also currently considering the position in relation to individuals who derive an EU right to reside as the primary carer of a UK national child.

## **Non-EU Migrants**

21. Someone who requires leave to enter the UK and is not subject to immigration control has access to Universal Credit.

22. People who have been granted limited leave to remain as a refugee, or exceptional leave to remain/leave to remain on an exceptional basis or humanitarian protection or discretionary leave have a right of residence for the length of the leave to remain granted. For as long as this leave to remain lasts they are entitled to claim Universal Credit.

## **Airmen, Mariners, Armed Forces Personnel and Continental Shelf Operations**

23. In certain circumstances, an adult whose particular form of employment means they are temporarily absent from Great Britain, is to be treated as still resident for Universal Credit purposes.

24. Part of the rationale behind this is that many people who work on ships or planes, or even in continental shelf operations, may be low paid and would be entitled to claim Universal Credit whilst present in Great Britain. If the nature of their job meant they were ineligible for Universal Credit whilst temporarily absent, this could act as a disincentive to them to work.

25. Members of the Armed Forces on active service outside Great Britain are currently able to continue to receive Tax Credits. This provision is to be maintained for Service personnel claiming Universal Credit while on duty abroad.

## Temporary Absence

26. Universal Credit brings together several benefits and credits with a number of separate sets of temporary absence rules which require simplifying and aligning across adult claimants, children and non-dependents. Under Universal Credit there are two categories of absence that would generally make a new adult claimant ineligible for Universal Credit. These are being outside GB and being in prison. In addition, where a new claim includes a child in prison or one that has been taken into Local Authority Care the child will similarly be ignored for benefit calculation purposes.

27. However where a Universal Credit claim is already 'live', we will allow a temporary period of absence for these reasons to avoid the need for frequent changes of circumstances and to offer a level of stability when someone is removed from the household. This means allowing, for existing members of a Universal Credit claim (whether adults, children or non-dependents):

- Up to 1 month temporary absence abroad for any reason (e.g. holiday, visiting relatives)<sup>1</sup>; or a longer period of up to 6 months temporary absence abroad for reasons of medical treatment<sup>2</sup>.

28. During this time Universal Credit is to be payable as normal but after which the person will no longer be recognised in calculating the Universal Credit Maximum Amount.

29. In addition, we will protect the housing element only for:

- Up to 6 months temporary absence due to imprisonment/being taken into care.

30. During this time only the housing element is to be protected. After 6 months the individual will similarly be ignored in calculating the amount of Universal Credit payable.

31. Other forms of temporary absence would not generally make a person ineligible for Universal Credit, but can impact of the status of the household for Universal Credit purposes. So where an adult or child is temporarily absent from their

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<sup>1</sup> extendable by up to a further month in cases of bereavement where the Secretary of State considers that it would be unreasonable to expect the claimant to return sooner.

<sup>2</sup> by which we mean absence to (a) assist in the treatment of any member of the household of an illness or (physical or mental) disability by an appropriately qualified person or (b) medically approved convalescence or care

household because they are in a residential institution elsewhere (e.g. in hospital, staying in a residential care home [but excludes child or young person in Local Authority care home] or residential school) then up to 6 months temporary absence is permissible, during which Universal Credit is payable as normal as if the adult/child/non-dependent was still in the same household. After this point the person in hospital (for example) will no longer be treated as part of the couple/originating household. They may still be eligible themselves but no housing element will be payable whilst they continue to have their accommodation needs met elsewhere.

32. More generally where a person is temporarily absent from the household but remains within GB then we will also allow up to 6 months temporary absence during which Universal Credit will be paid as normal as if the adult/child/non-dependent was still in the same household. After this point the person may still be eligible in their own right but not as part of the original couple/household.

33. As part of all of these rules we retain the right to change eligibility earlier than the maximum allowable period where it is clear that the absence is permanent or the period is going to be exceeded.

## **Education: Exclusions and Exemptions**

34. In Universal Credit, as in the current benefit system, the majority of people in full-time education are not to be entitled to benefit. However, there are to be some exceptions.

35. The regulations define the circumstances in which a person is to be treated as being in education and not entitled to Universal Credit. These include:

- young people in non-advanced education which meets qualifying criteria for the child element of Universal Credit;
- students in advanced education;
- other full-time students supported by loans, grants or bursaries;
- undertaking any other course that is not compatible with the claimant's expected hours of work or any work-related requirements.

36. As now, there are a number of exceptions specified in regulations, and the following groups of full time students in advanced and non advanced education can still be able to qualify for Universal Credit and be treated as eligible adults:

- students with relevant dependent children or young persons (including lone parents, a member of a couple who are both students and a couple where only one of them is a student);
- students who are foster parents;
- disabled students who are single or where they are part of a couple and one or both of them is disabled;
- students in couples where the other eligible adult is entitled to Universal Credit, ie where there are no children;
- students over the qualifying age for Pension Credit (in couple cases where one is over and one under that age); and
- for non-advanced education only, a young person without parental support (definition as for lower age limit exception) will be able to qualify up to age 21 or the end of the academic year in which they reach age 21 (or the end of the course if earlier)

## **Other Exclusions**

37. Even if the normal entitlement conditions are met there is no entitlement to Universal Credit where a person is:

- a member of a religious order fully maintained by their order;
- a prisoner (except to the extent that support is provided for a temporary period for housing costs); or
- serving a sentence of imprisonment and detained in hospital.

## **Elements of a Universal Credit award**

### **Standard allowance**

38. The Regulations make provision for the calculation of an award of Universal Credit by reference to a standard allowance. As in current benefits the basic component of a Universal Credit award is to be an age-related standard allowance to which other elements, for children, housing costs and other needs will be added, as appropriate.



39. Under Universal Credit the structure of age-related rates are simpler than now. There are to be standard allowances for:

- single claimants under age 25;
- single claimants aged 25 or over;
- couples where both members of the couple are under age 25; and
- couples where one or both members of the couple are aged 25 or over.

40. The rates for under 25s are to be lower than the rates for those aged 25 or over. This reflects the fact that young people generally have lower living costs and lower wage expectations. It also reinforces the stronger work incentives that Universal Credit will create for this age group.

41. In the current system there is considerable complexity around the rates for young people with some differences between benefits. Not all single claimants under 25 get the same rate and the couple rates are disaligned because they link to age 18 not 25. The simpler structure in Universal Credit with just four categories (compared with 15 in Employment and Support Allowance) provides greater clarity and consistency.

42. The rates that are to apply when Universal Credit is introduced in 2013 will be decided later this year. It is envisaged that the rates for single people and couples over 25 will equate to the equivalent rates in Jobseeker's Allowance. The under 25 couple rate will be about 60% higher than the single rate in line with the usual ratio between single and couple rates.

## **The Child Element**

43. Support for children within Universal Credit will be provided in the form of a child element. This is to be included in the Universal Credit award where a claimant is responsible for a child or qualifying young person and that child or young person normally lives with them.

44. In cases where parents are separated, we think it is reasonable that the couple take responsibility for deciding between themselves who should receive the child element. Only where the parents cannot agree or where the agreement does not reflect the care arrangements between them, will DWP intervene and make a decision based on who has main responsibility for the child.

45. The child element comprises of two rates; one rate for the first/only child and then a reduced rate for second and subsequent children.

46. The Child Element is to be payable up to and including the 31<sup>st</sup> August following the child's 16th birthday. Where the qualifying young person is in full time, non advanced education or approved training the child element can continue to be paid up to the August following their 19<sup>th</sup> birthday.

## **Disabled child addition**

47. The maximum amount of Universal Credit is to include a specific addition to the Child Element called a Disabled Child Addition for each relevant child dependent who meets the Universal Credit definition of disabled.

48. There are to be two rates of disabled child additions as follows:

- disabled child addition – for a child who receives any rate of either component of DLA (mobility or care) **apart from** the highest rate of the care component; or
- severely disabled child addition - for a child who receives the highest rate of the care component of DLA **or** a child is registered blind.

## **Housing Element**

49. The Universal Credit White Paper stated that “an appropriate amount will be added to the Universal Credit award to help meet the cost of rent and mortgage interest” with the aim being “to simplify provision for rent support in Universal Credit as much as possible.” The White Paper also stated that “we will consider whether changes are needed to the current approach to calculating help with mortgage costs to ensure it is consistent with Universal Credit principles.”

50. The policy intent is to cover similar types of payment liabilities as are covered by the current Housing Benefit and support for mortgage interest schemes, but in line with the commitments in the White Paper, provide for simplification and consistency with the general aims of Universal Credit.

51. The Regulations set out that three basic conditions must be met for entitlement for an amount in respect of housing costs to be included in the assessment of Universal Credit, namely: payment; liability; and occupation conditions. This means that a claimant must be liable for payments in respect of accommodation they occupy as their home.

52. The Regulations set out a small number of exceptions which exclude certain categories of cases, even where the basic conditions of Universal Credit entitlement have been met. These are intended to ensure duplication of provision is avoided. Exceptions are specified in the Regulations.

53. The Regulations specify the types of payment which can qualify for housing costs under Universal Credit. Basically these are:

- rent payments;
- owner-occupier payments; and
- service charges

54. Further detail of what these terms cover is set out below.

55. The claimant or joint claimant must have an actual commercial liability or be treated as having such a liability. The intention here is to ensure that informal arrangements cannot qualify for assistance, and that there is flexibility within the system to cater for cases where it is reasonable to treat a person as being liable for a housing cost. There are also provisions which treat people as *not* being so liable, for ***example, where liability is considered to be contrived to take advantage of the benefit system or where costs are met from other funding sources (eg residential accommodation).***

56. Claimants can also be treated and not treated as occupying accommodation. ***For example, we can treat someone as occupying if they have left their home due to fire or flood.***

57. Where there is a liability for both rental and loan interest payments, the Regulations provide that both such payments can be taken into account in the calculation of the amount of the housing element – typically these would be in “shared ownership” cases.

### **Payment condition**

58. The Regulations provide greater detail on the type of “rent payments” which either qualify or do not qualify as rental payments for the purposes of the housing costs element, having regard to the aim of simplification expressed in the White Paper. Apart from the ordinary meaning of “rent”, they include other types of liability which Ministers nonetheless consider it proper to recognise within as qualifying payments in this part of the housing cost element. It excludes certain types of liability in order to ensure that there is no duplication of provision within the housing element.

59. The Regulations set out the type of payments which either qualify or do not qualify as loan interest payments for the purposes of the housing costs element,

namely interest on: mortgages taken out to enable a person to acquire an interest in the accommodation occupied as the home; and loans secured on the property.

60. The Regulations also provide that the housing costs element can assist with the costs of financial arrangements which are comparable to conventional mortgages or loans, but which do not share some of their characteristics.

61. The Regulations specify that only certain service charges are eligible for the purposes of the housing costs element, where the claimant is an owner-occupier or a Social Rented Sector renter. The policy for when assistance towards service charges starts and ends is that it follows the rules which apply depending on whether the claimant is a renter or an owner-occupier.

### **Liability condition**

62. The Regulations specify the circumstances under which a person is to be treated as liable and not liable to make a payment for the purposes of the housing costs element.

63. The treated as 'liable' provisions provide that:

- where one member of a couple is ineligible for inclusion in the Universal Credit benefit unit, and as a result the other member of the couple claims Universal Credit as a single person, the Universal Credit claimant is treated as liable for the housing costs even where the ineligible adult is the one who is liable for the housing cost;
- a claimant is treated as liable to make payments where the person who is actually liable to make those payments is not doing so. There is a test of reasonableness, and a requirement that the claimant has to make payments in order to continue to occupy the accommodation;
- a claimant continues to be treated as liable to make payments where liability is waived in recompense for repair or redecoration work done by the claimant;
- a claimant continues to be treated as liable to make payments during rent-free periods, thus preventing breaks in liability where for example the rent agreement stipulates a number of rent-free periods each year.

64. The treated as 'not liable' provisions provide that a claimant is not to be treated as liable:

- for payments for rent, or service charges where that liability is to a close relative of theirs or their partner, and that close relative is living in the same accommodation;
- for payments of rent, or service charges where that liability is to a company of which the claimant, their partner or a close relative is an employee or director;
- for owner-occupier liabilities where the liability is to any person living in the same household;
- for arrears or other unpaid payments or charges; or
- if the liability was contrived to take advantage of the benefit system.

### **Occupation condition**

65. The Regulations provide for the circumstances in which a person is to be treated as occupying accommodation for the purposes of the housing costs element.

66. The treated as occupying provisions provide a general rule that a person is to be treated as occupying the accommodation which they normally occupy as their home, and that no claimant is to be treated as occupying more than one place as their home. This is subject to specific exceptions, namely that:

- croft land is to be included in what constitutes accommodation where the dwelling is situated on a croft;
- liability on more than one accommodation can be considered when those liabilities have arisen because of the need to move into new accommodation which is adapted to meet the disablement needs of a relevant person. "Relevant person" is defined by receipt of specified disability benefits;
- the claimant can continue to be treated as occupying their normal home where they have had to move out of that home on a temporary basis on account of essential repairs;
- the claimant can be treated as occupying two accommodations where the liabilities have arisen because of fear of violence in the accommodation normally occupied as the home;
- more than one accommodation can be treated as a single accommodation where the benefit unit has been housed in more than one accommodation by

a provider of social housing on account of the number of people in the claimant's family;

- accommodation can be treated as occupied when liability for that accommodation has arisen because of the need to move into the accommodation which is adapted to meet the disablement needs of a relevant person (again defined by receipt of specified benefits). This is distinct from the cases where there is more than one liability, as it covers cases where there is a liability only for the new accommodation;
- liability on accommodation can be considered when the claimant or a member of the benefit unit is absent temporarily from that accommodation (see above);
- accommodation can be treated as occupied when liability for that accommodation has arisen because of the need to move into the accommodation following a move from a care home or hospital.

67. The Regulations also make detailed provision for calculation of amount of housing costs element etc:

- those Universal Credit cases which cannot include a housing element;
- the calculation of rental liabilities;
- eligibility conditions for service charge payments;

and that the following cannot be eligible for the housing element:

- certain categories 16/17 year old care leavers. This is to prevent duplication of provision with local authorities; and
- care home charges.

68. Where the eligibility conditions are met for one or more of a "relevant payment" (ie rent, and service charges) each are to be taken into account for the purposes of calculating the housing element.

69. The amount of the housing element is to be calculated on a calendar monthly basis, in line with the general approach for Universal Credit.

70. Where the rental agreement includes rent free periods, the yearly rental liability is apportioned on a calendar monthly basis.

71. For rental cases, the category of accommodation which is reasonable for the claimant to occupy is taken into account. The persons who are taken to be part of the claimant's household for this purpose are:

- the renter (or joint renters);
- any child or qualifying young person for whom either of them is responsible; and
- any non-dependants.

72. The Regulations specify the number of bedrooms to be allowed for each member of the household, and the conditions under which a person can be allowed a bedroom for a carer.

## **Housing Cost Contributions**

73. Deductions can be made from a tenant's housing cost element (including the rental part of a shared owner's housing cost element) in respect of contributions expected from specified categories non-dependants living in the household. Such deductions, where applicable, are at a flat rate.

74. No deductions in respect of housing cost contributions are made where the claimant/partner are within certain specified categories, and certain categories of qualifying non-dependant will not attract a deduction in respect of housing cost contributions.

## **Private Rented Sector: Calculation of Housing Element**

75. In calculating the amount of housing costs element in the private rented sector, the steps to be taken are:

- determine the "core rent" (that is all the eligible housing costs, calculated on a calendar monthly basis, and added together);
- consider the size criteria specific to the private rented sector, namely –
  - (i) the maximum number of bedrooms to be allowed is 4;
  - (ii) the shared accommodation rate for certain single people aged under 35 who are living in self-contained accommodation;
- determine the "cap rent" by reference to the rate of local housing allowance applicable to the claimant's household (taking into account the considerations

mentioned in (i) or (ii)) and allow either the cap rent or the core rent, whichever is the lower;

- take any housing cost contributions from the amount determined under the above (3<sup>rd</sup> bullet).

76. There is a variation of the calculation provision for the core rent in joint tenancy cases, specifically that the housing liabilities for the whole property are taken into account, then apportioned equally between the number of joint tenants, with a provision which allows the Secretary of State to apportion the core rent in a different way if the circumstances of the case justify.

## **Social Rented Sector: Calculation of Housing Element**

77. This has three components:

- for cases not involving joint tenants;
- for cases involving joint tenants; and
- a power to apply to the Rent Officer if the Secretary of State considers any of the liabilities are excessive.

78. For cases not involving joint tenants the steps are:

- determine the “core rent” (that is all the eligible housing costs, calculated on a calendar monthly basis, and added together);
- determine whether an under-occupation deduction is to be made, namely percentage reductions which are to be made to the core rent when the number of bedrooms which the claimant has exceed the ones to which they are entitled under the schedule;
- take any housing cost contributions from the amount determined under the above (2<sup>nd</sup> bullet).

79. For cases involving joint tenants the steps are:

- determine the “core rent” for the whole property (that is all the eligible housing costs, calculated on a calendar monthly basis, and added together);
- determine whether an under-occupation deduction is to be made, depending on whether or not the accommodation as a whole is under-occupied;



- apply a percentage deduction to the core rent, namely percentage reductions which are to be made to the core rent when the number of bedrooms which the claimant has exceed the ones to which they are entitled. However no such deduction is to be applied in shared ownership cases;
- take any housing cost contributions from the amount determined under the above (3<sup>rd</sup> bullet).

80. The resulting amount relating to the whole property is then apportioned equally between the number of joint tenants, with a provision which allows the Secretary of State to apportion the core rent in a different way if the circumstances of the case justify.

## **Owner Occupiers**

81. Schedule 5 makes provision for the housing costs of owner-occupiers that are to be met within Universal Credit. These costs are; payments in respect of interest on eligible mortgages or loans, and service charges.

## **The Zero Earnings Rule**

82. There is to be a “zero earnings rule” in Universal Credit for owner occupiers. This means that a Universal Credit claimant who is an owner occupier and who is receiving help with housing costs will not receive help with their housing costs if they are doing any paid work. This replicates how housing costs for owner occupiers operate in practice for most groups in the legacy benefits, and recognises the different characteristics and work incentives facing owner occupiers compared to other out of work claimants.

83. Owner occupiers who claim income-related benefits will previously have obtained and sustained mortgages and, usually, they have done this while they are in full-time work. The Government believes that most owner occupiers should be aiming to move from short-term help with their housing costs into full time work to support their housing tenure or they should take other steps, such as selling their homes and downsizing, if they are unable to sustain their mortgages. Moreover should they attempt some part-time work the removal of SMI will in part be compensated by the operation of the full disregard.

## **Waiting Period Before Housing Costs Become Payable**

84. There is to be a waiting period of [x] months before owner occupier claimants can receive help with their housing costs. This is based on the principle that it is reasonable to expect owner occupiers to make some provision, whether by insurance or savings, to fund their housing costs for a period in the event of a change in their circumstances such as unemployment or sickness. If help with housing costs stops

because an adult in the benefit unit goes into work, another waiting period must be served if that work ceases.

## **Eligible Loans**

85. Eligible loans for housing costs are loans that were taken out to purchase the dwelling occupied as the home and other loans secured on the property.

## **Capital Limit**

86. There is to be a capital limit of £[x]00,000 and the amount of any mortgage or loans above this will be ignored in calculating eligible housing costs.

## **Calculation of Housing Costs**

87. The amount of a claimant's housing costs is to be calculated by multiplying the total of the eligible loan(s), subject to the capital limit, by the standard interest rate and dividing by 12 to determine the level of the monthly payment.

## **Alternative Finance Arrangements**

88. Where a claimant has an alternative finance arrangement, such as a Shariah-compliant loan, housing costs are to be calculated on the purchase price of the property that was included in the arrangement, subject to the capital limit. The eligible sum is then calculated in the way described in paragraph 94 above.

## **Standard Interest Rate**

89. The standard interest rate that will be applied to eligible loans to calculate a claimant's housing costs is to be the average mortgage rate published by the Bank of England which applies before this schedule comes into force.

## **Payments in Respect of Service Charges**

90. There is to be provision to meet eligible service charges.

## **Limit on Payment of Housing Costs**

91. There is to be a time-limit of two years on payment of housing costs to claimants in the full conditionality group of Universal Credit. When such a claimant has received help with housing costs for a period of two years these payments will stop and will not be reinstated until a claimant has had a break in claim and has served a further waiting period. This is underpinned by the principle of providing short-term help through the benefits system and because it is not considered appropriate that this help is provided indefinitely. This is intended to focus the help that is given through the benefits system on those on low income when they need it most.

## **Carer Element**

92. Carers provide an invaluable service to our communities and Universal Credit will ensure that carers on low incomes receive the support they need.

93. Most carers of working age want to retain a foothold in the labour market wherever possible, not just for their financial well-being, but also to enhance their own lives and the lives of those for whom they care.

94. Universal Credit will provide support for carers and improve their opportunities to maintain links with the world of work.

- For an eligible adult in a Benefit Unit to be defined as a carer for Universal Credit benefit purposes at the end of each assessment period they will need to satisfy the carer test i.e. they need to:
  - provide care of at least 35 hours per week; and
  - provide that care for a severely disabled person.
- The maximum amount of Universal Credit is to include a specific additional element called a Carer Element for each eligible adult claimant in the benefit unit that satisfies a carer test
- Only one person can be in receipt of the Universal Credit carer element as a result of caring for one severely disabled person.

95. If the disabled person has two carers, both providing care for at least 35hrs per week, and they are both on Universal Credit, they have to agree between them who will receive the carer element.

96. Eligibility for the carer element is not to be dependent on the eligible adult also claiming Carer's Allowance (someone may be entitled to but not receive Carer's Allowance).

97. Any individual adult can only qualify for either a limited capability for work element or a carer element, not both. [However, a household made up of two eligible adults will still be able to get a limited capability for work element for one adult and the carer element for the other adult wherever appropriate.

98. A carer element will not be payable to an otherwise eligible carer where:

- they already receive a carer element in respect of care to a different disabled person;
- the other eligible adult in the benefit unit receives a carer element in respect of the same disabled person;

- another Universal Credit award (outside the benefit unit) includes a carer element for the disabled person in respect of whom the carer element is being claimed;
- someone else is entitled to Carer's Allowance for the disabled person in respect of whom the carer element is being claimed.

99. Where a benefit unit contains two eligible adults and each satisfies the carer test in respect of different disabled people then two carer elements are to be payable.

100. An eligible carer is allowed a temporary break in caring e.g. where a holiday is taken, or if the disabled person takes a short residential stay.

101. If the person the eligible adult cares for dies, then the carer element (and other parts of the Universal Credit maximum award) is to run on for a specified period following the death.

## **Child Care Costs Element**

102. Universal Credit is designed to improve work incentives by clarifying claimants' potential gains to work and reducing the risks associated with moves into employment. The Government fully recognises that for many parents childcare is essential to support their return to, and/or their progression in work.

103. Within Universal Credit, support for childcare is to be provided in the form of an additional childcare element [which like other Universal Credit elements will be subject to the taper]. The element is not dependant on a claimant working specific hours.

## **The Work Condition**

104. Support for the costs of childcare within Universal Credit is to be available to all lone parents and couples, where both members are in work, regardless of the number of hours they work.

105. This will provide an important financial incentive to those taking their first steps into paid employment. It will mean that around 80,000 extra families will be eligible to receive support through childcare.

## **Exceptions to the Work Condition**

106. Both members of a couple normally need to be in paid work, however there are allowable exceptions, where one member is working and the other is unable to look after the child because they have:

- limited capability for work or limited capability for work related activity; or

- regular and substantial caring responsibilities for a severely disabled person;  
or
- is temporarily absent from the claimant's household (ie in prison/hospital/or residential care)

## **Where the Work Condition can be Treated as Satisfied**

107. To preserve the work incentive principles of Universal Credit, we are allowing claimants to continue to claim childcare costs for a month following the end of a period of employment. This is to preserve a childcare place for a short period of time in order to encourage them to take up another job following the end of the employment.

108. We will also continue to pay childcare costs for an existing childcare place whilst a claimant is receiving statutory sick pay, statutory maternity pay, ordinary statutory paternity pay, additional statutory paternity pay, statutory adoption pay or maternity allowance

## **The Child Care Costs Condition**

109. A claimant can receive the childcare element when they have responsibility for a child and the childcare costs incurred enable the claimant continue in paid work.

110. Claimants with a firm/accepted job offer can claim childcare costs a month prior to starting work. In addition, claimants can claim for deposits/up front fees/ advance costs as well as routine costs. All such costs are to be treated in the same way.

## **Relevant Childcare**

111. In order to get the childcare element the child needs to be in registered childcare. This means the childcare provider is registered with OFSTED or its Scottish/Welsh equivalents. We are ensuring the legislative links and data sharing powers are in place and reflected correctly for the devolved administrations.

## **Amount of the Child Care Costs Element**

112. Families will be able to recover childcare costs in Universal Credit as follows: 70% of up to £760 for one child or £1,300 for two or more children per month.

## **Universal Credit Award Elements – General Provisions**

### **Run-ons**

113. Universal Credit brings together several benefits and credits with separate sets of run-on rules following bereavement which require simplifying and aligning. The Regulations provide that for the next three payments following bereavement the Universal Credit Maximum Amount continues to take account of a deceased partner,

child or cared-for person. They also continue to take account of a deceased non-dependent in calculating the housing element. In addition, following the death of a partner or child conditionality requirements are to be eased for a period of 6 months.

## Capability for work or work-related activity

114. These elements aim to reflect the reasonable expectations of the extra costs faced by people with potentially longer durations on Universal Credit due to a health condition or disability.

- Universal Credit will simplify existing disability related premiums/additions.
- There is to be a single assessment for these elements, called the Work Capability Assessment. People in work will also have to qualify on the basis of the Work Capability Assessment.
- The Work Capability Assessment makes a determination that someone is either in the:
  - limited capability for work element (LCW);
  - limited capability for work and work related activity element (LCWRA);  
or
  - fit for work.

115. The capability for work elements are to become payable after a 3 month determination period. During this time, the claimant will provide medical evidence and their eligibility will be determined through a work capability assessment. Once these requirements are satisfied then the LCW/LCWRA element will be payable from the following month.

116. There are to be circumstances for the LCWRA element where the 3 month period does not apply. For example, where the claimant is terminally ill (not expected to live for more than 6 months) the LCWRA element can be paid straight away.

117. If the WCA process takes longer than 3 months then the LCW element is to become payable once it is completed, backdated to the assessment period which contained the 3 months point.

118. An adult within a benefit unit can only get either a carer element or one of the limited capability elements, but not both.

119. Where there are two eligible adults, the benefit unit can only receive one LCW or LCWRA element, even where both would individually qualify. The award with the higher value is to be paid.

120. Where a WCA determination finds that someone is fit for work, a fresh WCA determination can only be made:

- Where a new condition develops;
- Where a condition has worsened;
- Where it is shown that the WCA determination was based on ignorance of, or mistake to, relevant information.

121. Where someone stops being entitled to Universal Credit, or loses the LCW or LCWRA element but remains entitled to Universal Credit, there is to be provision for them to re-qualify for Universal Credit with the LCW or LCWRA element if there is only a short break in their award

## Calculation of capital and income

### Capital

122. The capital rules in Universal Credit will generally follow the rules that apply now in existing benefits. The maximum capital limit for claiming Universal Credit is to be £16,000 for either a single person or a couple where that capital is held jointly.

123. Certain capital assets may be disregarded. These categories of capital include

- premises;
- business assets;
- rights in schemes such as pension schemes, life insurance and funeral plans;
- amounts earmarked for special purposes such as house purchases or essential repairs to property; and
- payments made for arrears of, or compensation for late payment of, social security benefits

124. In some cases, a period of 6 months is specified for capital to be disregarded. There is also provision to extend the period in reasonable circumstances.

125. In calculating the value of a capital resource, there is to be deducted from the value of the capital, encumbrances and 10% of sale expenses. Similarly, banking or commission charges are to be disregarded in calculating the value of capital held in currency other than sterling.

126. Capital that is held jointly by two or more joint owners will normally be valued on the basis that each person with a beneficial interest capital has an equal share.

## **Deprivation of Capital**

127. As now, there will be provision for the identification of circumstances in which a person shall be considered to have deprived themselves of capital assets with a view to secure entitlement to, or increase entitlement to Universal Credit. In such cases 'notional' capital will be assessed and taken into account.

128. Where a person is treated as having capital in excess of the capital threshold for Universal Credit (ie £16,000) that capital is to be treated as diminishing by the level of the underlying Universal Credit award. Where a person is treated as having capital between the capital threshold and the threshold for calculating 'tariff income' from that capital (ie between £6k and £16k), the value of the notional capital is to diminish by the value of the 'tariff income'.

129. A person is not to be treated as depriving themselves of capital if they repay debts or make reasonable purchases of goods or services.

## **Earnings disregards and tapers**

130. Supporting people into work is the key objective of Universal Credit. Universal Credit intends to top up earnings in a way that will make sure that there is a clear financial gain from working.

131. A single taper rate and a simple system of earnings disregards will allow people in work to see clearly how much support they can get while making sure that people considering a job will understand the advantages of work.

132. By removing the distinction between in-work and out-of-work support, Universal Credit will reduce the risks associated with moves into employment that exist in the current system.



## Disregards

133. Universal Credit will allow people moving into work to keep some of the money members of the household earn before it has any impact on the amount of Universal Credit they receive – this amount is called the earnings disregard.

134. Different amounts will be disregarded from earnings for different household types in order to reflect their different needs and to support the aim that work pays. The rates of the disregards will be set in line with Government spending commitments as the plans for the transition to Universal Credit are developed.

135. Disregards will be set at different levels for each of the following groups:

- single people and couples without children;
- lone parents with one or more children;
- couples with one or more children; and
- disabled singles or couples.

136. Only one earnings disregard, whichever is highest, is to be available in each household.

137. Claimants in receipt of housing support are to have a higher award of Universal Credit than those with low or no housing costs. In order to address this and target resources fairly, we intend to allow those claimants with no support with their housing costs to keep more of their earnings. We intend to do this by setting higher earnings disregards for households with no housing costs compared to those with housing costs. (This is a simplification of the policy set out in the Universal Credit Briefing Note 14 of reducing the level of a household's earning disregard by 1.5 for every pound of housing support the household received.)

**138. The exact amount of these minimum earnings disregards will be finalised closer to implementation of Universal Credit.**

## Earnings Taper

139. A taper is the rate at which benefit is reduced to take account of earnings. A simplified single taper is at the heart of the design of Universal Credit.

140. Currently there are different taper rates operating throughout the benefit and Tax Credit system. The interaction between these tapers can mean that people have very little incentive to work more hours or to aspire towards a pay rise as they see only a few pence more in their pockets as a result. They also mean that very few

people are confidently able to predict the effect on their household income of taking up a job, with the result that many do not bother.

141. The taper or withdrawal rate is expected to be set at 65 per cent. In simple terms, that would mean that 35 pence in every pound earned would be kept; meaning that claimants would be £35 better off for every extra £100 of net earnings. Significantly this means that many people in work would receive substantially more support than under the current benefits system. The taper will be applied to earnings net of tax, National Insurance and pension contributions.

## **Definition of Earnings**

142. Under Universal Credit we will be using the data available from HM Revenue & Customs real-time information (RTI) system to establish earnings for the majority of employed claimants. To support this and align rules across tax and benefits, the definition of earnings for Universal Credit reflects a strong link with tax legislation.

143. Earnings from employment will include any income which is Pay As You Earn (PAYE) employment income as defined by section 683 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). It will also include any expenses that are not allowable as a deduction under Chapter 2 (deduction of employees' expenses) of Part 5 of ITEPA. This represents the same broad principle as in the current regime - that expenses which are wholly, exclusively and necessarily incurred as part of the duties of employment are not treated as earnings.

144. In the longer term, we also intend to take into account as earnings the value of any Benefits in Kind not otherwise captured. This may include certain salary sacrifice schemes. However, we do not intend to commence this regulation immediately as reporting such arrangements are unlikely to be necessary for the initial tranche of Universal Credit cases. We are continuing to work with HM Revenue & Customs to ensure the definition of employed earnings for Universal Credit fully supports the policy intent.

145. Universal Credit will provide support for claimants whether they are in or out of work. For this reason any earnings paid because employment has ended will be taken into account as earnings. The exception remains redundancy pay, which, as under the current benefit system, is to be treated as capital.

146. Statutory sick pay, statutory maternity pay, ordinary statutory paternity pay, additional statutory paternity and statutory adoption pay are all to be treated as earnings. This will benefit the claimant by making such payments subject to the disregard and taper rate in line with other household earnings.

## **Calculating Earnings**

147. As in the current benefit system the general principle is that when calculating the amount of earnings to be taken into account we reduce gross earnings by tax and National Insurance. We will also deduct 100% of contributions to occupational and personal pensions (compared with 50% now). For consistency we intend to use this same formula for calculating earnings from employment whether they are received from RTI or are self-declared.

148. Unlike the current system, we want to avoid complicated rules regarding averaging and attribution wherever possible. The amount of Universal Credit received is also designed to reflect, as closely as possible, the circumstances of a household each month. For these reasons earnings will usually be based on the actual amounts received in an assessment period. We are working with HM Revenue & Customs to fully understand the extent to which tax coding adjustments could influence Universal Credit awards

## **First Assessment Periods**

149. Universal Credit is to be paid in arrears, with earnings information collected by the end of the claimant's assessment period. In order for a determination to be made on a claim to with the minimum of delay, the initial decision may be based on an estimate of earnings rather than the actual amount received. The calculation at the end of that assessment period will determine the actual amount to be paid.

## **Reporting Arrangements**

150. The intention is that wherever possible employed earnings are received via the RTI system, easing the reporting burden on claimants. However, if a claimant has earnings which are not reported through RTI for any reason then they will be required to declare those earnings.

151. As with other information needed to establish an award, if a claimant is required to supply information on earnings and does not provide it we will follow a process which may lead to the award being suspended in part or in whole and eventually terminated. This will be subject to Decision Making & Appeals regulations.

## **Trade Disputes**

152. The current benefit system has complex rules where an individual is involved in a trade dispute or industrial action, reflecting the existing divisions between in and out of work support.

153. Under Universal Credit we want to simplify these rules. Where an individual has employed earnings and their earnings decrease because of participation in a trade dispute, Universal Credit will not be increased to compensate for that reduction in earnings. This will apply to new and existing awards – the level of earnings taken into

account will be based on the level they would be if the individual was not involved in a trade dispute.

154. This means that the existing complexity around trade dispute regulations which includes ineligible adult restrictions, notional strike pay and reducing entitlement to certain allowances will not be required within Universal Credit.

## **Service User Groups**

155. The Social Security (Miscellaneous Amendments) (No. 4) Regulations 2009 made changes to working age and pension age income-related benefits to:

- introduce a disregard for any expenses arising out of a claimant's involvement with a service user group; and
- remove that group from the ambit of the notional income rules.

156. Under Universal Credit we will continue to treat the fees paid as a result of Service User Group activity as earnings. We will also preserve the easements introduced to ensure that all expenses paid as a result of participating are disregarded and that where a claimant refuses a fee for undertaking service user activity this will not be considered as notional income.

157. We have further sought to address stakeholder concerns that the existing definition of service user groups is too narrow. The definition for Universal Credit clarifies that involvement includes a much wider field of public spirited employment, supporting the aim of encouraging all those who are able to do so to participate in work.

## **Company Directors**

158. We are looking to include a provision in the Universal Credit legislation to ensure that any value extracted from a company in which a claimant holds a position that is analogous to that of a sole owner or partner should be treated as taperable income at the point of extraction (regardless of the form in which it is extracted). Where a claimant holds a position in a company that is analogous to that of a sole owner or partner in the business of that company, he shall be treated as if he were such sole owner or partner and in such a case be subject to the Minimum Income Floor (details below) where appropriate. This will ensure that self employed claimants will not be able to incorporate to avoid the Minimum Income Floor.

## Self-Employed Earnings

159. We believe Universal Credit should support people to be self-employed but only insofar as self-employment is the best route for them to become financially self-sufficient.

160. The Universal Credit White Paper stated (Annex 3, p.67) that the Secretary of State is considering “introducing a floor of assumed income from self-employment for those registering as such”. We intend to implement this proposal, which would limit the amount of Universal Credit a claimant can receive while declaring themselves to be self-employed on low income. This approach will limit the extent to which Universal Credit subsidises underemployment and long-term low-earning businesses.

161. We recognise the need for claimants who are setting up a business to be given time to establish themselves and find sources of support.

162. With the exception of those who are not expected to work because of their personal circumstances, claimants who declare that they have income from self-employment, or who are self-employed with no income, will be invited to a “Gateway” interview<sup>3</sup>. The claimant will be asked to bring evidence to the interview to demonstrate to an adviser that they are in gainful self-employment. For the purposes of Universal Credit, this means the claimant demonstrating that he/she is in organised, developed self-employment carried out in the expectation of profit, which is:

- genuine – there is evidence that such work activity is taking place and is done by the individual who presents him/herself for the interview;
- taking up the majority (i.e. at least half) of the claimant’s work week – this would be 18 hours a week for claimants with no limits on their working time, but lower for claimants with caring responsibilities or disabilities, for example;
- done with the intention of increasing the income received to the level we could expect the claimant to make if working full time (for their circumstances).

163. Types of appropriate evidence will be set in guidance, but examples may include diaries of appointments, lists of customers and suppliers, proof of tax registration with HMRC, marketing materials to secure new business, a business plan, receipts for stock purchased, order and sales records and bank statements.

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<sup>3</sup> Self-employment is not re-defined in Universal Credit: the definition will follow existing case-law, where self-employment is a trade, profession or vocation which is not within employment under a contract of service or in an office.

164. If the claimant is accepted as being in gainful self employment for Universal Credit purposes and he/she have been in gainful self-employment for less than a year he/she will be granted a start up period, otherwise he/she is to be subject to the Minimum Income Floor (details follow). If the claimant is not able to satisfy the Gateway checks but wishes to continue to claim Universal Credit, he/she will have to seek other work and satisfy full work-search and availability requirements. These requirements would not take account of self-employed activity. Any income from self-employed activity would need to be reported in the normal way (see below) and would be taken into account in the Universal Credit award calculation.

165. If a claimant fails to attend the Gateway interview, a sanction is to be applied if the claimant does not have good reason for not attending.

## **The Minimum Income Floor**

166. The policy intent for applying a Minimum Income Floor (MIF) is to encourage and incentivise individuals to increase their earnings through developing their self employment. It is therefore critical that the MIF is set at an appropriate level. DWP are working with other government departments to determine what the optimum design will be so that claimants become less reliant on benefits

167. The MIF is intended to reduce the claimant's award. We will not apply the MIF where the claimant is not in the "all work-related requirements" conditionality group, since there is no expectation that such claimants are working whilst claiming Universal Credit.

168. The conditionality regime recognises the limits that some claimants who are able to work have on the amount they can be expected to work, for example if they are the lead carer for a school-age child or have a physical impairment. In setting the final design of the MIF, we will carefully consider these tailored easements.

## **The Start-Up Period**

169. If claimants satisfy the Gateway checks on their self-employment and are within one year of starting out in self employed activity, they will be eligible for the 'Start-Up Period'. This is one year from the date of claim within which the Minimum Income Floor will not be applied. As a result, claimants' Universal Credit award will be calculated based on their reported income, even if that is £0 in any assessment period. Claimants will be eligible for only one Start-Up period in their working lives.

170. Claimants in a Start-Up period will not be required to satisfy work-search or availability requirements. However, they will be required to attend quarterly adviser interviews at which the Gateway checks will be repeated to ensure that the claimants continue to meet these requirements. Claimants will be subject to a sanction if they do not attend these interviews without good reason. Claimants who are found to no

longer satisfy the requirements will be required to seek other work and to satisfy full work-search and availability requirements.

## **Income from Self Employment and Income Reporting**

171. Claimants with self-employed income (whether they are required to meet work-search conditionality requirements or not) will be required to report it to DWP on a monthly basis.

172. Monthly reporting allows Universal Credit to be adjusted on a monthly basis, which will ensure that claimants whose income from self-employment falls do not have to wait several months for a rise in their Universal Credit. It should also help claimants to keep simple records which give them a stronger hold on their business finances.

173. This income will be reported on a simplified “cash income” basis (see below) which asks for the total income from receipts into the business and the details of payments out of the business under defined categories in the assessment period.

174. These requirements have been designed to make it possible for claimants to report monthly without employing an accountant.

175. HMRC is currently consulting on its proposal to give people who run small businesses (i.e. turnover up to £77,000 a year) the option of reporting their income for income tax purposes on a cash income basis. The proposals below are intended to work effectively as a standalone system, but the book-keeping a Universal Credit claimant who also reports his/her income for income tax has to maintain will be streamlined if the tax system is changed in line with this consultation.

176. Claimants will be asked to report:

- income received from self employment this assessment period (cash in); and
- payments made for the self employment this assessment period (cash out)

177. The income taken as the claimant’s earnings from self-employment for the purposes of the Universal Credit award calculation would be the balance of cash in minus cash out.

178. The items that can be deducted as “cash out” fall into seven categories, as follows. All business expenses must be incurred wholly and exclusively for the purposes of the self employed activity and must be reasonable:

## **Payment of allowable business expenses**

- regular business costs (e.g. rent, wages, operating leases)
- stock purchased for business
- expenses (e.g. electricity, phone, business travel)
- allowable one-off costs (e.g. capital expenditure, finance leases)

## **Other payments**

- income tax payments
- National Insurance contributions
- personal pension contributions (100 percent of these will be counted as “cash out”)

179. Claimants will be required to report a figure for each of the seven (bulleted) categories above.

180. Income reported must include payment in kind. The value reported will be the value of the good or service which the self-employed person provided and which they chose to accept the payment in kind as payment for.

181. Claimants will not be permitted to carry forward negative balances of income: if the net income for the assessment period is a negative amount, this would be treated as zero for the purposes of the award calculation and the next assessment period's income would be based solely on the income for that period. Loans will not be recorded as “cash in” when they are received, and not “cash out” when they are repaid. No amounts may be recorded as “cash out” for business entertainment expenses.

182. As above (4<sup>th</sup> bullet), claimants are permitted to buy items for their business and include the amounts spent as “cash out”, including monthly payments towards finance leases. However, key exclusions to this rule are cars and investment assets which generally hold their value (such as shares or property). It is not Ministers' intention that Universal Credit should help claimants finance the accumulation of investments, nor that they should be able to purchase cars and record the full amount as “cash out” within their income reports.



183. Claimants who use their car for business purposes or their home as an office will be permitted to use flat-rate amounts as the “cash out” they report for all costs associated with these activities. The amounts used align with HMRC’s proposals in its consultation on simplifying the reporting system for income tax. This avoids asking the claimant to specify the precise division between personal and business costs.

184. We aim to do further work to develop the regulations to achieve alignment where possible with the tax concepts on which this reporting system is based.

## **Timing of Income Reporting**

185. In steady state, claimants will be required to report their income using a tool within their personal online account.

186. Claimants will receive messages towards the end of each assessment period warning them that they will need to make an income report once the assessment period has finished. The reporting tool will be available to the claimant as soon as the assessment period ends. As soon as he/she submits the income report, the household Universal Credit payment will be calculated and made.

187. If the claimant does not report his/her income within 7 calendar days, he/she will receive notification that his/her household payment has been formally suspended and will be terminated if the missing income report is not received within four weeks of that date. If the claimant submits the missing report within the four week period, the suspension will be lifted and the payment made.

188. If at any time between the reporting tool opening and the end of the four week suspension period, the claimant or a person acting on their behalf satisfies a DWP agent that the claimant has good cause for not being able to report his/her income, a “default” payment using the income information held from the previous assessment period (including the Minimum Income Floor if applicable) will be made. Any over- or under-payments which result will then need to be settled.

## **Unearned income**

189. The legislative approach to be taken here is similar to that used in Pension Credit legislation. Unearned income that is to be taken into account in the calculation of an award of Universal Credit is to be prescribed in regulations. Sources of unearned income that are not prescribed are disregarded.

190. The categories of unearned income that will be prescribed to be taken into account are most types of income that are available to meet basic daily living costs. Universal Credit is to be withdrawn pound for pound in respect of such income. This is particularly pertinent in the case of social security benefits in order to avoid ‘double provision’.

191. The categories that will not be prescribed, and so will be disregarded, are types of income that relate either to additional costs or expenses incurred beyond basic daily living needs, or where there would be a disproportionate administrative burden in taking them into account. Examples here include disability benefits such as Disability Living allowance and the new Personal Independence Payment, and a range of payments made by local authority social service departments. Generally, all income types that are fully disregarded currently in income support will be disregarded under Universal Credit. In addition, under Universal Credit War Pensions and guaranteed income payments made under the Armed Forces Compensation Scheme will be fully disregarded.

192. A small group of income types are to be treated identically as earnings. As well as giving relatively generous treatment to some income types which relate to paid work, this approach avoids operationally difficult decisions in distinguishing between earnings and items of income paid with earnings. Such income includes, for example, statutory sick or maternity pay.

193. In line with the calculation of an award of Universal Credit, unearned income is to be calculated as a monthly amount. Where unearned income is not paid monthly, it is to be averaged over a given Universal Credit assessment period. The main reason for adopting this approach is to avoid taking, for example, four payments of a contributory benefit paid weekly into account in one Universal Credit assessment period and five in another. This approach attributes a fixed amount in respect of such income for each assessment period.

194. Provision is made for the calculation of income from capital – ‘tariff income’. The proposal is that this is to be calculated based on an assumed weekly income of £1 for every multiple of £250 of capital or part thereof. This shall not apply where the capital is disregarded or the actual income from that capital is taken into account from an annuity or trust.

## **Miscellaneous Capital and Income Provisions**

195. As with capital, there may be circumstances in which a person is to be treated as depriving themselves of an income in order to gain or increase entitlement to Universal Credit. A person who has deprived themselves, or whose employer has arranged for them to be so deprived of income for the purpose of securing entitlement to universal credit or to an increased amount of universal credit is to be treated as possessing that income.

196. If a person provides services for another person and the other person either makes no payment for that service or pays less than would be paid for a comparable service in the same area; and the other person was able to pay the going rate for that service, the service provider is to be treated as having received the remuneration that

would be reasonable for the provision of that service. However, this shall not apply where the Universal Credit claimant is engaged by a:

- charitable or voluntary organisation;
- service user group; or
- an approved employment or training programme.

197. A person is not to be treated as having deprived themselves of income from a private pension scheme or a retirement annuity contract where the claimant has not reached the qualifying age for state pension credit.

198. Provision is also made for the treatment of personal injury payments. Where regular personal injury payments are made, those payments are to be disregarded from the calculation of the person's unearned income. And where the sum has been used to purchase an annuity, payments under the annuity is to be disregarded from the calculation of a person's unearned income.

199. If the sum is held in trust, any capital or income from the trust is to be disregarded from the calculation of a person's award of Universal Credit. If the sum is not held in trust or has not been used to purchase an annuity or otherwise disposed of, but has been paid to the person within the past 12 months that sum is to be disregarded from the calculation of the person's capital.

200. Provision is also to be made for compensation schemes including

- a diagnosis of variant Creutzfeldt-Jacob disease;
- infection from contaminated blood products;
- the 2005 London bombings;

201. Any such payment, whether it is capital or income, is to be disregarded from the calculation of a person's award of Universal Credit. Provision is made to disregard such payments either to or for the benefit of the claimant's partner who he has not become estranged or divorced from either in life or prior to death. And such payments are to be disregarded where made to any child who had been a member of that person's household

- for a period of 2 years from the date of the payment; or

- until they leave full time non advanced education or becomes aged 20 if this later; or
- to any parent/step parent for 2 years from the date of that payment.

## The Benefit Cap

202. The regulations implement a cap on working age benefits as set out in Sections 96 and 97 of the Welfare Reform Act 2012. In April 2013 a cap will be introduced on the total amount of benefit that working-age claimants can receive so that households<sup>4</sup> on out of work benefits will no longer receive more in benefit than the average weekly wage, after tax and national insurance. Initially the cap will be administered by local authorities via housing benefit. From October 2013 it will be applied for all new claims to Universal Credit including those migrated from existing benefits.

203. The Universal Credit Regulations provide for an overall benefit cap in Universal Credit. The Regulations set out:

- the level of the benefit cap;
- how a household's overall entitlement to welfare benefits for comparison with the cap will be calculated;
- what benefits will be taken into account;
- how any reduction will be applied;
- exceptions from the cap; and
- the relationship between the cap and benefit sanctions;

204. The benefit cap complements the introduction of Universal Credit in acting as a work incentive. Universal Credit will make the benefits of work clearer and simpler: encouraging people to move into work and helping them see the financial benefits of increasing the number of hours they work. The benefit cap will help to make work pay as claimants in work will be exempted from the measure.

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<sup>4</sup> For the purposes of the benefit cap we define a household as a claimant, their partner and any children or qualifying young persons they are responsible for and who live with them.

## The Level of the Cap

205. The 2010 Spending Review announced that from 2013 household welfare payments will be capped on the basis of median earnings after tax and national insurance contributions for working households. An estimate for this was produced using the Department for Work and Pensions' Policy Simulation Model.<sup>5</sup> In line with this and figures used in Parliamentary debates during the passage of the Welfare Reform Bill the Government has decided that on the cap's introduction into housing benefit in April 2013, the total level of entitlement to welfare benefits is to be limited to £500 a week for couple and lone parent households and £350 a week for single households. For Universal Credit these amounts are to be converted to monthly figures to match Universal Credit's monthly assessment period. For couples and lone parent households the cap is to be £2016. The cap for single adults is to be £1517 per month; this figure is approximately 70% of the couple rate and is in line with the Organisation for Economic Co-operation and Development's (OECD) equivalisation factors which adjust incomes to take into account both the size and composition of households.

## Eligibility

206. The benefits that are to be taken into account when calculating the cap are:

- Bereavement Allowance;
- Carer's Allowance;
- Child Benefit;
- Employment and Support Allowance (contribution-based);
- Guardian's Allowance;
- Jobseeker's Allowance (contribution-based);
- Maternity Allowance;
- Universal Credit;
- Widowed Parent's Allowance; and
- Widow's Benefit.

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<sup>5</sup> This is a static micro simulation model based on data from the 2008-09 Family Resources Survey, up-rated to the relevant year's prices, benefit rates and earnings levels. The modelling was carried out under the current benefit system rules.

## **Determining the Level of Overall Entitlement to Welfare Benefits for the Purposes of the Cap**

207. The total level of overall entitlement to welfare benefits for the purposes of the cap is to be calculated by adding together the amount of the actual award before the imposition of any sanctions for each of the prescribed benefits. Any amounts deducted to recover over-payments will be added back in the cap calculation. Where claimants are receiving Universal Credit and the overall amount of entitlement to welfare benefits is greater than the level of the cap, the amount of the reduction should, unless payments are being made to support childcare, be the amount by which total entitlement exceeds the level of the cap. All payments to support childcare made through Universal Credit will be unaffected by the benefit cap and be received in full.

## **Exceptions**

208. There are a number of exceptions from the application of the benefit cap:

- **In work exception:** In order to increase the incentive to find a job or increase hours worked, all benefit households will be exempt from the cap where someone is in employment and have gross monthly earnings equivalent to 16 hours a week at the National Minimum Wage.
- **War Widows and Widowers:** An exemption will apply to any war widow or widower who is in receipt of a pension paid under the relevant parts of the War Pension Scheme, Armed Forces Compensation Scheme or analogous schemes. This supports the aim of the Armed Forces Covenant to recognise sacrifice of those seriously injured or killed in the service of their country.
- **Households in receipt of:**
  - Disability Living Allowance;
  - Personal Independence Payment;
  - Attendance Allowance;
  - Industrial Injuries Benefits (and equivalent payments as part of a war disablement pension or the Armed Forces Compensation Scheme);
  - the support component of Employment and Support Allowance; and

- the limited capability for work and work related activity element of Universal Credit.

This is in recognition of the additional financial costs that can arise from disability and that disabled people will have less scope to alter their spending patterns or reduce their housing costs.

## **Grace Period**

209. There will be a grace period whereby the benefit cap will not be applied for nine months to those who have been in work continuously for the previous 12 months. If a grace period is applicable it will remain in place irrespective of any reportable change of circumstances made during the 9 months.

# **Claimant responsibilities**

## **Claimant Commitment**

210. To be entitled to Universal Credit claimants must accept a Claimant Commitment. In exceptional circumstances where a claimant is unable to accept a Claimant Commitment we intend to remove the requirement to do so.

211. For claimants with no or limited work related requirements it is expected that the initial Claimant Commitment will be accepted as part of the normal claims process. For other claimants (those expected to search for work) a personalised Claimant Commitment will be drawn up by their personal adviser during a face-to face discussion.

212. The Claimant Commitment will be revised on an on-going basis to clearly record the expectations placed upon a claimant and the consequences (sanctions) of any failure to comply.

213. If a claimant refuses to accept their Claimant Commitment then they will not be entitled to Universal Credit. As Universal Credit is a household benefit any claim from a partner in the household will also end. Where a claimant does refuse to accept their Claimant Commitment we will allow a 'cooling off' period to give the claimant the opportunity to reconsider their decision.

## **Claimant Responsibilities – Basic Structure**

214. We expect Universal Credit claimants to do all they reasonably can to establish an adequate level of earnings.

215. However, some claimants may already have an adequate level of earnings. Other claimants may – because of their particular circumstances and capability – be

unable to meet any work related requirements. Such claimants will be outside the Universal Credit labour market regime and will fall into the “no work related requirements” group. Detail on who falls into this group is set out below.

216. All other claimants will be subject to work related requirements intended to help them move into work, progress in work or prepare for work in the future. There are four basic types of work related requirement that can be imposed:

- **Work-focused interviews:** attend periodic interviews to discuss plans and opportunities for returning to work (immediately or in the future).
- **Work preparation:** actions to prepare for work – such as attending training courses, preparing a CV or taking part in the Work Programme.
- **Work search:** take all reasonable action and any particular specific actions to find work – such as applying for suggested vacancies or registering with a recruitment agency.
- **Work availability:** be available and willing to immediately take up work.

217. The requirements that are imposed on any individual will depend on what we can reasonably expect given the claimant's capability and circumstance. To help ensure this is the case claimants will fall into one of the following conditionality groups – these groups reflect our basic expectations and control what requirements can / cannot be imposed. The groups are:

- **Work focussed interviews only** – for claimants who we only expect to stay in touch with the labour market and begin thinking about a move into work, more work, or better paid work.
- **Work Preparation:** for claimants we expect to prepare for a move into work, more work or better paid work by, for example, participating in the Work Programme. We do not expect these claimants to look for work.
- **All work related requirements:** claimants we expect to move into work, more work or better paid work.

218. Claimants in the all work related requirements group will be expected to meet work search and work availability requirements unless they fall into one of the exception categories set out in regulations. However, the specific work (e.g. the type of employment and the hours of work) that a claimant is required to look and be available for will be tailored to the individual. The application of all other requirements is discretionary.



219. Therefore, as well as supporting the personalisation of requirements, the legislation provides for considerable flexibility as to what regime is put in place - for example the legislation does not specify how frequently claimants should attend interviews. This allows for our approach to develop and change over time. At the outset, for example, a less intensive regime could apply for some groups who are currently not included in the existing conditionality regime. This will depend on further work to consider cost and operational capacity.

## **No Work Related Requirements Group – Detail**

220. Claimants are placed in this group either if we cannot reasonably expect them to work or prepare for work over a sustained period, or if they are already earning all we could reasonably expect (above their conditionality threshold). The requirements for this group are set out in both Primary and Secondary legislation.

221. These claimants are:

- individual claimants who are earning above the individual conditionality earnings threshold;
- all claimants in a benefit unit which is collectively earning above the sum of each individual threshold in that benefit unit;
- individual claimant/claimants in a benefit unit whose collective earnings, combined with the earnings of any ineligible adult, are above the sum of each individual's conditionality threshold, plus an additional amount which takes the ineligible adult/s into account;
- claimants with limited capability for work related activity;
- claimants who are in receipt of the Carer's Element;
- claimants who are not in receipt of the Carer's element but who do have caring responsibilities of at least 35 hours in a week for a severely disabled person/s;
- a lone parent with a child under the age of one year;
- a lone or nominated foster parent of a child under the age of one year;
- a nominated parent in a couple with a child under the age of one year;

- a lone adopter or a nominated carer in an adoptive couple for up to one year after adoption;
- a claimant who is pregnant, for 11 weeks before the expected week of confinement, and for 15 weeks afterwards;
- a claimant who is above State Pension Age;
- a claimant who is a prisoner; and
- young people aged 16 - 21 without parental support in full time non-advanced education.

222. We are also developing policy to specifically recognise relatives/kin who are legal carers of a child (this could, for example, include older siblings of a child, grandparents and those with a special guardianship order) during the first year of responsibility. We are currently considering whether these claimants should be in the no work related requirements group or if they should be in the work focused interviews only group.

## **The Conditionality Earnings Threshold**

224. To determine whether an individual claimant or a benefit unit is already earning all we could reasonably expect, we intend to set a conditionality earnings threshold. If the claimant or benefit unit earns over this threshold, they will fall into the no work related requirements group. The conditionality threshold is calculated based on the claimant's circumstances, but the principles which underpin the calculation are that we will never expect a claimant to work more than 35 hours in a week (or an adjusted number of hours based on circumstances) and we will never use conditionality to require claimants to earn more than the minimum wage.

225. The individual threshold is derived by:

- establishing the number of hours the claimant can reasonably be expected to work (maximum of 35 hours but adapted according to individual's circumstances e.g. to take into account caring responsibilities or a physical or mental condition);
- multiplying the expected number of hours by the relevant national minimum wage for the age of the claimant; and
- converting this weekly figure to a monthly figure.

226. In the case of joint claims the proposal is to combine the individual earnings threshold for both claimants to derive a joint earnings threshold. If the household earnings are above that threshold then both claimants (regardless of what they individually earn) will not be subject to work related requirements. If the household earnings are below that joint threshold then we will look at the earnings of each claimant individually to assess whether they earn above or below their individual threshold.

227. When assessing whether claimants earn above the threshold we expect to look at their expected earnings over a sustained period. We will seek to identify patterns of earnings and disregard temporary fluctuations.

228. Claimants who are placed in the no work related requirements group because of their level of earnings will be expected to continue to keep working at that level. As set out in the Welfare Reform Act, if claimants voluntarily and without good reason or through misconduct cease paid work or lose pay so that they fall below their threshold and as a result become subject to work search requirements then a conditionality sanction will be applied.

## **Work Focused Interviews Only Group – Detail**

229. There are some claimants whose only requirement will be to stay in touch with the labour market through attending work focused interviews. They will not be required to apply for or take up a job or engage in work preparation activity. These claimants will include:

- a claimant who is a lone parent of, or nominated responsible carer for, a child between the ages of one and five years old (not including a lone or nominated adoptive parent with a child of this age in the first year after adoption as they would be placed in the no work related requirements group); and
- a claimant who is a lone or nominated foster carer for a foster child under 16, or 18 if the child has proven care needs.

230. We recognise that relatives or other persons who are responsible carers of a child who cannot live with their parents may face particular difficult circumstances when first taking on responsibility for the child. (These claimants could include, for example, older siblings of a child, grandparents and those with a special guardianship order). Where these carers need time to adjust when a child first enters the household, they will be placed in the work focused interview only group for the first year the claimant has responsibility for that child.

231. If a claimant in this group earns the equivalent of 16 hours at the national minimum wage then they will not be required to attend Work Focused Interviews.

## **Work Preparation Group – Detail**

232. Claimants in this group will be expected to prepare for a move into work, more work, or better paid work but will not be required to take steps to apply for or take up work as a condition of their claim. This includes claimants who are assessed as having a limited capability for work but not a limited capability for work related activity.

## **All Work-Related Requirements Group**

233. This will be the default group for all claimants unless they fall in the work focused interview or work preparation groups. Claimants from the European Union who are workers or Jobseekers and are entitled to Universal Credit, will always fall into this group.

234. Claimants in this group will be required to look for and be available for work. This will usually be full time (ie for their expected hours of work) and of any type. However, where appropriate given the claimants circumstances and capability this will be restricted e.g. by limiting work search and availability to certain types of job or certain hours of work.

235. Hours of work will be limited where:

- the claimant is the responsible carer (including adoptive parents, relatives who are the legal carer of a child and parents of a child where the claimant is not the responsible carer but has caring responsibilities for the child) for a child aged 5 to 13 (hours usually limited to school hours with an allowance for travelling time);
- the claimant has caring responsibilities either as a parent or adoptive parent or for a person with a physical or mental impairment
- they have a long term physical or mental impairment which affects their ability to do 35 hours;

236. In addition:

- we will permit the claimant to restrict availability for 3 months to a particular occupation and/or level of pay in line with current or previous work as long as they have a reasonable expectation of getting such a job;
- where the claimant has a physical or mental condition that warrants limitations to work of a particular nature (or in particular locations) we will limit work search and availability accordingly;
- travel time will be limited to within 90 minutes of the claimant's home;

- work search and availability for work will be limited in accordance with limitations to the claimants expected hours where this is due to caring responsibilities for a child over the age of 13 or a long term physical or mental condition;
- we intend that 16/17 year olds will only be expected to take a job that includes training or to engage in education. This will be set out in guidance;
- there will be other particular circumstances where an adviser may decide a claimant is not required to look for work of a particular nature. For example where the claimant has a sincerely held religious belief.

## **Meeting work search and work availability requirements**

237. In order to meet a given work availability requirement claimants must be available to immediately take up, (or attend an interview for) work/more work/better paid work unless:

- the claimant is in paid work in which case they are allowed up to 48 hours to attend an interview, or until their notice period has expired to take up a job;
- the claimant has caring responsibilities (for a child or for a disabled person in which case they will be allowed up to 48 hours to attend an interview and one month to take up a job;
- the claimant is carrying out voluntary work in which case they will be allowed up to 48 hours to attend an interview and one week to take up paid work.

238. We expect claimants in this group to do all they reasonably can to give themselves the best prospects of moving into work. In line with this, in order to be treated as meeting the work search requirement, we propose that claimants are expected to have spent up to 35 hours a week (or their agreed number of hours, if less) looking or preparing for work. The regulations implement this by requiring claimants to spend their expected hours of work engaged in work-search with deductions for the time a claimant spends improving their employability by:

- carrying out paid work;
- carrying out voluntary work (for up to 50% of their expected hours of work search);
- carrying out mandatory or voluntary work preparation.

239. There may also be a deduction applied if the claimant is subject to a temporary circumstance and cannot reasonably be expected to meet the standard requirement and where claimants have already done all that could reasonably be expected. We are continuing to develop processes and IT to support the work search requirements and may need to review this as work progresses.

240. The legislation also enables advisers to specify particular work-search actions claimants are required to take (such as creating a CV or checking vacancies daily applying for a particular job).

## **Circumstances where work search and work availability requirements will not apply**

241. We intend that work search and work availability requirements will always apply to claimants placed in this conditionality group unless the claimant faces a temporary circumstance which means they cannot reasonably be expected to comply with these requirements. These circumstances are likely to come to an end relatively quickly, at which point, requirements will be reintroduced.

242. These circumstances, set out in regulations, are:

- the claimant is attending a court or tribunal, a party to any proceedings or a witness;
- the claimant self-certifies as sick, for up to seven days, up to twice in any annual period;
- the claimant is temporarily absent from GB in order to receive medical treatment;
- it is within six months of the claimant suffering a bereavement;
- where the claimant is a joint claimant, the joint claimants' combined earnings, not including self-employed earnings, fall above a lower cut-off for a sustained period;
- where the claimant is a single claimant, the claimant's earnings, not including self-employed earnings, fall above a lower cut-off for a sustained period;
- the claimant is a victim of domestic violence and is within six months of the incident being reported, for a period of three months;
- the claimant is in structured recovery orientated drug or alcohol treatment for up to six months, or until the treatment ends, whichever is sooner; or

- the claimant is a person to whom section 82 of the Serious Organised Crime and Police Act 2005 applies for a period of three months.

## **Circumstances where work related requirements may be switched off for claimants in the full conditionality group**

243. There are some circumstances where it might be appropriate to switch off work related requirements if it would be unreasonable to impose them. These are broad provisions to be applied on a discretionary basis

244. These circumstances are:

- the claimant has temporary child care responsibilities;
- the claimant is subject to a temporary circumstance;
- the claimant is carrying out a public duty; or
- the claimant is carrying out any work preparation requirements.

245. We are still considering how to treat people engaged in education. We recognise the value of providing claimants with the time and opportunity to pursue academic and vocational qualifications which will support them towards work or more work. This is especially true of those who need a second chance as adults to gain qualifications. Where they are eligible for Universal Credit, full-time students in advanced education will not be expected to meet work search and availability requirements. Once decisions are taken we will consider an addition to the regulations and will develop guidance for advisers and claimants on when those in the all work related requirements group will be permitted to undertake study.

## **Application of Work Related Requirements to Claimants in Work**

246. At the launch of Universal Credit our intention is that the core conditionality regime will apply to groups roughly equivalent to those subject to the current conditionality regime. Therefore (at current benefit levels) it is not intended that those with earnings above a lower cut off will be subject to an intensive conditionality regime. We are though exploring various options for offering support to those with higher earnings, up to the conditionality threshold outlined at paragraph 224. We are planning a series of pilots to run after October 2013 where we will trial various approaches.

## **Jobcentre Plus**

247. We believe that our advisers are up to the task of setting requirements, taking account of claimants' needs. We are positioning Jobcentre Plus Advisory Services as a profession with a clear career path, accredited learning and ongoing professional development.

248. Advisers have access to a learning framework – endorsed by Edexcel, the UK's largest qualification awarding body – which will be updated to reflect changes in policy ahead of Universal Credit. And a range of supporting products, including guidance, assessment tools and management frameworks, have been produced to help aid understanding and delivery of a more personalised service.

## **Sanctions and hardship**

### **Sanctions**

249. Sections 26 and 27 of the Welfare Reform Act 2012 provide for sanctions to be imposed on Universal Credit claimants who fail to meet conditionality requirements without a good reason. The Universal Credit Regulations set out the detail.

250. Benefits and other support to help a claimant prepare for work or move into work or into more work are conditional on claimants meeting certain requirements. Sanctions play an important role in underpinning this conditionality by encouraging claimants to meet the requirements to help them where appropriate move into or prepare for work. We know that compliance with requirements, for example active job search and engagement with advisers, increases the chances that claimants find work more quickly than they would otherwise. In addition where claimants are informed about the consequences of failure and what sanctions may be imposed, we know that this has a positive effect on claimant behaviour, DWP research suggests that:

- 40% of claimants say they are more likely to look for work due to a threat of a sanction;
- of those who are sanctioned the vast majority receive just one sanction during their claim and most say they would not repeat the behaviour which led them to being sanctioned

251. Sanctions therefore play a vital role in driving engagement with the labour market. However, under the existing JSA sanctions regime some sanctions are not proportionate to the failure and the consequences of failing to comply with requirements are not always clear. As a result the system does not encourage compliance as effectively as it could.



252. The Universal Credit sanctions regime is designed to drive engagement with requirements by: providing:

- clarity about the consequences of non compliance;
- a clear and robust deterrent against non compliance; and
- tougher sanctions for repeated non-compliance. For example, we are replacing the existing JSA variable length sanctions of between 1 - 26 weeks which apply to employment related requirements with fixed period sanctions of 91 days for the first failure, 128 days for the second failure (if it occurs within 52 weeks of the first) and 3 years for third and subsequent failures which occur within 52 weeks of the previous failure. This will provide clarity to claimants about the length of the sanction they could receive for this type of failure (the failures are listed under the high level sanctions section).

253. Ahead of the introduction of Universal Credit from late 2012, the JSA and ESA sanctions regimes are being revised to broadly align with the Universal Credit sanctions model. This will pave the way for the introduction of Universal Credit and thereby ease the transition for claimants and staff.

254. The Universal Credit sanctions approach will feature four levels of sanction. The table at Annexe A summarises the different levels. The level of sanction a particular claimant will receive will depend on the conditionality group they fall into. Claimants subject to high, medium and low level sanctions will be sanctioned an amount equivalent to 100% of their standard allowance amount. Claimants subject to lowest level sanctions will be sanctioned an amount equivalent to 40% of their standard allowance.

## **High Level Sanctions**

255. High level sanctions will apply to claimants subject to all work- related requirements. These sanctions will be imposed for failure to meet the most important requirements, which are:

- failure to undertake Mandatory Work Activity without good reason;
- failure to apply for a particular vacancy without good reason;
- failure to take up an offer of paid work without good reason;
- by reason of misconduct, or voluntarily without good reason, ceases paid work; or

- by reason of misconduct, or voluntarily without good reason, loses pay without good reason.

256. These sanctions will apply to the types of failure that in JSA currently receive a variable length sanction of between 1- 26 weeks (as well as for failure to comply with Mandatory Work Activity which is currently a fixed 13 or 26 week sanction). As the revised sanction will be for fixed periods it will provide greater clarity for claimants about the consequences of not meeting requirements.

257. The high level sanction periods will usually be the following fixed periods set out below:

- 91 days for a first failure;
- 128 days for a second failure committed within 365 days of the previous failure; and
- 1095 days (3 years) for a third or subsequent failure committed within 365 days of the previous failure where that failure resulted in a 128 day sanction. 3 year sanctions will apply only in the most serious cases where claimants have repeatedly breached their most important requirements, and they have not changed behaviour after receiving previous sanctions.

258. There will be exceptions to the fixed periods for pre-claim failures. These are failures which occur before a claimant applies for Universal Credit and which relate to ceasing paid work or losing pay due to misconduct, voluntarily and without good reason leaving paid work or losing pay or for no good reason failing to take an offer of paid work. In these cases, where the employment was for a fixed period, the sanction will reflect the length the employment was expected to last. In all other cases the sanction will be reduced by the period between the failure and the date of claim.

259. Pre-claim failures will not affect future sanction durations. To provide an example - a claimant leaves his job voluntarily and without good reason and then makes a claim to Universal Credit. Three months later he commits another failure at the same level and the Decision Maker determines that a sanction should be imposed. The sanction will be for 91 days as the pre-claim failure will not count for the purposes of escalation.

260. In addition if a claimant commits multiple failures within the same compliance period (expected to be a two weekly period) then the sanction will not escalate to the next level. This rule will help to ensure claimants do not accumulate lengthy sanctions for failures which occur within the same compliance period.

## **Medium Level Sanctions**

261. Medium level sanctions may be imposed on claimants subject to all work-related requirements. These sanctions will apply when a claimant fails to undertake all reasonable work search action or fails without good reason to be able and willing immediately to take up work (or more paid work or better paid work). These are important labour market requirements and therefore the sanction for failure to meet these requirements is 28 days for a first failure which rises to 91 days for a second and subsequent failure within 52 weeks of the previous failure.

## **Low Level Sanctions**

262. Low level sanctions will apply to claimants subject to all work-related requirements and claimants subject to work – preparation and work-focused interview requirements. They may be imposed when claimants fail to comply with requirements which are designed to help them move into or prepare for work without good reason:

- failure to undertake particular, specified work search action without good reason;
- failure to comply with a work preparation requirement without good reason;
- failure to comply with a work-focused interview requirement without good reason;
- failure to comply with a requirement to provide evidence or confirm compliance without good reason;
- failure to comply with a connected requirement relating to interviews and verification of compliance including the provision of information and evidence;
- failure to comply with a requirement to report a specified change of circumstances (this will relate to failure to report a loss of a job).

263. The duration of low level sanctions will be the sum of:

- an open ended period which starts from the date of the sanctionable failure and ends when the claimant meets a compliance condition (or the award is terminated); and
- a fixed period of 7 days for a first failure, 14 days for a second failure at the same level within 365 days of a first and 28 days for a third or subsequent failure at the same level within 365 days of the previous failure.

264. In most cases the compliance condition will be the activity the claimant originally failed to do but where this is no longer appropriate, for example, if he failed to attend a training course which is no longer running, then he can be required to meet an alternative requirement. The open ended reduction period is intended to encourage claimants to quickly re-engage with specific requirements and the fixed component will ensure there is always a consequence for failure to comply.

## **Lowest Level Sanctions**

265. Lowest level sanctions will apply where claimants subject to work-focused interview requirements only fail to participate in a work-focused interview or connected requirement without good reason.

266. The sanction will be open ended. It will start from the date of the sanctionable failure and end when a claimant meets a compliance condition (or the award is terminated).

## **Other Features of the Sanctions Approach**

### **Calculation of a Reduction**

267. When a sanctionable failure occurs, the reduction period that is applicable for that sanctionable failure becomes part of the total outstanding reduction period. The total outstanding reduction period is the total of all sanctions days which apply in the claimant's case which have not yet resulted in a reduction to the award.

268. In cases where the total outstanding reduction period is less than the number of days in the given assessment period, then the reduction is calculated by multiplying the number of days in the total outstanding reduction period by the daily reduction amount that applies in the claimant's case.

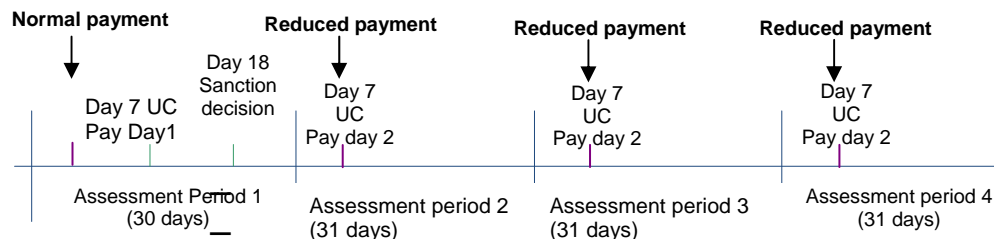
269. In cases where the total outstanding reduction period exceeds the number of days in the given assessment period, the reduction is calculated by multiplying the number of days in the assessment period by the daily reduction amount.

270. For every day that is included in the calculation set out in regulations the total outstanding reduction period is reduced by one day. The daily reduction amount will be dependent on failure type and claimants' circumstances in the assessment period in respect of which the award is being reduced (i.e. their age, conditionality group and whether they are a single or joint claimant).

271. If it is possible all of the accrued sanction is taken from the next payment or as much as possible without reducing the UC award by an amount greater than the

individuals' share of the standard allowance. Any residual sanction period is carried forward to the next assessment period.

272. To illustrate – Claimant A receives a 91 day sanction on day 15 of assessment period 1, he does not have previous sanctions and so his total outstanding reduction period is 91 days. The reduction is taken from day 1 of assessment period 1 and as it is more than 30 days which is the length of assessment period 1 it is applied over a number of assessment periods. The sanction is calculated by multiplying the daily sanction amount by the number of days in the assessment period which is 30 days. The next assessment period has 31 days and so the reduction is £310 days for that period and the final amount is taken from assessment period 3.



- Claimant A fails to apply for a particular job on day 15 of assessment period 1.
- A 91 day sanction is applied on day 18. The daily reduction amount is £10.
- Assessment period 1 award is reduced by £300 (30 days \* £10)
- Assessment period 2 award is reduced by £310 (31 days \* £10)
- Assessment period 3 award is reduced by £300 (30 days \* £10)

### Effective Date of Reduction

273. The reduction will take effect from:

- The first day of the assessment period in which the decision is made to apply a sanction to the claimant's award (or where this is not put into effect the reduction should apply from the first day of the next assessment period) ; or
- Where the award is already subject to a reduction, the first day of the assessment period following the cessation of the current deduction.

### Cumulative Approach

274. The sanctions approach will be cumulative. This means that where a claimant subject to one sanction receives another, the period of the second sanction would be added to the total outstanding reduction period. Claimants' award amounts will be

reduced for the entire duration of both sanctions. This is different to the current position within JSA whereby if a claimant subject to one sanction receives another, both sanctions run concurrently with one reduction suppressed – this means that for the period in which two sanctions overlap the second sanction has no impact.

### **Terminating Sanctions**

275. It would be wrong for a sanctioned claimant to be able to avoid their sanction by terminating their award and then re-claiming within the period of any sanction. The regime is therefore designed to ensure that where a claimant's award is terminated and they subsequently re-claim and receive a new award of Universal Credit during the period of the sanction, any outstanding reduction period will be applied. To provide an example, if a claimant leaves Universal Credit after 30 days of a 128 day sanction has been imposed, remains off benefit for 21 days and then reclaims the balance of the sanction of 77 days will be applied to the new award.

276. We do though want to encourage and to reward claimants for moving into work. Therefore where a claimant moves into work (above their conditionality earnings threshold) for 182 days or more after their last sanctionable failure then his/her outstanding sanction will be terminated. The 182 days does not have to be a continuous period so the claimant will be able to terminate the sanction where they have several short periods of work.

### **Situations Where Sanctions are not Applied**

277. In certain cases no reduction will be applied. These include where a claimant:

- fails to accept or apply for paid work that arises as a result of a trade dispute;
- takes voluntary redundancy;
- voluntarily leaves the Armed Forces;
- has been laid off or kept on short time working; or
- voluntarily leaves work or reduces pay during a trial period.

278. These exemptions broadly mirror the current JSA rules.

### **Changing or lifting the Sanctionable Amount**

279. It is our intention that where a claimant's circumstances change so that they are subject to no work-related requirements because of limited capability for work-related activity, we will no longer apply a reduction to the claimant's award. The amount of the reduction will change to zero in such cases. The sanction period will continue to run down during any time the amount of a reduction is zero. If the claimant is

subsequently re-assessed as not having a limited capability for work or work-related activity before the sanction period had expired, the reduction amount would return to the amount relevant for that claimant.

280 In addition, we intend that claimants who move into the no work related requirements group on the grounds of their childcare responsibilities will have their sanctionable amount reduced to the lowest level – this will ensure that claimants with a responsibility for a child receive the same level of sanction.

### **Interaction with fraud sanctions**

281. Where a claimant is in receipt of an ESA conditionality sanction and a fraud loss of benefit sanction is also imposed the conditionality sanction is suspended for the duration of the fraud sanction. When the fraud sanction expires the conditionality sanction will resume, this approach ensures that claimants will serve the full duration of both sanctions without both amounts being deducted at the same time.

## **Sanctions for 16 and 17 year olds**

282. 16 and 17 year olds will be able to claim Universal Credit in their own right in some circumstances and could fall into any one of the four conditionality groups (all work-related requirements, work preparation, work-focused interview and no work-related activity requirements) depending on their capability and circumstances.

283. Where a 16 and 17 year old claimants fail to meet requirements without a good reason it is right that there is a proportionate response to these failures. We intend to put in place a sanctions regime which is specific to this claimant group, mirroring the structure of the adult regime but with lower sanction amounts and shorter durations as set out in the table below:

<b>Sanction level</b>	<b>Duration</b>	
	<b>First failure</b>	<b>Second failure</b>
<b>Higher</b>	14 days	28 days
<b>Medium</b>	7 days	14 days
<b>Lower</b>	Open-ended	Open-ended +7 days
<b>Lowest level (claimants subject to work-focused interview requirements only)</b>	Open-ended	Open-ended

284. 16 and 17 year olds will be sanctioned 40% of the standard allowance, which, taken with the shorter durations is designed to provide a balance between providing a consequence for non engagement and reflecting the more vulnerable circumstances of this claimant group.

## **Safeguards**

285. The sanctions regime will incorporate a range of safeguards for claimants, these include:

### **Reasonable requirements**

286. The requirements placed on claimants will be reasonable, taking into account his/her capability and circumstances, for example health conditions, disability and caring responsibilities. For example a lone parent or lead carer with a child under the age of 13 will be able to restrict his/her availability for work to jobs that can fit around school hours. An adviser should only require a claimant to apply for or accept a job if it is in line with the type of work the claimant must be available for (including any restrictions that are appropriate). Ensuring that the requirements placed on claimants are reasonable will help to prevent sanctions being applied inappropriately.

### **Good Reason**

287. Sanctions will not be applied if a claimant can show good reason (currently called good or just cause) for non compliance. When decision makers are deciding whether to impose a sanction they must consider all evidence and information the claimant presents for that failure, so if for example a claimant provides information about their health which is relevant to the failure then this must be considered. If good reason is shown then a sanction will not be applied. We will expect the claimant to provide clear evidence within a specified period.

### **Vulnerable claimants**

288. We will continue to visit claimants with a limited capability for work and a mental health condition or learning disability before applying a sanction to help us understand why the claimant did not meet the requirement. This will inform our decision on whether there was a good reason for the failure.

289. Where a sanctioned claimant's circumstances change so that they are placed in the no work-related requirements group because of limited capability for work and work-related activity, we will no longer apply a reduction to the claimant's award. In this situation the sanction amount will change to zero and run down to expiry.

### **Appeal**

290. Claimants will be able to appeal any decision to reduce their benefit to the First Tier Tribunal within one month of being notified of the decision to sanction.



## UC sanction durations

Sanction	Applicable to:	Duration		
		1st failure	2nd failure	3rd or subsequent failure
<b>High Level</b> e.g. failure to take up an offer of paid work	Claimants subject to all work-related requirements	91 days	182 days	1095 days
<b>Medium Level</b> e.g. failure to undertake all reasonable action to obtain work	Claimants subject to all work-related requirements	28 days	91 days	
<b>Low Level</b> e.g. failure to undertake particular, specified work preparation action	Claimants subject to all work-related requirements Claimants subject to work preparation and work-focused interview requirements	Open ended until re-engagement plus		
		7 days	14 days	28 days
<b>Lowest Level</b> Failure to participate in a work-focused interview	Claimants subject to work-focused interview requirements only	Open ended until re-engagement		

## Hardship Payments

291. Section 28 of the Welfare Reform Act 2012 is a power for regulations to provide for additional payments of Universal Credit to be made to a claimant where the amount of the claimant's Universal Credit award has been reduced under section 26 or 27 (as a result of a conditionality sanction) and the claimant is or will be in hardship. Section 28 also allows for regulations to make provision as to when a claimant is to be treated as being or not being in hardship.

292. The Universal Credit sanctions regime aims to encourage claimants to continue to adhere to their conditionality requirements in order for them to continue to receive their full award of benefit. Hardship payments will ensure that after an award has been reduced because of a claimant's failure to meet a work related activity, they will not be left in a situation where they cannot meet basic, immediate needs.

293. An award will only be reduced if the claimant failed to meet a requirement that was appropriate to them and after they have had the opportunity to demonstrate a good reason for not meeting that requirement.

294. The hardship approach we have developed enables a claimant whose award has been reduced because of a failure, to access support when appropriate, but without undermining the deterrent effect of the sanction itself.

## **Conditions for hardship payments**

295. A hardship payment will be made to a claimant who meets the conditions, in order to meet immediate costs in relation to accommodation, heating, food and hygiene. This list captures the most basic and essential needs for themselves and their family.

296. Claimants will need to demonstrate they are doing everything reasonably possible to access and rely on alternative sources of support that may be available to them and have made every effort to reduce non-essential expenditure. This requirement ensures that claimants act responsibly with the resources that are available to them and focus resources on the essential needs for their family.

297. Hardship payments in Universal Credit will only be available to those who have complied with all work-related requirements in the previous compliance period. They will be expected to continue making every effort to find or prepare for work to be entitled to hardship payments. This provides a continuing incentive to prepare for or to look for work.

298. Those subject to a low level sanction will have their sanction lifted only after they meet any specified compliance condition.

## **Recovery of hardship payments**

299. We will recover hardship payments made to claimants once the duration of a sanction is completed. We will require a claimant or both claimants in a household to accept that hardship payments will be recoverable before any application can be considered.

300. Making hardship recoverable supports the emphasis on continued compliance with conditionality requirements by ensuring claimants cannot escape the consequences of their actions. Recovery of hardship payments will form part of the overall structure of deductions from benefit and recoverable payments (covered in the Claims & Payment Regulations).

301. As an incentive to move into work, recovery of hardship will be suspended if the claimant finds work at or above their earnings threshold. Once they have been in such work for 6 months out of a year, the outstanding balance will be written-off.

## **Period of hardship**

302. Where a Decision Maker accepts the claimant meets the conditions for a hardship payment, the period of payment will be from the date of application to the date the next payment of Universal Credit is usually due. The exception will be where the application is made within five days of the next payment date. In these cases the period will extend up to the following payment-due date.

303. In Jobseeker's Allowance (JSA) an initial successful hardship application runs for the course of the sanction. For Universal Credit a claimant will need to demonstrate they still meet all the criteria for receiving hardship for each successive assessment period. This will ensure claimants continue to take all mitigating actions to help lift their household out of hardship as the sanction period progresses.

## **Amount of hardship**

304. Hardship will be paid at a fixed rate of 60% of the daily amount by which the claimant's Universal Credit has been reduced by a sanction.

305. 16/17 year olds will have no access to hardship payments as sanction reductions will be made at 40% of their standard allowance, compared to 100% for those aged 18 and over (therefore even after a sanction has been applied their award would still be at the level any hardship award would have raised their payment to).