Universal Credit Division **Strategy Policy and Analysis Group**	**EXPLANATORY MEMORANDUM FOR THE SOCIAL SECURITY ADVISORY COMMITTEE**	
	THE UNIVERSAL CREDIT (SURPLUSES AND SELF-EMPLOYED LOSSES) REGULATIONS 2014	
For the meeting of the Social Security Advisory Committee on 1st October 2014	DWP Department for Work and Pensions	

Contents

1. Introduction

1.1 The Department for Work and Pensions ("the Department") proposes to make amendments to the Universal Credit Regulations 2013[1] ('the 2013 Regulations') via The Universal Credit (Surpluses and Self-employed Losses) Regulations 2014 ('the 2014 Regulations') to support the continuing implementation of Universal Credit (UC).

1.2 Currently, where earnings are received by a UC claimant that reduce their UC award to nil in an assessment period, these earnings are applied only to the UC award within that assessment period. This means entitlement to UC will cease for that one assessment period. Continuing to apply this 'one assessment period approach' results in the following risks:

- employers and paid workers will realise that certain payment patterns maximise UC entitlement and there is potential for manipulation to take advantage of this; and
- paid workers with fluctuating earnings patterns are either unduly penalised or unfairly rewarded by receiving less/ more UC than they would if they earned the same amount but were paid monthly.

1.3 See **annex 1** for an example which illustrates the current treatment of earnings.

1.4 The Department therefore wishes to change the current approach so that large payments of earnings can be taken into account for more than one assessment period. This will apply where a claimant receives a payment of earnings that is sufficient to nil their UC entitlement but then regains entitlement to UC within six assessment periods of the last day of their previous entitlement.

1.5 The proposed surplus earnings policy seeks to address both the issues outlined above in a way that supports the use of Real Time Information (RTI) and avoids the case by case insight required by the current benefit system to average and attribute earnings. It also seeks to avoid the process of annual reconciliation, which potentially results in overpayments or future awards not reflecting a claimant's needs.

1.6 This proposed surplus earnings policy applies both to employed and self-employed earnings. However, in the case of a self-employed claimant it would be unfair to carry forward a large amount received in one assessment period without also recognising the expenditure that the claimant has had to incur in previous assessment periods in order to earn that amount. Accordingly the proposed Regulations also make changes to the way that self-employed earnings are assessed so that previous losses can be taken into account (up to a maximum of 11 assessment periods following the assessment period in which the loss occurred) as part of that calculation..

[1] http://www.legislation.gov.uk/uksi/2013/376/contents/made

1.7 This policy will be introduced from 2016 when Universal Credit commences transition from legacy benefit systems to the enhanced Universal Credit service[2] for more complex claimant types across the country. This will ensure time for households to prepare and adjust; and enable the Department to test the right processes and communications to guide households, and employers, through this change.

2. Commencement and application of the proposed changes

2.1 The overall effect of these amendments is outlined below. The 2014 Regulations are subject to the negative resolution procedure and are planned to come into force in April 2016. This date is provisional and therefore subject to change.

3. Explanation, purpose and effect of the proposed changes

Universal Credit – self-employed losses

3.1 **Regulation 2** deals with the changes needed to the calculation of self-employed earnings to give effect to the surplus earnings and self-employed losses policy. Currently, regulation 57 of the 2013 Regulations requires the earnings for each assessment period to be calculated by taking the ‘profits’ of each trade profession or vocation carried on by the claimant (that is the actual receipts less permitted expenditure in the assessment period) and then making deductions for tax, national insurance and pension contributions. If a person is carrying on two businesses, the expenditure from one cannot be offset against the other.

3.2 In order to simplify this and allow for previous losses to be taken into account the proposed Regulations will allow for an element of ‘cross- subsidy’. The profit or loss of each separate trade profession or vocation (or, if it is a partnership, the claimant’s share) is calculated for the assessment period by deducting actual expenses from actual receipts. These are combined to give an overall profit or loss from which any tax or national insurance payments in the same period are deducted:

- If this produces a negative amount then the self-employed earnings are nil and there is a loss that can be carried forward and set off against future receipts.
- If this produces a positive amount then any pension contribution paid in the assessment period and previous unused losses (within the previous 11 assessment periods) are also deducted. If this produces a positive amount then that will be the self-employed earnings for the assessment period.

3.3 Although this represents a change to current policy, we believe that making limited provision for ‘cross-subsidy’ or sideways loss relief would provide support that better reflects the UC claimant’s current circumstances whilst limiting long term support for unviable businesses. It is not the intention

[2] Also known as the ‘Digital Service’.

to allow cross-subsidy between self-employed and employed earnings or between the earnings of joint claimants as Universal Credit also considers the conditionality for claimants on an individual basis and supports them to increase their earnings wherever possible.

3.4 The previous losses that can be taken into account are dealt with in the new **regulation 57A.** Where the claimant's receipts from any business carried on in the assessment period are more than the expenditure, a loss from one of the previous 11 assessment periods can be offset against those receipts. A loss can only be offset once. If the claimant loses entitlement to UC due to an increase in earnings and regains it within six months then the losses from those periods are also taken into account when considering whether surplus earnings should be applied to their UC award.

3.5 The way these losses are applied to the UC award to enable surplus earnings to be calculated is explained in more detail in example 2 in **annex 1**.

Universal Credit – surplus earnings

3.6 **Regulation 3** provides for surplus earnings. Regulation 3(2) deals with the interaction of surpluses with the Minimum Income Floor (MIF) and regulation 3(3) inserts a new regulation 64A into the 2013 Regulations that sets out how the surplus is calculated.

Calculating surplus earnings

3.7 Where a UC claimant has an award that ends because their earnings are higher than the relevant threshold (that is the 'nil UC threshold' plus a £100 'de minimis') and then re-claims UC within six assessment periods of their previous UC award ceasing, the Department will look at earnings information obtained via RTI. If they were self-employed or they had opted not to have RTI information collected they will be asked to provide information on the earnings that they have received over that period.

3.8 This earnings information will then be used to calculate whether any surplus earnings should be applied to the claimant's new UC award. To work this out we will add the original surplus from the assessment period in which the previous award ceased to the earnings in the next assessment period (or to be more precise, the month that would have been an assessment period if they had stayed on UC). If that exceeds the relevant threshold, any excess will be carried forward and treated as earnings in the next assessment period.

3.9 If the person claims UC in an assessment period where their earnings plus any surplus are greater than the relevant threshold they will not be entitled to UC. If their earnings plus any surplus do not exceed the threshold they may be entitled to a reduced amount of UC. If a person reclaims more than six assessment periods after the last day of their previous UC award terminating, surpluses are ignored.

3.10 The ‘nil UC threshold’ is the amount that a person can earn without losing entitlement to UC, which will vary according to individual circumstances. The starting point for calculating a surplus is the ‘nil UC threshold’ that applied in the assessment period in which earnings reduced entitlement to nil. In order to determine the appropriate level of the ‘nil UC threshold’ in any intervening period from that point to the new claim to UC, the Department may make assumptions about the claimant’s circumstances over the period while they were not receiving UC.

3.11 In most cases the threshold will continue to be based on the circumstances when the previous award ended (but see below regarding couples that split or form). This is to avoid complexity and the need to gather large amounts of evidence in relation to the period when UC was not being awarded.

3.12 The Department has introduced the ‘de-minimis’ into the surplus earnings calculation so that small fluctuations in earnings, for example, due to small bonus payments or slight increases in earnings that are above the ‘nil UC threshold’, can be ignored.

3.13 The Department feels that this design gives a generous and fair way to ensure that claimants can benefit from slight increases in earnings while balancing the need to address potential manipulation of the current UC system.

3.14 The Department’s view is that if someone’s UC award has been nilled for six months then they are highly unlikely to be seeking to manipulate the system, and it is reasonable to disapply the surplus earnings policy for people who return to UC after that point. This supports our aim of promoting sustainable employment and also helps to keep the administration and data collection requirements of the policy proportionate to its aim.

3.15 For an illustration of how surplus earnings are calculated please see example 3 in **annex 1**.

Treatment of surpluses where couples split and form

3.16 Where a claim is made for UC by a new couple (that is a couple who have not previously had a joint UC award) the Department will consider whether either partner has a surplus that needs to be taken into account. If either of them had an award that ended within the past six assessment periods with a surplus, the Department will look back to the previous award and calculate the individual’s surplus taking account of that person’s individual earnings in the period off UC.

3.17 Where a single person claims UC and they previously had a joint award that ended in the last six assessment periods with a surplus, that surplus will be apportioned so that it reflects the claimant’s own earnings in the assessment period in which the previous UC award terminated.

3.18 Where a surplus is being calculated in relation to a claimant who was previously part of a joint award and has since separated or a claimant who was previously single and has since formed a couple, the relevant threshold for use between the old and new awards may be based on the previous or the current circumstances, whichever is most favourable.

Interaction with the Minimum Income Floor (MIF)

3.19 The surplus earnings policy is concerned with the way earnings are calculated before the MIF is applied. Accordingly, earnings that a person is treated as having by virtue of the MIF are not counted in the calculation of surplus earnings. When a single self-employed person reclaims UC and has a surplus this will simply be regarded as part of their actual earnings when the MIF is applied.

3.20 However, if a self-employed person is part of a couple, it may make a difference as to which member of the couple the surplus earnings are attributed to. The Department considers that the fairest way to calculate any existing surplus earnings will be to attribute the surplus in the way that is most advantageous to the claimants.

3.21 For an illustration of how this would work please see example 4 in **annex 1**.

Interaction with capital limits

3.22 The surplus earnings policy does not affect the way capital limits or tariff income rules apply. Where a person has a large amount of surplus earnings so that they build up a substantial amount of capital that is still available to them when they make a new claim for UC, this will be taken into account in the usual way i.e. in line with Part 6 of the 2013 Regulations.

Reduction of surplus earnings

3.23 Where a paid worker has returned to UC within six assessment periods of a previous award because their earnings have reduced, they have ceased employment or their circumstances change, any surplus earnings to be taken into consideration will be reduced in line with their relevant threshold i.e. their nil UC point plus the 'de minimis' until either the surplus has been reduced to zero or a total of six assessment periods have passed since their last UC award terminated.

4. Financial Implications

4.1 The surplus earnings policy as proposed here is expected to generate overall savings and analysis suggests that the potential AME savings could be between £200 million and £300 million per annum in steady state.

5. Impacts of the proposed changes

Volumes affected

5.1 Our analysis suggests that 100,000 - 200,000 households are estimated to have a fluctuation in earnings that gives them surplus earnings in a given assessment period[3].

5.2 This represents a very small proportion of UC claimants – in any given assessment period around only 2% of the total UC caseload (around 5% of the UC caseload in work) will see an increase in earnings that would trigger this policy. This estimate is based on the total number of UC claimants who are expected to have a fluctuation in earnings that takes them above their nil UC threshold (including the £100 de minimis). We do not currently have an estimate of the proportion of this group that would be expected to return to UC within the following five assessment periods. These figures do not include any claimants who may be affected by this policy if their earnings remain the same but their UC claim ends due to an unrelated change of circumstances that results in a lower nil UC threshold (for which we currently have no estimate).

5.4 Analysis suggests that the majority of those affected have a relatively small amount of surplus earnings to take into account, and are affected in the first assessment period only.

5.5 The median amount of surplus earnings is around £200, meaning that half of all households with surplus earnings would have total surplus earnings of £200 or less. This would equate to the UC award being reduced by a maximum of £130 or less for half of all households affected (and this is ignoring work allowances).

5.6 The majority (65%) of households affected would only see their UC award reduced for one assessment period (with 75% receiving partial or full UC award from the second assessment period).

Impact on equality

5.7 In terms of the equality analysis, higher earners are more likely to experience fluctuations that give them surplus earnings. Households containing males, and containing individuals aged between 30 and 50 are each more likely to be earning within the higher earnings bands and so are more likely to be affected by this policy.

[3] The analysis has been done on the basis of fluctuations in earnings (i.e. a claimant will get surplus earnings if their earnings fluctuate above the 'nil UC threshold' plus £100). It does not include cases where earnings are stable but the claimant's circumstances change so that their 'nil UC threshold' moves down.

5.8 For those UC claimants that fall into other protected groups the introduction of surplus earnings policy is not expected to result in any particular advantage or disadvantage (see **annex 2** for full Equality Analysis).

Impact on complexity and operations

5.9 Although the introduction of the proposed treatment of surplus earnings does add an element of complexity to the current design of UC, the Department feels this added complexity is warranted as a result of the need to address the potential risks outlined in paragraph 1.2.

5.10 However, to limit administrative complexity the proposed new surplus earnings policy would only be introduced from 2016 when Universal Credit commences transition from legacy benefit systems to the enhanced Universal Credit service.

5.11 Operational guidance, current processes and learning and development would be developed to cover any changes by the Department.

6. Consultation on the proposed changes

6.1 We have not undertaken an external consultation on this issue, although a number of stakeholders (including SSAC) have suggested to us that some form of consideration for surplus earnings or losses may be appropriate.

6.2 The proposal does not impact on legislation in respect of Housing Benefit so no consultation with the Local Authority Associations was required.

7. Information and communications strategy for the proposed changes

7.1 The proposed changes would be communicated to operational staff through implementation updates and updates to operational guidance at the appropriate time.

7.2 The Department will also communicate any changes to external stakeholders.

8. Monitoring and evaluation of the proposed changes

8.1 The Universal Credit Evaluation Framework, published in December 2012, sets out the Department's broad intentions for evaluation, including impact measurement.[4] This provides an overview of plans for evaluating the introduction, implementation, delivery and impact of UC. Changes to UC

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[4]https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180879/universal-credit-evaluation-framework.pdf

policy and/ or regulations will be reviewed in line with the framework as we continue with national rollout of UC.

ANNEX 1

Example 1 –Comparison of current treatment of paid earnings

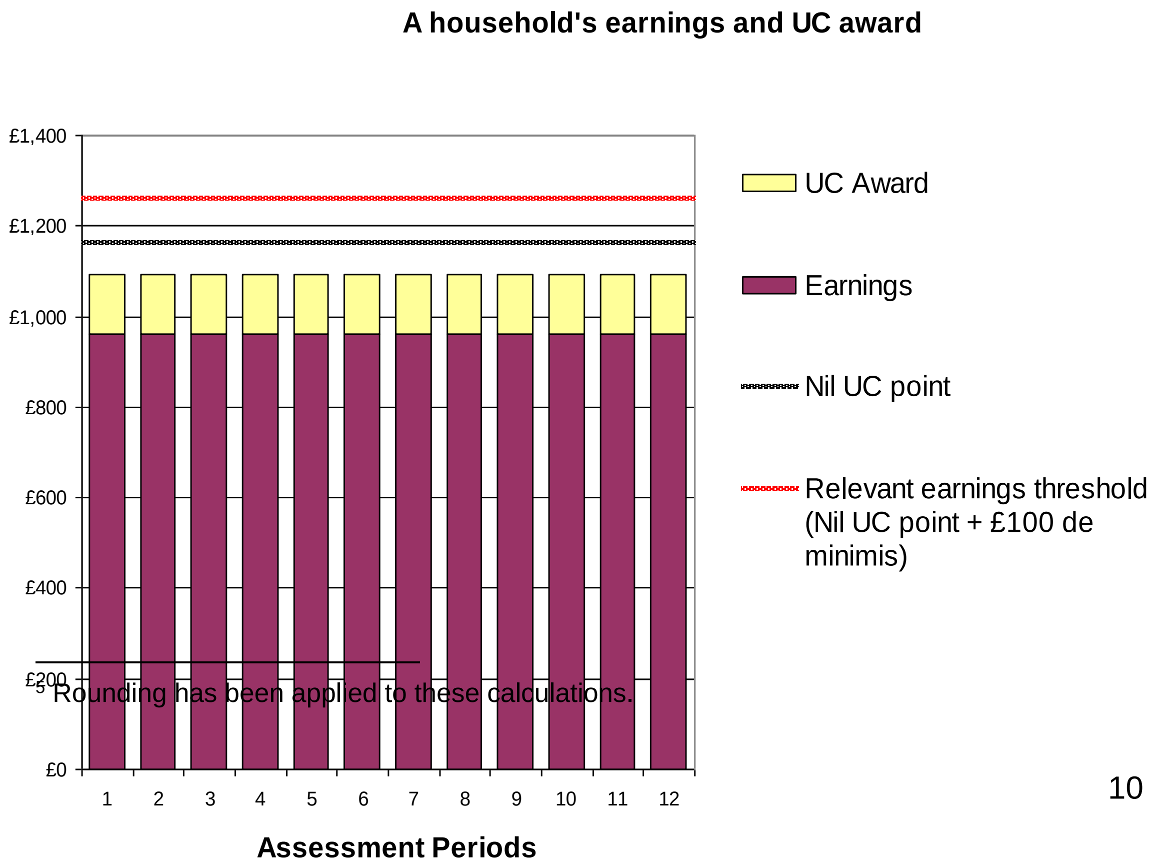
Summary

Barry and Paul have the same nil point under UC and earn the same amount over a year, but one with regular and one with irregular earnings. Under these examples, without the proposed changes to treatment of surplus earnings, Barry gets £1,580 from UC awards throughout the year, whilst Paul gets £6,839. With the proposed treatment of surplus earnings applied Barry would get £1,580 from UC awards and Paul would get £1,956[5].

Fixed income

Barry is paid £961 in net earnings each month. He is entitled to UC and his earnings result in a UC payment of £132. Barry has a total income of £1,093 in each assessment period. Over the year he earns £11,528 and is paid £1,580 in UC (see **Graph 1**).

Graph 1

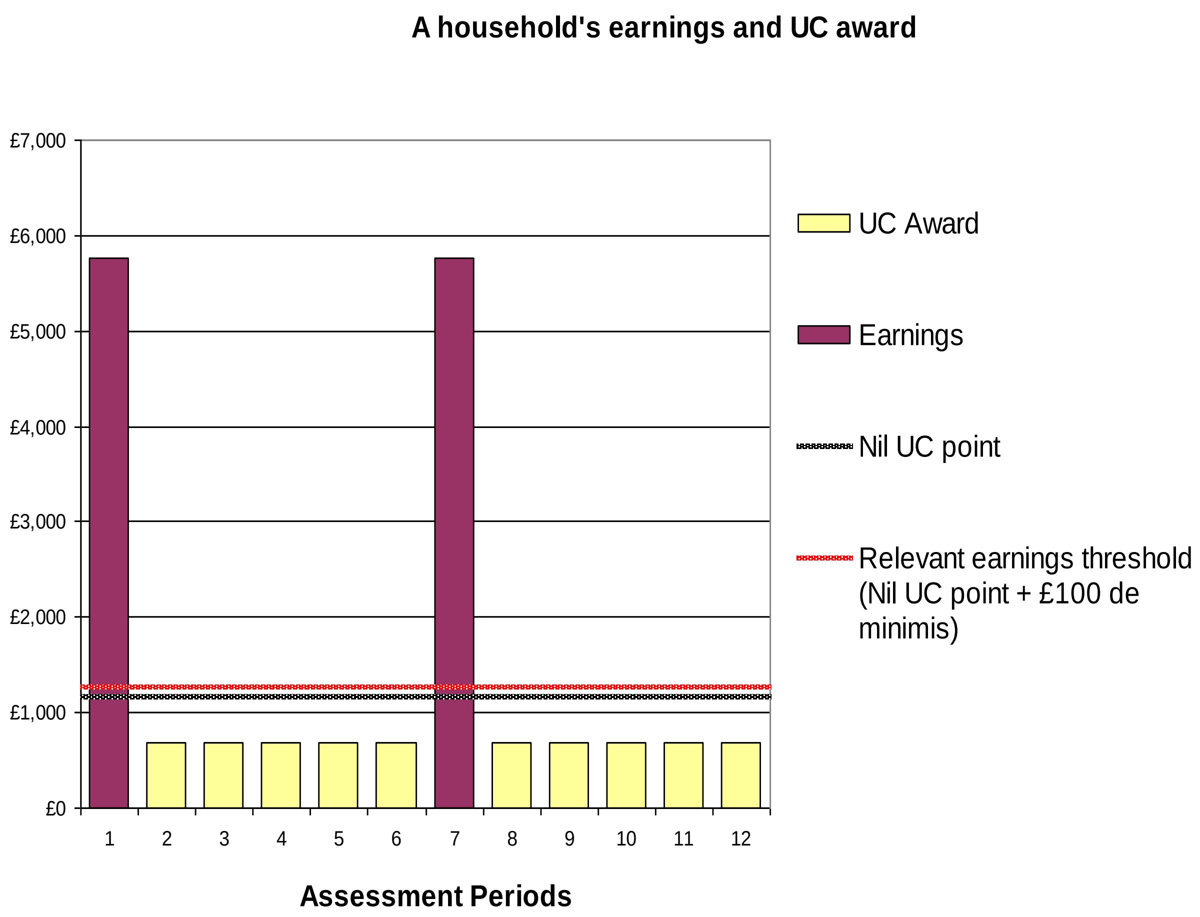


[5] Rounding has been applied to these calculations.

Fluctuating income

Paul is paid twice a year. He receives two payments of £5,764, net of tax, making his total net earnings over the year the same as Barry's. Under the current system, where surplus earnings are not taken into acount, in the assessment period where he is paid he receives £0 in UC, but in the other assessment periods as his earnings are zero he receives his maximum award of £684. Over the year Paul earns £11,528 and receives £6,839 in UC (see **Graph 2**).

Graph 2



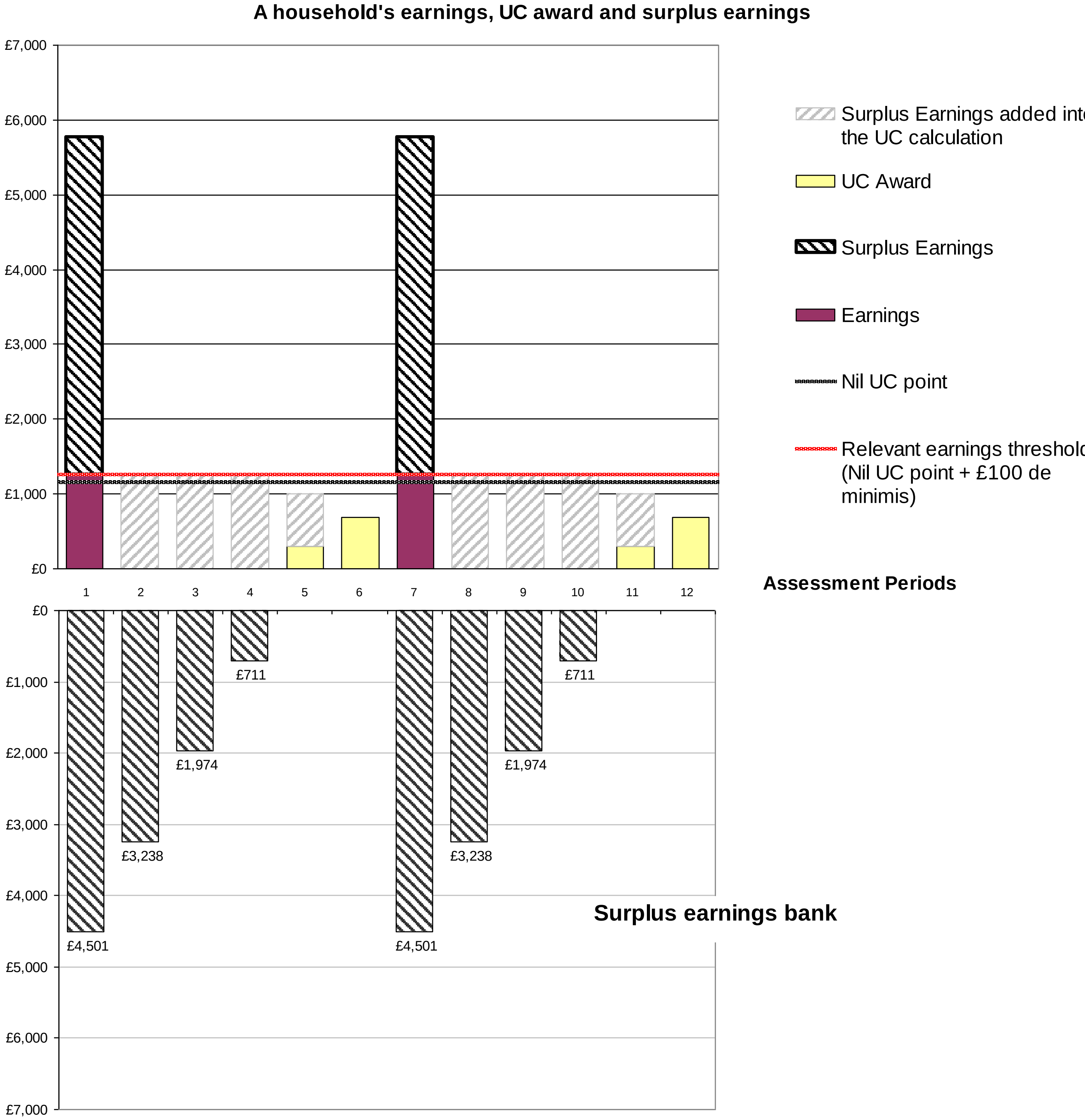
Comparison between fixed and fluctuating earnings payment

Therefore, even though Barry and Paul's total earnings over the year are the same, Paul gets an extra £5,259 in UC. This demonstrates the potential unfairness and possible incentive for households to manipulate their patterns of pay to increase their UC entitlement.

Earnings with surplus earnings policy applied

Paul is paid twice a year and for the intervening time he receives a full UC award of £684. During the year he receives two payments of £5,764, net of tax. When these earnings are received he is assessed to see whether any surplus earnings need to be applied to his UC award (see **Graph 3**).

Graph 3



In assessment period one he earns £5,764. His ‘nil UC point’ plus a £100 ‘de minimis’ (the relevant threshold) is £1,263. This results in £4,501 being placed in his ‘surplus earnings bank’. As a result Paul’s UC award is £0 for that assessment period.

The £4,501 in his surplus earnings bank (£5,764 - £1,263) is then applied to his UC entitlement (plus the £100 ‘de minimis’) for the subsequent assessment period. In each assessment period the amount in his surplus earnings bank is added onto actual earnings until either the ‘relevant threshold’ (including £100 ‘de minimis’) is reached, or they run out.

This process continues until the surplus earnings run out or six months has passed. This means that:

- In the first assessment period the £4,501 surplus earnings from his bank will be applied reducing his UC amount to £0, so there is no entitlement.
- In the second assessment period he has £3,238 of surplus earnings still to be applied in his UC award in his surplus earnings bank i.e. £4,501 - £1,263. This means his UC award is reduced to £0.
- This continues until his surplus earnings bank reduces to zero.
- Over the year, Paul again earns £11,528 but receives a lower total UC award of £1,956. This is due to the surplus earnings policy increasing the amount of Paul’s earnings used in the UC calculation.
- The surplus earnings policy is not intended to provide an exact average of a claimant’s earnings, and the calculation of surplus earnings (including the £100 ‘de minimis’) explains the difference in the amount of UC received by Barry and Paul over the year.

Example 2 – Allowing 'cross subsidy' within the Universal Credit self-employed policy

A loss made in one business currently is not allowed to offset profits from another. The rationale behind this was to not allow a claimant to 'prop up' a failing business with one which is succeeding.

In order to allow for a single figure to be recorded and taken forward under the proposed treatment of surplus earnings and losses we have allowed for a certain degree of cross subsidy although claimants will be required to report certain business expenses separately for monitoring purposes. In working out the amount of their earnings from self-employment in each assessment period, the loss calculated from one business may be offset against a profit from another in the same assessment period. For example (see **table 1**); in the current system a claimant could report:

Table 1

Self-employed earnings report: example assessment period.	Business 1	Business 2
Receipts	£1,000	£1,000
Expenses paid	-£2,000	-£500
Total per business for UC purposes	£0	£500
Self-employed earnings total for UC	£500 (£0 + £500)	

In the current system the negative figure would be treated as a zero and the claimant's total self-employed earnings would be £500 (they may though be subject to a MIF). Under the new system (see **table 2**) the figures would be reported separately but added together forming a more accurate picture of a claimant's circumstance but allowing for profits from one company to be offset against another.

Table 2

Self-employed earnings report: example assessment period.	Business 1	Business 2
Receipts	£1,000	£1,000
Expenses paid	-£2,000	-£500
Total per business for UC purposes	-£1,000	£500
Self-employed earnings total for UC	£0 (earnings to be taken into account cannot be less than nil)	
Loss carried forward	-£500	

In this circumstance in order to allow for the treatment of surplus earnings a figure of -£500 would be taken into account as a loss for up to eleven future assessment periods. The claimant’s UC award would still be based on earnings of £0 (or a minimum income floor if applicable).

We wish to allow for national insurance and income tax payments to be taken into account as losses. However, we do not intend to allow claimants to carry forward contributions to a pension as an ongoing loss as this is within the claimant’s control and would provide a route to artificially maximise their UC entitlement and manipulate their surplus earning figure or loss carried forward.

Essentially this means sideways loss relief, which is currently allowed in accruals accounting but not HMRC's version of the cash basis. It is important to note that, when calculating a person’s tax liabilities, profits and losses are combined together by HMRC (using the cash basis system) to issue a single bill.

Example 3 – Surplus earnings calculation

Bob is a 27 year old who is employed as a car salesman relying mainly on commission. He has recently moved in with his parents and has no housing costs, has no children and has no other income.

Bob claims UC and is awarded £314.67 a month. His assessment periods begin on the 1st of each month. For a few months his earnings are well below his relevant threshold level (which includes the 'de minimis') which, based on his circumstances is £695.11[6].

However, Bob's sales begin to pick up and in May he receives £1,500, which means that this UC award terminates and he has surplus earnings of £804.89. The Department continues to receive RTI information about Bob's earnings (he could have opted out if he wished, but would have to provide the information if he reclaimed UC within six months of his old award ending).

In June Bob also earns £1,500 which is added to his original surplus of £804.89, making a total surplus of £1,609.78 once the relevant threshold (including £100 de minimis) has been taken into account. In July and August he continues to earn £1,500 which raises his surplus earnings to £3,219.56 and this is carried forward to September (see **table 1**). Unfortunately, in September Bob's employment ends and he reclaims UC. As a result £3,219.56 surplus earnings are carried forward and applied to his UC award.

Table 1

Assessment periods	**Assessment period in which the award ends (May)**	**One (June)**	**Two (July)**	**Three (August)**
Actual earnings	£1,500	£1,500	£1,500	£1,500
Relevant threshold	£695.11	£695.11	£695.11	£695.11
Surplus earnings in each assessment period	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)
Total accrued surplus earnings	£804.89	£1,609.78 (£804.89+ £804.89	£2,414.67 (£1,609.78 + £804.89)	£3,219.56 (£2,414.67 + £804.89)

[6] Relevant threshold = Nil UC threshold (maximum award of UC (£314.67 single UC award) – (unearned income (£0) x 100/65 (UC taper)) + a Work Allowance of (£111) = £595.11) + the 'de minimis' (£100) = £695.11.

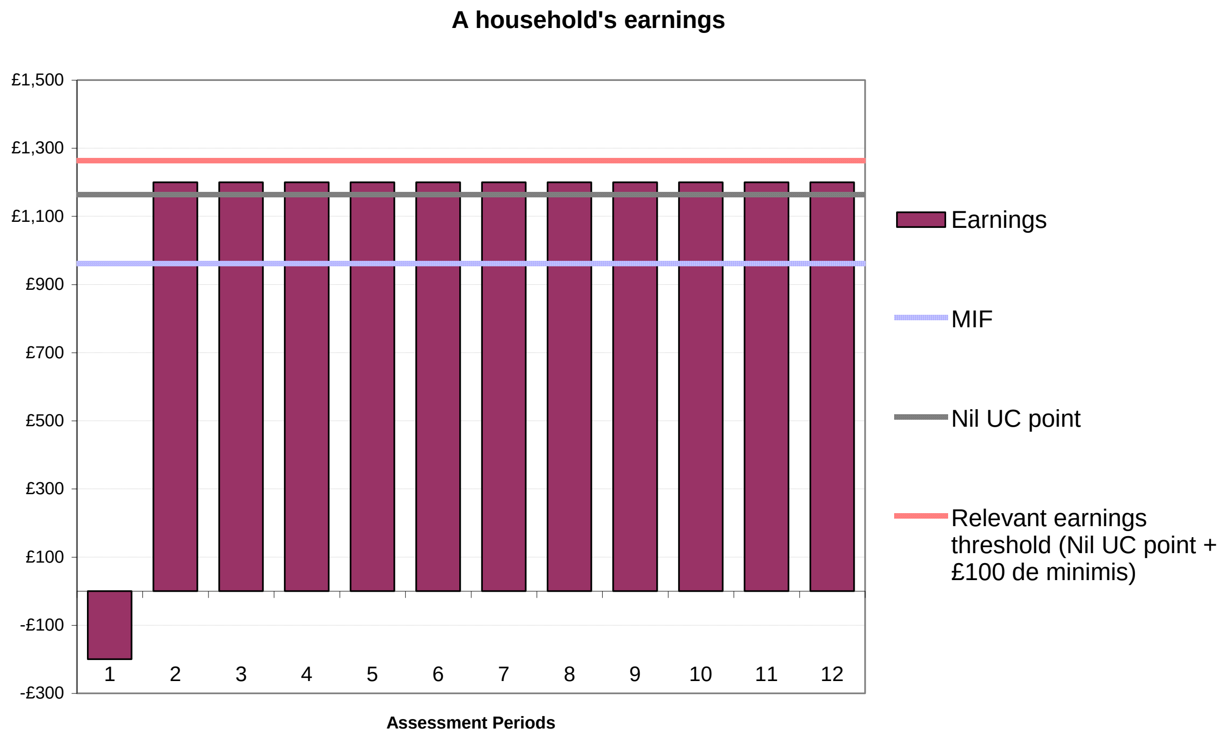
Example 4 – Self-employed earnings with surplus earnings policy applied

This example shows the impact of applying the proposed surplus earnings policy where a self-employed person has had a ‘loss’ in one assessment period, and the interaction with the Minimum Income Floor (MIF). There are two steps.

Step One – losses and earnings

Colin is self employed. In assessment period one he reports a loss of £200 as he buys materials for the coming months. In each of the following 11 assessment periods he earns £1,200 net of any tax and national insurance liability. In each assessment period except the first his earnings are above the MIF and above his Nil UC point. He does not gain any surplus earnings as his earnings are below the relevant threshold. **Graph 1** shows his earnings over the year.

Graph 1



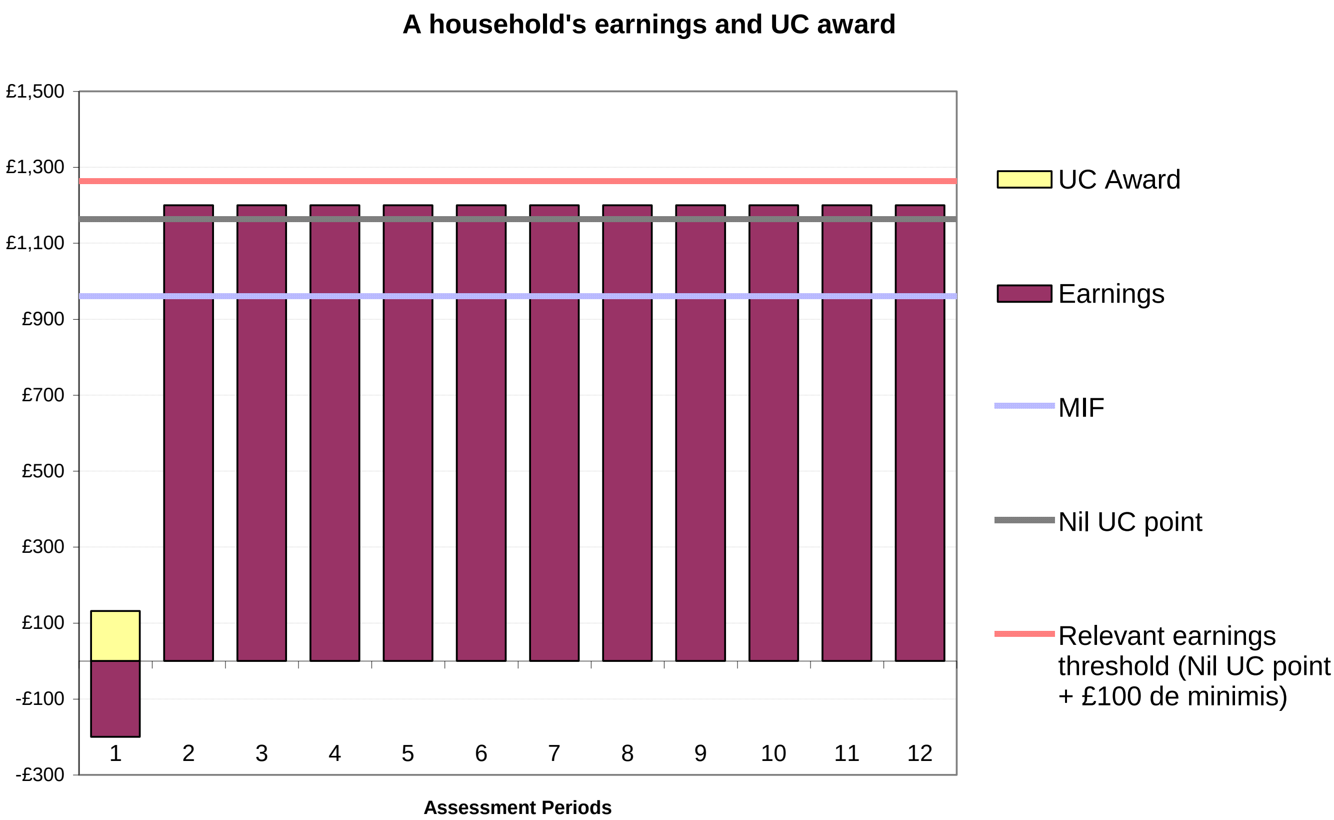
Step Two

Without the offsetting of losses:

If Colin's losses are not carried forward in future months then in the first assessment period the MIF applies and he receives £132 of UC. In assessment periods 2 to 11 as his earnings are above his Nil UC point he does not receive any UC. This is shown in **Graph 2**.

Over the year Colin has net earnings of £13,000 and receives £132 in Universal Credit.

Graph 2



With the offsetting of losses

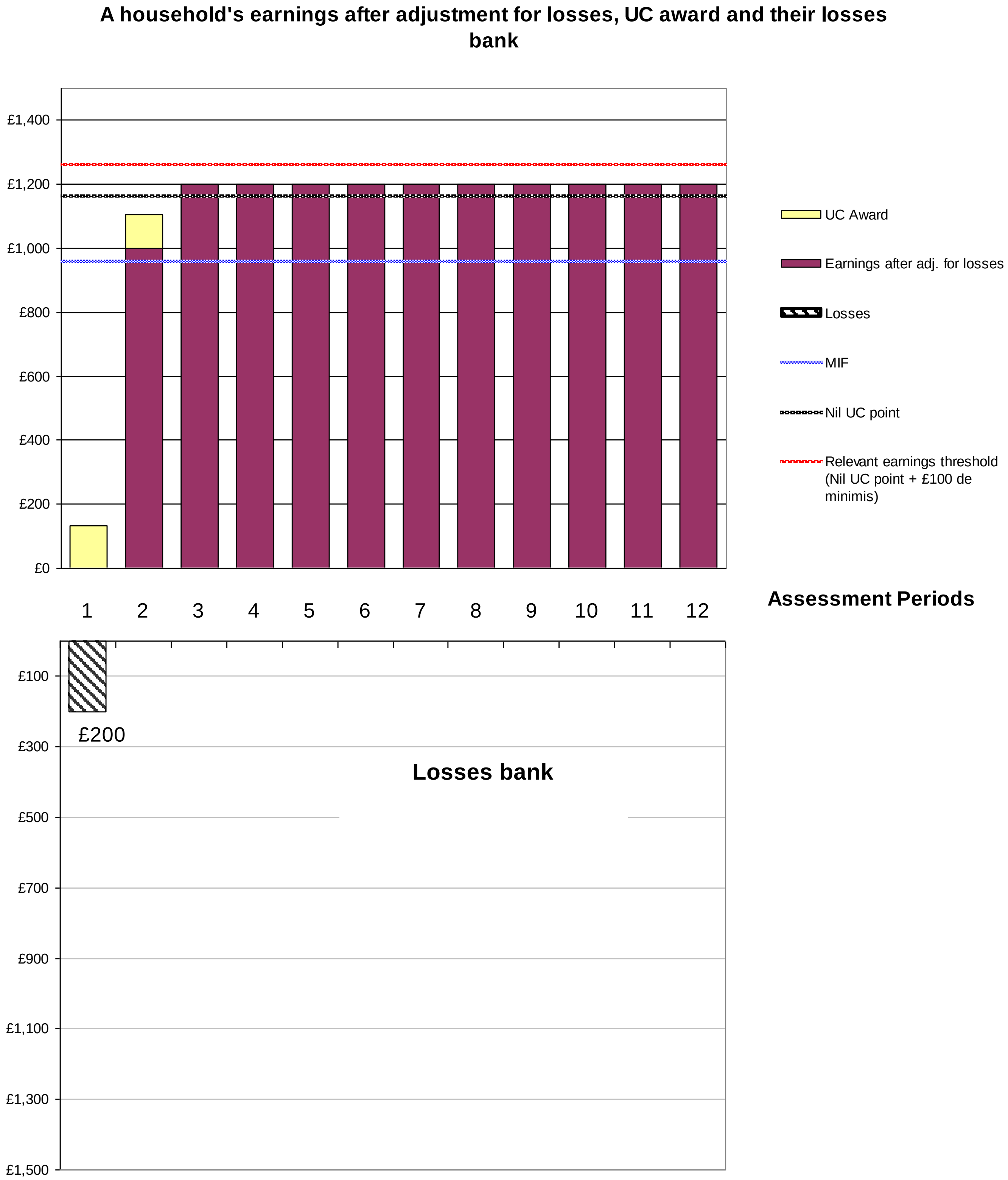
Under the proposed changes, Colin's loss of £200 in the first assessment period is taken into account to offset earnings in the subsequent month. **Graph 3** shows how the £200 will reduce earnings over the next assessment period.

In assessment period two, his earnings are reduced from £1,200 to £1,000. Since his earnings are still above the MIF after the loss is taken into account, this increases his UC award to £106 in assessment period two. In the event that a loss reduced earnings below the MIF then the MIF would still apply.

From assessment period three onwards Colin's UC award returns to £0 as he has no more losses to offset earnings.

Over the year Colin has net earnings of £13,000 and receives £238 in Universal Credit.

Graph 3



Example 5 – Separation and surplus earnings policy

Bob and Mary are both 28, have one child and currently live with Bob's parents. They have no income for UC purposes other than what they get from paid work. In May their joint UC award ends when their combined earnings exceed their relevant earnings threshold of £1,818.35[7] and they continue to have combined earnings above the threshold of £1,818.35 which prevents them from being entitled to a new award of UC for the next three assessment periods (see **table 1**).

Table 1

Assessment periods	**Assessment period in which the award ends (May)**	**Month 1**	**Month 2**	**Month 3**
Bob's earnings	£1,500	£500	£1,000	£900
Mary's earnings	£500	£2,000	£1,900	£1,850
Bob's and Mary's total earnings	£2,000	£2,500	£2,900	£2,750
Relevant earnings threshold	£1,818.35	£1,818.35	£1,818.35	£1,818.35
Bob's and Mary's surplus earnings	£181.65 (£2,000 - £1,818.35)	£681.65 (£2,500 - £1,818.35)	£1081.65 (£2,900 - £1,818.35)	£931.65 (£2,750 - £1,818.35)
Bob's and Mary's total accrued surplus earnings	£181.65	£863.30 (£181.65 + £681.65)	£1,944.95 (£1081.65 + £863.30)	£2,876.60 (£931.65 + £1,944.95)

Mary and Bob separate and Mary claims Universal Credit

Bob and Mary separate in month 4 and Mary makes a claim for UC as a single person; their child stays with Bob and she moves in with her parents. As a result the following calculation is performed to work out what, if any, surplus earnings are attributed to Mary. This involves apportioning the surplus from the assessment period in which the surplus arose (the previous joint award) and then treating Mary as a single person for the intervening periods up to her new claim.

[7] Relevant earnings threshold = (Nil UC threshold of (maximum award of UC (£493.95 joint UC award + 274.58 (Child element) – unearned income (£0) x 100/65 (UC taper) + a Work Allowance of (£536) = £1,718.35) + the 'de minimis' (£100) = £1,818.35).

- The earnings Mary received in the assessment period that the previous award terminated in (£500) is worked out as a percentage of the total earnings for the couple (£2,000) in that assessment period. This means that 25% of the surplus in that month (£181.65) is attributed to Mary in assessment period one;
- Mary's total surplus earnings are then worked out over the intervening assessment periods. The threshold that applies for those periods can be either the one relevant to her old or new award – whichever is most advantageous to her. In Mary's case this is the previous relevant earnings threshold of £1,818.35 of the joint UC award. Her individual earnings are considered against that threshold in the intervening assessment periods to determine if a surplus continues to apply (see **table 2**).
- This means when Mary returns to UC she has total accrued earnings of £340.36 to be applied to her UC award. Her UC nil point and relevant earnings threshold will be calculated from this point on based on her new circumstances[8].

Table 2

Assessment periods	**Assessment period in which the award ends (May)**	**Month 1**	**Month 2**	**Month 3**
Mary's earnings	£500 (+£1,500 as assessed as couple)	£2,000	£1,900	£1,850
Relevant earnings threshold (from old award)	£1,818.35	£1,818.35	£1,818.35	£1,818.35
Mary's surplus earnings	£45.41 (25% of couple surplus of £181.65)	£181.65 (£2,000 – £1,818.35)	£81.65 (£1,900 - £1,818.35)	£31.65 (£1,850 - £1,818.35)
Total accrued surplus earnings	£45.41	£227.06 (£45.41+ £181.65)	£308.71 (£81.65 + £227.06)	£340.36 (£31.65 + £308.71)

[8] Relevant earnings threshold = (Nil UC threshold of (maximum award of UC (£314.67 single UC award) – unearned income (£0) x 100/65 (UC taper) + a Work Allowance of (£111) = £595.11 + the 'de minimis' (£100) = £695.11).

Example 6 – Couple formation

Armand is a 27 year old who is employed as florist. Any information relating to Pay as You Earn earnings are received through Real Time Information (RTI) on the 28th of each month. He has recently moved in with his parents and has no housing costs and has no children.

Armand claims UC. His assessment periods begin on the 15th of each month. In each of Armand's assessment periods from April 15th – May 14th to June 15th – July 14th his earnings increase to £1,500. As a result Armand's UC award terminates in his April 15th – May 14th assessment period. When his relevant earnings threshold level (which based on his circumstances) of £695.11[9] is taken into account he has surplus earnings of £804.89 in each of his assessment periods (see **table 1**)

Table 1

Assessment periods	**(April 15th – May 14th)**	**(May 15th – June 14th)**	**(June 15th - July 14th)**
Actual earnings	£1,500	£1,500	£1,500
Relevant earnings threshold	£695.11	£695.11	£695.11
Surplus earnings	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)
Total accrued surplus earnings	£804.89	£1,609.78 (£804.89 + £804.89)	£2,414.67 (£1,609.78 + £804.89)

Armand forms a couple with Elise on 20th June who also has no children and lives with her parents. Elise's assessment period runs from the 5th to the 4th of the month. Elise has not been in paid work whilst receiving UC.

Armand and Elise are treated as making a joint claim for UC, using the assessment period from Elise's award (5th June to 4th July) and they move in with Armand's parents. When Armand and Elise are treated as making a joint claim his relevant earnings threshold changes as he is now part of a couple rather than a single person with no housing costs. His new relevant earnings threshold is £970.92[10].

As Armand has surplus earnings present in his old award, these are attributed to Armand and Elise's new joint award. When these are attributed the surplus earnings from his April 15th – May 14th assessment period are used and applied to his and Elise's new joint assessment period of June 5th – July 4th. This is because the April 15th – May 14th assessment period is the last full assessment period of Armand's old award before the first assessment period of the new joint award.

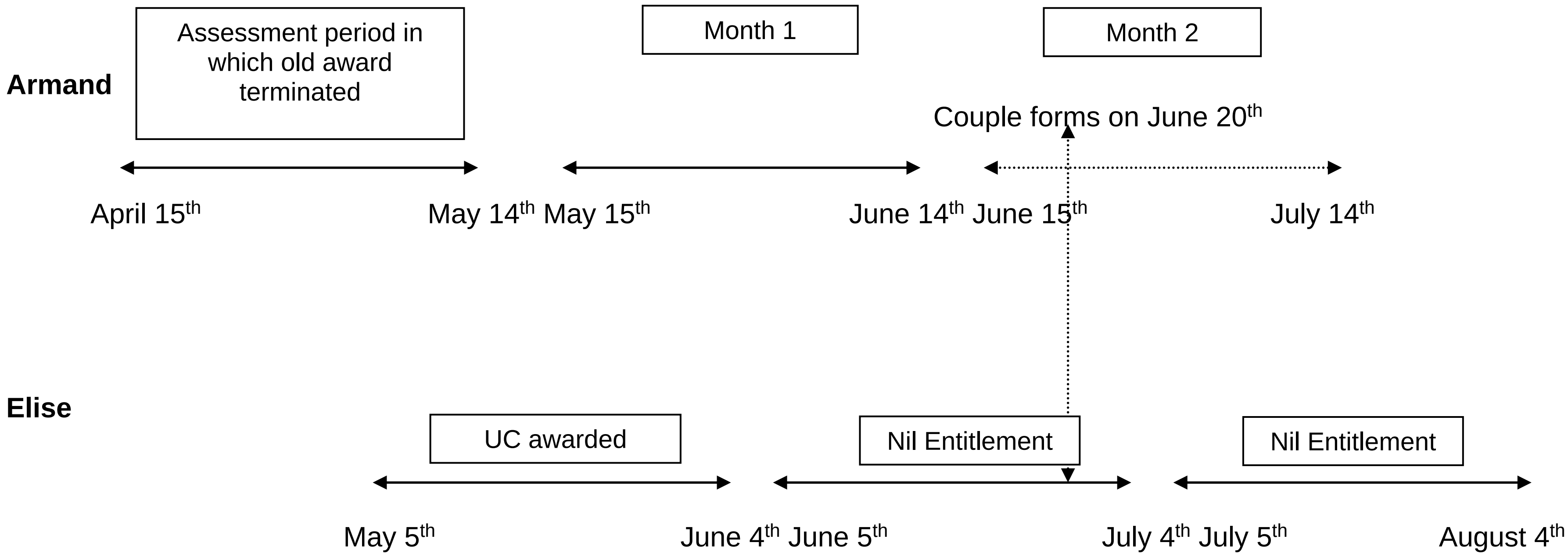
[9] Relevant earnings threshold = (Nil UC threshold of (maximum award of UC (£314.67 single UC award) – unearned income (£0) x 100/65 (UC taper) + a Work Allowance of (£111) = £595.11 + the 'd -minimis' (£100) = £695.11).
[10] Relevant earnings threshold = (Nil UC threshold of (maximum award of UC (£493.95 joint UC award) – unearned income (£0) x 100/65 (UC taper) + a Work Allowance of (£111) = £870.92) + the 'de minimis' (£100) = £970.92).

The result is that because of Armand's surplus from his "old" award and his earnings in their first assessment period as a couple, Elise and Armand do not become entitled to UC and will have £1333.97 surplus earnings applied to their UC award (see **table 2 and diagram 1**).

Table 2

Assessment periods	**(June 5th – July 4th)**	**(July 5th – 4th August)**	**(5th September – 4th October)**
Armand's earnings	£1,500	£0	£0
Elise's earnings	£0	£0	£0
Armand 's and Elise's total earnings	£1,500	£0	£0
Relevant earnings threshold	£970.92	£970.92	£970.92
Earnings used to calculate UC award in this Assessment Period	£970.92	£970.92	£363.05
Armand's and Elise's surplus earnings this assessment period	£529.08	£0	£0
Armand's and Elise's total accrued surplus earnings	£1333.97 (£804.89 from old award + £529.08	£363.05 (£1333.97 accrued surplus – £970.92 relevant earnings threshold)	£0.00 (£363.05 accrued surplus is less than £970.92 relevant earnings threshold)

Diagram 1 – Bob and Mary's assessment periods



Example 7 – Reduction of surplus earnings upon returning to Universal Credit

Davina is a 27 year old, who lives with her parents and has no children. Davina claims UC and is awarded £314.67 a month. Her assessment periods begin on the 1st of each month. For a few months her earnings are below her relevant earnings threshold (which includes the de minimis) which, based on her circumstances is £695.11[11].

However, in May her earnings increase to £1,500 and she is no longer entitled to UC. The Department continues to receive RTI information about Davina's earnings (she could have opted out if she wished, but would have to provide the information if she reclaimed UC within six assessment periods of her old award ending).

In June Davina also earns £1,500 which is added to her original surplus of £804.89, making a total surplus of £1,609.78. In July and August she continues to earn £1,500 which raises her surplus earnings to £3,219.56 and this is carried forward to September (see **table 1**).

Table 1

Assessment periods	**Assessment period in which the award ends (May)**	**Month 1 (June)**	**Month 2 (July)**	**Month 3 (August)**
Actual earnings	£1,500	£1,500	£1,500	£1,500
Relevant earnings threshold	£695.11	£695.11	£695.11	£695.11
Surplus earnings	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)
Total accrued surplus earnings	£804.89	£1,609.78 (£804.89+ £804.89	£2,414.67 (£1,609.78 + £804.89)	£3,219.56 (£2,414.67 + £804.89)

Unfortunately, in September Davina's employment ends and she reclaims UC. As she had an award of UC which ended less than six assessment periods before her new claim, the £3,219.56 surplus earnings are carried forward and applied to her UC award.

[11] Relevant earnings threshold = (Nil UC threshold of (maximum award of UC (£314.67 single UC award) – unearned income (£0) x 100/65 (UC taper) + a Work Allowance of (£111) = £595.11 + the 'de minimis' (£100) = £695.11.

From September Davina has no earnings so the surplus earnings she has accrued in the past four assessment periods are reduced in line with her relevant earnings threshold of £695.11 (see **table 2**).

Although there is still a surplus outstanding at the end of the October assessment period this does not get taken forward into the next assessment period. This is because it is six assessment periods since Davina was last entitled to UC (30th April). Once a claimant has ceased to be entitled to UC for six assessment periods any remaining surplus is reset to zero.

Table 2

Assessment periods	**Month 4 surplus (September)**	**Month 5 surplus (October)**	**Month 1 New entitlement (November)**
Total surplus earnings £3,219.56	£2,524.45 (£3,219.56 - £695.11)	£1,829.34 (£2,524.45 - £695.11)	Nil Claimant has been “off” UC for six assessment periods; surplus reset to zero.
Relevant earnings threshold	£695.11	£695.11	£695.11
UC award	£0	£0	Entitled (zero surplus & zero earnings)

Example 8 – Employment ceases but Universal Credit not re-claimed straight away.

Victoria is a 27 year, who lives with her parents, has no children. Victoria claims UC and is awarded £314.67 a month. Her assessment periods begin on the 1st of each month. For a few months her earnings are below her relevant earnings threshold (which includes the 'de minimis') which, based on her circumstances is £695.11[12].

However, in May her earnings increase to £1,500 and she is no longer entitled to UC. The Department continues to receive RTI information about Victoria's earnings (she could have opted out if she wished, but would have to provide the information if she reclaimed UC within six assessment periods of her old award ending).

In June Victoria also earns £1,500 which is added to her original surplus of £804.89, making a total surplus of £1,609.78. In July and August she continues to earn £1,500 which raises her surplus earnings to £3,219.60 and this is carried forward to September (see **table 1**).

Table 1

Assessment periods	Assessment period in which the award ends (May)	Month 1 (June)	Month 2 (July)	Month 3 (August)
Actual earnings	£1,500	£1,500	£1,500	£1,500
Relevant earnings threshold	£695.11	£695.11	£695.11	£695.11
Surplus earnings	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)	£804.89 (£1,500 - £695.11)
Total accrued surplus earnings	£804.89	£1,609.78 (£804.89+ £804.89	£2,414.67 (£1,609.78 + £804.89)	£3,219.56 (£2,414.67 + £804.89)

Unfortunately, in September (after four assessment periods) Victoria's employment ends but she does not re-claim UC straight away as she decides to live off her savings for a one assessment period.

If she had re-claimed UC straight away she would have had £3,219.56 surplus earnings applied to her UC award, but because she lived off her savings for one assessment period, when she returns to UC in October, her surplus has reduced

[12] Relevant earnings threshold = (Nil UC threshold of (maximum award of UC (£314.67 single UC award) – unearned income (£0) x 100/65 (UC taper) + a Work Allowance of (£111) = £595.11 + the 'de minimis' (£100) = £695.11).

by her relevant earnings threshold (£695.11) to £2,524.45. This means in October £1,829.34 surplus earnings are applied to her UC award i.e. £2,524.45 minus the relevant threshold level of £695.11 and she receives £0 UC. However, because the following assessment period is the sixth assessment period since her previous UC claim ceased no surplus earnings are applied to her UC award from that point and because her circumstances have not changed since her previous claim, she receives £314.67 UC (see **table 2**).

Table 2

Assessment periods	**Month 4 surplus (September)**	**Month 5 surplus (October)**	**Month 1 New award (November)**
Total surplus earnings £3,219.56	Victoria lives off her savings.	£1,829.34 (£2,524.45 - £695.11)	Nil Claimant has been 'off' UC for six assessment periods; surplus reset to zero.
Relevant earnings threshold	Surplus is reduced to £2,524.45 by deducting the relevant earnings threshold of £695.11 even though no new UC claim is made i.e. £3,219.56 - £695.11.	£695.11	£695.11
UC award	N/A	£0	£314.67