

Department for Work and Pensions

DECISION MAKING AND APPEALS

Decision Makers Guide

Volume 13

Amendment 43 – June 2019

1. This letter provides details on Amendment 43; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available on the Internet (see link below). These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer.

<https://www.gov.uk/government/publications/decision-makers-guide-vols-13-and-14-state-pension-credit-staff-guide>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 43 affects chapter 78. The changes:

incorporate DMG Memos 4/16, 24/17 and 3/19; updates 78055 et seq to include references to universal credit carers element (UC CE); updates some of the examples; removes paras 78956 to 78958 as they concerned asylum seekers and are no longer relevant; removes Appendix 1 (Unsafe structural defects) as that was in relation to home loans.
4. If using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Chapter 78

Conts 78001 – Conts 78144 (1 page)
Conts 78710 – Conts Appx 7 (1 page)
78001 – 78004 (1 page)
78025 – 78072 (5 pages)
78079 – 78119 (4 pages)
78185 – 78209 (2 pages)
78231 – 78269 (3 pages)
78456 – 78466 (1 page)
78500 – 78599 (5 pages)
78614 – 78649 (1 page)
78755 – 78764 (1 page)
78840 – 78919 (2 pages)
78955 – Appx 3, para 7 (5 pages)
Appx 4 – Appx 4, example 1 (1 page)
Appx 5 – Appx 5, example 1 (1 page)
Appx 6, para 1 – 12 (1 page)
Appx 7, para 1 – 6 (1 page)

Insert

Chapter 78

Conts 78001 – Conts 78144 (1 page)
Conts 78710 – Conts Appx 6 (1 page)
78001 – 78004 (1 page)
78025 – 78072 (5 pages)
78079 – 78119 (4 pages)
78185 – 78209 (2 pages)
78231 – 78269 (3 pages)
78456 – 78466 (1 page)
78500 – 78599 (4 pages)
78614 – 78649 (1 page)
78755 – 78764 (1 page)
78840 – 78919 (2 pages)
78955 – Appx 2, para 7 (4 pages)
Appx 3 – Appx 3, example 1 (1 page)
Appx 4 – Appx 4, example 1 (1 page)
Appx 5, para 1 – 12 (1 page)
Appx 6, para 1 – 6 (1 page)

Chapter 78 - State pension credit: additional amounts and special groups

Contents

General

Scope of this Chapter	78001
Definitions	78005
“AA”	78006
Treated as blind or severely sight impaired	78008
Full-time student.....	78009
Voluntary organization	78011

Additional amounts of guarantee credit

General

Categories	78025
Rates of additional amounts	78026
Qualifying conditions	78027

Additional amount for the severely disabled

General.....	78030
Lower rate	
Claimants who have no partner	78034
Transitional protection.....	78035
Claimants who have a partner	78045
Higher rate.....	78048
In receipt of “AA”, DLA ,CA and UC CE	78055
“AA” ,DLA, PIP and AFIP	78056
CA/UC CE	78057
Treated as being or not being in receipt of “AA”, DLA , CA and UC CE.....	78060
People residing with the claimant	78065
Meaning of normally resides	78066
Sharing the accommodation	78068
Students.....	78070
Meaning of liable to make payments	78072
Contractual capacity	78075

Carer stays overnight.....	78076
People whose presence is ignored.....	78077
Commercial basis.....	78079
Shared lives scheme.....	78080
Temporary residence in a care home	
Claimants who have no partner.....	78084
Claimants who have a partner.....	78085
Permanent residence in a care home.....	78087
Claimants who have no partner (including self funders).....	78088
Claimants who have a partner.....	78089
Additional amount for carers	
General.....	78100
Qualifying conditions.....	78105
Treated as being entitled to CA.....	78106
CA - treated as satisfying the qualifying conditions – run on.....	78107
The relevant date.....	78109
UC CE – treated as satisfying the qualifying conditions – run on.....	78110
New claims.....	78111
Transitional protection.....	78112
Additional amount for former claimants of IS/JSA(IB)	
General.....	78120
Qualifying conditions.....	78126
The relevant day.....	78127
The relevant amount.....	78128
Transitional addition in payment.....	78129
People in hospital.....	78130
The provisional amount.....	78134
Amount payable.....	78136
Recalculation of the transitional amount.....	78139
Reduction of the transitional amount.....	78140
Anniversary date.....	78141
Withdrawal of the transitional amount.....	78144

People admitted to hospital from care homes.....	78710
Free in-patient treatment	
Deciding free in-patient treatment.....	78720
Maintained free of charge	78722
Burden of proof	78724
Medical or other treatment	78725
Hospital or similar institution	
Hospital	78731
Similar institution	78734
Examples of hospitals or similar institutions	78736
Meaning of in-patient.....	78738
Prescribed legislation	78746
England and Wales	78747
Scotland	78748
Services provided under National Health Service legislation	78749
Imprisonment.....	78750
Community care arrangements	
Arrangements by Health Authorities and Health Boards	78755
Points to consider.....	78757
Existing cases – revision or supersession	78763
Local authority placements	78764
Periods of free in-patient treatment	
Introduction.....	78770
Period of free in-patient treatment.....	78771
Temporary absences from hospital	78773
Transfer between hospitals.....	78774
Revision of award on admission to hospital	
Deciding the date of change	78781
Guarantee credit for people in hospital	
In hospital more than four weeks	78805
Additional amount for the severely disabled	78806
Additional amount for carers	78808

In hospital 52 weeks or more	78825
Claimant who has no partner	78826
Claimant who has a partner	78827
Polygamous marriages	78828
Savings credit for people in hospital	
General.....	78840
In hospital four weeks or more.....	78841
Additional amount for the severely disabled.....	78842
Additional amount for carers.....	78855
Disabled person in hospital.....	78857
Carer in hospital.....	78858
In hospital 52 weeks or more	
Claimant who has no partner	78862
Couples and members of a polygamous marriage.....	78863
Others	
Absence from Great Britain	
Introduction.....	78920
People subject to immigration control	
General.....	78940
Meaning of person subject to immigration control	78941
Exceptions.....	78942
Sponsored immigrants	78943
Partner is a person subject to immigration control	78946
Asylum seekers	78955
Retrospective payments	78958
Housing costs – amount of non-dependant deductions.....	Appendix 1
Housing costs – meaning of remunerative work.....	Appendix 2
Examples of calculations for special groups.....	Appendix 3
Hospital cases – rates of reduction and examples of calculations	Appendix 4
Housing costs – leasehold major works	Appendix 5
Transitional end day.....	Appendix 6

Chapter 78 - Additional amounts and special groups

General

Scope of this Chapter

- 78001 [See DMG Memo 14/18] This Chapter contains guidance on SPC and the
1. additional amounts that may be awarded for
 - 1.1 the severely disabled (see DMG 78030)
 - 1.2 carers (see DMG 78100)
 - 1.3 former claimants of IS/JSA(IB) (see DMG 78120)
 - 1.4 housing costs (see DMG 78170)
 2. special rules that apply to
 - 2.1 members of polygamous marriages (see DMG 78600)
 - 2.2 prisoners (see DMG 78650)
 - 2.3 members of religious orders (see DMG 78680)
 - 2.4 people in hospital (see DMG 78700)
 - 2.5 people who are absent from GB (see DMG 78920 and DMG Chapter 07).
- 78002 For guidance on
1. the conditions of entitlement for SPC - see DMG 77030 et seq
 2. how to establish membership of the household - see DMG 77100 et seq
 3. how to calculate the normal amount payable - see DMG 77140 et seq
 4. payment questions, including how to calculate the amount payable for a part week - see DMG Chapter 79
 5. transitional provisions - see DMG Chapter 80
 6. the assessed income period - see DMG Chapter 83
 7. the treatment of capital and deemed weekly income from capital - see DMG Chapter 84
 8. the treatment of income other than earnings - see DMG Chapter 85
 9. the treatment of earnings - see DMG Chapter 86.
- 78003 - 78004

Additional amounts of guarantee credit

General

Categories

78025 **[See DMG Memo 14/18]** There are four types of additional amount¹ that may be applicable when considering the amount of the AMG. These are for

1. the severely disabled
2. carers
3. former claimants of IS/JSA(IB)
4. housing costs.

1 SPC Act 02, s 2; SPC Regs, reg 6; Sch I & II

Rates of additional amounts

78026 DMs should note that the additional amount for

1. the severely disabled is payable at two rates. The rate depends on whether the claimant or any partner satisfies the qualifying conditions
2. carers is paid at one rate. But there may be more than one such additional amount payable (see DMG 78101)
3. former claimants of IS/JSA(IB) is variable depending on the circumstances of each individual case
4. housing costs is variable depending on the circumstances of each individual case.

Qualifying conditions

78027 Each additional amount has its own qualifying conditions and to be entitled to an additional amount the qualifying conditions may apply to

1. the claimant **or**
2. any partner of the claimant.

78028 - 78029

Additional amount for the severely disabled

General

78030 When considering the amount of the AMG, an additional amount is applicable if the claimant is treated as being severely disabled¹.

1 SPC Act 02, s 2(3)(b), 2(7) & 17(2)(b); SPC Regs, reg 6(4) & Sch 1, para 1

78031 An additional amount for the severely disabled is not payable¹ in the case of

1. prisoners **and**
2. members of religious orders who are fully maintained by their order.

1 SPC Regs, reg 6(2), (3) & (4)

78032 If the claimant is a member of a polygamous marriage, see DMG 78610 for guidance on the rules that apply.

78033 The additional amount for the severely disabled is payable at a lower or higher rate¹. See Appendix 2 to DMG Chapter 77 for details of those rates.

1 SPC Regs, reg 6(5)

Lower rate

Claimants who have no partner

78034 Claimants with no partner are treated as being severely disabled and are entitled to the lower rate of additional amount for the severely disabled if¹

1. they are in receipt of
 - 1.1 "AA" **or**
 - 1.2 the care component of DLA at the highest or middle rate **or**
 - 1.3 the daily living component of PIP **or**
 - 1.4 AFIP **and**
2. there are no persons aged 18 or over
 - 2.1 normally residing with the claimant **or**
 - 2.2 who the claimant normally resides with (see DMG 78065 et seq) **and**
3. no one is entitled to and in receipt of CA, or UC that includes the carers element (UC CE), in respect of caring for them.

1 SPC Regs, reg 6(5)(a); Sch 1, para 1(1)(a)

Transitional protection

78035 Carers who were aged 65 and over before 28.10.02 can continue to be entitled to CA even though they are no longer providing care¹, for example after the disabled person has died.

1 The Regulatory Reform (Carer's Allowance) Order 2002, S.I. 2002/1457

78036 A claimant will not be disqualified under 78034 **3.**, from the extra amount for the severely disabled where the person in receipt of CA is not providing care but retains payment of the CA as a result of transitional protection.

78037 - 78044

Claimants who have a partner

78045 Claimants who have a partner are treated as being severely disabled and are entitled to the lower rate of additional amount for the severely disabled if¹

1. both partners are in receipt of
 - 1.1 "AA" **or**
 - 1.2 the care component of DLA at the highest or middle rate **or**
 - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 1.4 AFIP **and**
2. there are no persons aged 18 or over
 - 2.1 normally residing with the partners **or**
 - 2.2 who the partners normally reside with (see DMG 78065 et seq) **and**
3. someone is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for only one of the partners.

1 SPC Regs, reg 6(5)(a); Sch I, para 1(1)(b)

78046 Claimants who have a partner may not satisfy the conditions in DMG 78045. In such a case the lower rate can still be awarded if¹

1. one of the partners is in receipt of
 - 1.1 "AA" **or**
 - 1.2 the care component of DLA at the highest or middle rate **or**
 - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 1.4 AFIP **and**
2. the other partner is certified as blind or severely sight impaired by a consultant ophthalmologist or treated as blind or severely sight impaired **and**
3. there are no persons aged 18 or over
 - 3.1 normally residing with the partners **or**
 - 3.2 who the partners normally reside with (see DMG 78065 et seq) **and**

4. no-one is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for the partner who is receiving "AA" or DLA as in 1.

1 SPC Regs, Sch I, para 1(1)(c)

78047 The lower rate of additional amount for the severely disabled can also be awarded to claimants who have a partner if¹

1. one of the partners is in receipt of
 - 1.1 "AA" **or**
 - 1.2 the care component of DLA at the highest or middle rate **or**
 - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 1.4 AFIP **and**
2. the other partner would be in receipt of
 - 2.1 "AA" **or**
 - 2.2 the care component of DLA at the highest or middle rate **or**
 - 2.3 the daily living component of PIP at the standard or enhanced rate but for being a patient for over 28 days **and**
3. there are no persons aged 18 or over
 - 3.1 normally residing with the partners **or**
 - 3.2 who the partners normally reside with (see DMG 78065 et seq) **and**
4. no-one is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for the partner who is receiving "AA" or DLA as in 1..

1 SPC Regs, reg 6(5)(a); Sch I, para 1(1)(b) & (2)(b)

Higher rate

78048 DMs should note that the higher rate of additional amount for the severely disabled does not apply to claimants who have no partner.

78049 Claimants who have a partner are treated as being severely disabled and are entitled to the higher rate if¹

1. both partners are in receipt of
 - 1.1 "AA" **or**
 - 1.2 the care component of DLA at the highest or middle rate **or**
 - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 1.4 AFIP **and**
2. there are no persons aged 18 or over
 - 2.1 normally residing with the partners **or**
 - 2.2 who the partners normally reside with (see DMG 78065 et seq) **and**

3. no one is entitled to and in receipt of CA, or UC that includes the CE, in respect of caring for either partner.

1 SPC Regs, reg 6(5)(b); Sch I, para 1(1)(b)

78050 DMs should note that DMG 78049 1. is **not** satisfied if either partner is treated as being in receipt of “AA” or DLA or PIP or AFIP as in DMG 78060 2.¹. In such a case the lower rate of additional amount should be considered.

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

78051 - 78054

In receipt of “AA”, DLA, CA and UC CE

78055 Before awarding an additional amount for the severely disabled, the DM needs to know if

1. the claimant or partner is in receipt of “AA”, DLA, PIP or AFIP **and**
2. anyone is in receipt of CA, or UC that includes the CE, in respect of caring for the claimant or partner.

Note: Special rules apply to the treatment of “AA”, DLA, PIP, AFIP and CA/UC CE when a person is admitted to hospital. See DMG 78060 et seq for guidance.

Example

Heather was in receipt of “AA” and had an award of SPC which included an amount for severe disability. On 10.6.17 she was admitted to a care home. It wasn’t until the 22.11.17 that her “AA” ceased, due to some confusion around appointing someone to act. The additional amount for severe disability was correctly in payment while ever Heather was **in receipt of “AA”**,

“AA”, DLA and PIP

78056 DMs should note that a person is in receipt of “AA” or DLA or PIP or AFIP only if it is paid because of that person’s own incapacity or disability.

Example 1

Alistair is aged 65 and lives alone. He claims SPC and states that he is in receipt of “AA” due to his poor physical condition. No one gets CA/UC CA in respect of looking after him. Alistair is in receipt of “AA” and the DM considers an additional amount for the severely disabled.

Example 2

Ruby lives with her grandson Ben who is aged 14. Ben is disabled and is awarded the care component of DLA at the highest rate. But the DLA is paid to Ruby. Ruby is not in receipt of DLA. The DLA is paid because of Ben’s disability and is only paid to Ruby because of Ben’s age. An additional amount for the severely disabled is not applicable.

CA/UC CE

78057 An additional amount for the severely disabled may not be applicable if someone is receiving CA or UC CE in respect of caring for the claimant or partner¹. But CA/UC CE has to actually be in payment before it affects entitlement to this additional amount.

1 SPC Regs, Sch I, para 1(1)

78058 DMs should normally treat an award of CA/UC CE as a proper award until the CA/UC CE decision is revised, superseded or otherwise changed on appeal. If the claimant says that

1. they are not being cared for by the person getting CA/UC CE **or**
2. the award of CA/UC CE is in error **or**
3. they know nothing about the CA/UC CE award **or**
4. the CA/UC CE claim is fraudulent

the DM should ask the CA unit or the office responsible for the UC award to investigate whether the CA award or the UC CE is correctly made.

78059 Where the disabled person makes an allegation about the carer's integrity, as described in DMG 78058, the SPC DM can make a decision on the claim or application before the CA/UC CE DM has decided whether the award of CA/UC CE should be revised or superseded. However, the SPC decision should include a determination which

1. makes an assumption that the carer is properly in receipt of CA/UC CE **and**
2. refuses to award the extra amount for severe disability.

Treated as being or not being in receipt of "AA", DLA, CA and UC CE

78060 A person shall be treated

1. as being in receipt of "AA", or the care component of DLA at the highest or middle rate, or the daily living component of PIP at the standard or enhanced rate, or AFIP for any period¹
 - 1.1 before an award is made but in respect of which the allowance is awarded **or**
 - 1.2 not covered by an award but in respect of which a payment is made in lieu of an award
2. in the case of a claimant who has a partner, as being in receipt of
 - 2.1 "AA" **or**
 - 2.2 the care component of DLA at the highest or middle rate **or**
 - 2.3 the daily living component of PIP at the standard or enhanced rate

if they would be in receipt but for being a patient for over 28 days²

3. as not being in receipt of CA, or the UC CE, for any period before the date on which the award is first paid³.

1 SPC Regs, Sch I, para 1(2)(a); 2 Sch I, para 1(2)(b); 3 Sch I, para 1(2)(c)

78061 - 78064

People residing with the claimant

78065 An additional amount for the severely disabled may not be applicable if¹ there are people aged 18 or over who

1. normally reside with the claimant and any partner **or**
2. the claimant and any partner normally reside with.

That is, share the accommodation (see DMG 78068). But the presence of certain people can be ignored². See DMG 78077 and 78078 for full details.

1 SPC Regs, Sch I, para 1(1); 2 Sch I, para 2

Meaning of normally resides

78066 A person normally resides where they usually live. Periods of residence or absence that are of an exceptional nature should be disregarded. A person who is temporarily absent from their normal home, continues to normally reside where they usually live and with the people they usually live with.

Example 1

Jack normally lives in his sister's house and is not entitled to an additional amount for the disabled. He goes into respite care for one week every other month. While he is in respite care Jack still normally resides in his sister's house. He does not qualify for an additional amount for the severely disabled.

Example 2

Mary normally lives alone in her own flat. She is entitled to an additional amount for the severely disabled. Her brother Steven comes to stay with her for a week at a time every three months. He does not normally live with Mary. She keeps her entitlement to the additional amount whilst Steven is staying with her.

78067 When considering where a person normally resides the DM should have regard to

1. the total amount of time spent in a place
2. how often time is spent in a place
3. how permanent the stay is thought to be
4. the person's intentions
5. individual circumstances
6. what degree the accommodation is shared
7. the services provided

8. whether the person owns or rents any other accommodation
9. whether the person has any liabilities for services/utilities/tv licence.

Example

Agnes has been awarded the care component of DLA at the middle rate and no one gets CA (or UC CE) for caring for her. She owns her own home but for the past two years has slept every night at her son's house. She keeps her clothes and some of her things at her son's house. She goes home for the day two or three days a week, to clean up and do the garden. But she always returns to her son's to sleep. Agnes is responsible for the bills for her home and she and her son still regard Agnes's house as her home. Agnes' house has never been put up for sale.

Agnes normally lives at her son's house because

1. she sleeps at her son's house every night
2. her clothes and some of her things are kept at her son's
3. she only goes back to her own house occasionally and in daylight hours
4. she spends the majority of her time at her son's house.

Agnes is not entitled to an additional amount for the severely disabled. The DM considers whether the value of Agnes' house should be taken into account.

Sharing the accommodation

78068 People should not be regarded as sharing the accommodation if¹

1. the only shared area is a
 - 1.1 bathroom **or**
 - 1.2 lavatory **or**
 - 1.3 communal area **or**
2. they are separately liable to make payments to the landlord for that accommodation.

Note: A person should still be regarded as sharing the kitchen even if they do not enter or use it where items for the persons use are stored there or their meals are prepared there.

1 SPC Regs, Sch I, para 3(1); R(IS) 12/96

78069 A communal area is¹ an area of common access (not a room) including

1. halls
2. passageways
3. stairways
4. rooms of common use in sheltered accommodation.

1 SPC Regs, Sch I, para 3(2)

Example

Katja gets “AA” and no one gets CA (or UC CE) for caring for her. She lives in a self-contained granny flat attached to her daughter’s house. She has her own bathroom, kitchen, bedroom and living room. Access to the flat is from the hall of her daughter’s house and the front door of the property is shared. Everything else is separate.

The hall is the only shared area and is a communal area. Katja does not share the accommodation and does not normally reside with her daughter.

Note: A person should still be regarded as sharing the kitchen even if they do not enter or use it if items for the person’s use are stored there or their meals are prepared there. A kitchen is not shared if a person needs to pass through it to access to their self-contained flat.

Students

78070 In a case where a student lives at a university address during term time and lives at their parents’ home for some weekends and during the holidays, the DM should have regard to the considerations at DMG 78067 before deciding which address is where they normally reside. Whichever address is chosen will remain the student’s normal residence even when they spend time at the other address.

Example

A student still retains a bedroom, furniture and some clothing at their parents’ home, they still get some mail there, are registered with the local dentist and are actually resident for 18 full weeks and most weekends. On this evidence the DM decides that the student normally resides at their parents’ home and are only temporarily absent from it whilst at university.

Alternatively the DM may decide that because the student has a tenancy agreement for a university address, they have some furniture and clothes there, they live there for 32 weeks of the year and are liable for gas, electricity and a tv licence that they normally reside at the university address and are only temporarily absent from it whilst back living with their parents.

78071

Meaning of liable to make payments

78072 “Liable to make payments” refers to legal liability. When considering the question of liability, the DM must consider whether

1. the claimant has the contractual capacity to enter into an enforceable contract
and
2. there was an intention to create legal relations.

3. is not a close relative (except where 5. applies) who jointly occupies the claimant's dwelling and who is³
 - 3.1 a co-owner of that dwelling with the claimant or the claimant's partner (whether or not there are other co-owners) **or**
 - 3.2 jointly liable with the claimant or the claimant's partner to make payments to the same landlord for their occupation of the dwelling **or**
4. is the partner of a person to whom 3. applies⁴ **or**
5. is a close relative who satisfies 3. or 4., if⁵ the claimant or partner's co-ownership or joint liability arose
 - 5.1 before 11.4.88 **or**
 - 5.2 if later, on or before the date on which the claimant or partner first occupied the dwelling in question.

Note: 1. only applies for the first twelve weeks following the date on which the person first joins the claimant's household⁶.

*1 SPC Regs, Sch I, para 2(3); 2 Sch I, para 2(5); 3 Sch I, para 2(6);
4 Sch I, para 2(7); 5 Sch I, para 3(3); 6 Sch I, para 2(4)*

Commercial basis

78079 For a liability to be on a commercial basis¹ (see DMG 78078 2.)

1. there should be a legal liability to make the payment **and**
2. the payment should be broadly in line with what a lodger might pay for similar accommodation and facilities.

1 R(IS) 11/98

Shared lives scheme

78080 A registered shared lives carer provides support and accommodation, in their own home, for a disabled claimant. The claimant is able to keep their disability benefits (DLA/PiP) and pays the carer a weekly contribution, the LA also pay the carer a fixed amount. The claimant will have a lodger/licence agreement and as such be eligible to obtain HB. In these circumstances the carers will be ignored as non-dependants (because they are a person who the claimant is liable to make payments on a commercial basis to) and the claimant will be entitled to the EASD.

Note: The claimant will not be entitled to the EASD if there are people other than the carer, carer's family or other shared lives residents in the dwelling who cannot be ignored, for example where the carer's 23-year old son still lives in the same dwelling.

Example

Shirley moves into Fiona and Jason's home under the shared lives scheme, she will live as part of their family having her own bedroom and sharing all the other

household facilities. Shirley is disabled and receives DLA. A support agreement, in the form of a licence, confirms Shirley will pay £395/week and that this payment covers all her meals and all utility costs, she will also get HB. The DM decides that Fiona and Jason are not non-dependants because they are people to whom Shirley is commercially liable to make payments to in respect of her occupation of the dwelling. Shirley is entitled to the EASD.

78081 - 78083

Temporary residence in a care home

Claimants who have no partner

78084 An additional amount for the severely disabled may not be applicable if a claimant who has no partner does not normally live alone¹. Such a claimant will not satisfy the conditions for this additional amount while they are temporarily in a care home (see DMG 77007). This is because their stay is temporary and they continue to normally reside at home.

1 SPC Regs, Sch I, para 1(1)

Example

Nasreen has no partner and lives with her son. The conditions for the award of an additional amount for the disabled are not satisfied. Nasreen goes into a care home temporarily. An additional amount for the severely disabled is not applicable because she continues to normally reside at home with her son.

Claimants who have a partner

78085 When a member of a couple is temporarily in a care home the separation from the partner is also temporary. In such a case the

1. couple remain members of the same household¹ **and**
2. absent partner is treated as still normally residing at home **and**
3. amount of SPC payable to them is unaffected.

1 SPC Regs, reg 5(2)

78086 The SPC and the additional amount for severe disability will have to be reviewed where the person is in temporary residential care beyond 28 days and the payability of DLA ceases.

Example

Malcolm and Wendy are married and live together in the same household. Both Malcolm and Wendy get DLA and CA is not in payment (nor is UC CE). There are no non-dependants. Higher rate EASD is in payment. Malcolm goes into temporary residential care for 6 weeks.

They are assessed as a couple and the higher rate EASD continues in payment however after 4 weeks Malcolm's DLA payments cease and the EASD is withdrawn

Note: The lower rate EASD is not appropriate as there is no facility to treat DLA as in payment for these periods of respite care.

Permanent residence in a care home

78087 Claimants who are permanently in a care home are normally resident in that care home. Other residents of the home do not normally reside with the claimant, as they are separately liable to make payments to a landlord.

Claimants who have no partner (including self- funders)

78088 An additional amount for the severely disabled is applicable to a person who is permanently in a care home if all the conditions are satisfied¹.

Note: This will normally be self- funding claimants, but DMs should be aware that it will also include residents where the payment of "AA" or DLA/PIP continues for the first four weeks after admission.

1 SPC Regs, reg 5(1)(b) & Sch I, para I(1)(a)

Example

Shafaq has no partner and lives at home with his sisters. He is in receipt of the care component of DLA at the middle rate and no one receives CA (or UC CE) for caring for him. The conditions for the award of an additional amount for the disabled are not satisfied. Shafaq goes into a care home on a permanent basis. The DM decides that Shafaq is entitled to an additional amount for the disabled at the lower rate from the date that he moves into the care home. This is because

1. he is in receipt of the care component of DLA at the middle rate **and**
2. the other residents of the home do not normally reside with him **and**
3. no one is in receipt of CA, or UC CE, for caring for him.

Entitlement to the additional amount continues as long as all of the above are satisfied.

Claimants who have a partner

78089 A member of a couple who is permanently in a care home is no longer a member of the same household as their partner. In such a case each person may claim SPC as a claimant who has no partner.

78090 - 78099

Additional amount for carers

General

78100 When considering the amount of the AMG, an additional amount for carers may be applicable¹. But the additional amount is not payable² in the case of

1. prisoners **and**
2. members of religious orders who are fully maintained by their order.

1 SPC Act 02, s 2(3)(b) & (8); SPC Regs, reg 6(6)(a) & Sch I, para 4(1); 2 reg 6(2), (3) & (6)

78101 The additional amount for carers is paid at one rate, and in the case of partners, that amount is applicable for each partner who satisfies the qualifying conditions¹. See Appendix 2 to DMG Chapter 77 for details of the rate.

1 SPC Regs, reg 6(8)

78102 - 78104

Qualifying conditions

78105 An additional amount for carers may be awarded for each claimant¹ or, in the case of partners, each partner² who is

1. entitled to CA³ **or**
2. treated as still satisfying the qualifying conditions for the award of the additional amount⁴ (see DMG 78107).

Note: A person may be entitled to CA even if it is not payable (for example because of the overlapping benefit provisions).

*1 SPC Act 02, s 2(8)(a); SPC Regs, reg 6(8); 2 SPC Act 02, s 2(8)(b); SPC Regs, reg 6(8);
3 Sch I, para 4(2); 4 Sch I, para 4(3)*

Example

Maurice lives with his wife Louise and they are both entitled to CA. They each satisfy the conditions for the award of an additional amount for carers. The couple do not qualify for any other additional amounts. At the time of Maurice's claim the SMG is £160.95 and the rate of the additional amount for carers is £25.55. Their AMG is £212.05 (£160.95 + £25.55 + £25.55).

Treated as being entitled to CA

78106 A person shall be treated as being entitled to CA for any period¹

1. covered by an award
2. in respect of which a payment is made in lieu of an award.

1 SPC Regs, Sch I, para 5

CA - treated as satisfying the qualifying conditions – run on

78107 Where an additional amount for carers has been awarded but the person in respect of

1. whose care the CA has been awarded dies **or**
2. whom the additional amount was awarded ceases to be entitled or treated as entitled to CA

the qualifying conditions shall be satisfied or treated as satisfied for a period of eight weeks¹ from the relevant date.

1 SPC Regs, Sch I, para 4(3)

78108 At the end of the eight week period, the normal change of circumstances rules apply to determine the date the additional amount is withdrawn from.

Note: In certain specified cases CA can continue indefinitely after the person in respect of whose care the CA has been awarded dies. See DMG 78110 and Chapter 04 for detailed guidance on those rules.

The relevant date

78109 The relevant date is, where

1. the person in respect of whose care the CA has been awarded dies¹,
 - 1.1 the Sunday following the death of the person **or**
 - 1.2 the date of death, if the death occurred on a Sunday
2. head 1. does not apply, the date on which the person who has been entitled to CA ceases to be entitled to it².

1 SPC Regs, Sch I, para 4(4)(a); 2 Sch I, para 4(4)(b)

Example

Padraig is entitled to CA and his AMG includes an additional amount for carers. The person he is caring for dies on Friday 21.11.03. The relevant date is 23.11.03. The qualifying conditions are satisfied for the period 23.11.03 to 17.1.04. The normal change of circumstances rules then apply and the additional amount for carers is withdrawn.

UC CE - treated as satisfying the qualifying conditions – run on

78110 Where an additional amount for carers has been awarded but the person in respect of whose care the UC CE has been awarded dies, the qualifying conditions shall be satisfied or treated as satisfied for the assessment period in which the death occurred and the following two assessment periods¹

1 UC Regs, reg 37)

Example

Alison's award of UC includes a carers element (CE) in respect of the care she provides to her mother. Alison's assessment period runs from the 10th of the month. On 23.6.19 Alison's mother dies. She continues to receive the CE in her UC award up to and including 9.9.19.

New claims

- 78111 Where a new claim for SPC is made and entitlement to CA had ended within 8 weeks or less before the date of the SPC claim, or entitlement to UC CE within the two assessment periods following the death of the person being cared for, in these circumstances there is no entitlement to the extra amount for carers. The run on can only apply if this element was already included in the award.

Transitional protection

- 78112 Carers who were aged 65 and over before 28.10.02 can continue to be entitled to CA even though they are no longer providing care¹, for example after the disabled person has died. Where this protection applies and CA is retained the carer can continue to receive the additional amount for carers.

1 The Regulatory Reform (Carer's Allowance) Order 2002, S.I. 2002/1457, art 4

Example 1

Ralph, aged 72, is entitled to SPC for himself and his partner Kath. Kath is aged 69 and has been entitled to CA in respect of the care she provides her mother since May 1994. Ralph's SPC includes an additional amount for carers. Kath's mother dies on 22.8.04 but Kath retains her entitlement to CA (beyond the eight week run on period). Ralph continues to be entitled to the additional amount for carers in the calculation of his SPC.

78113 - 78119

Definitions

78185 The following paragraphs explain the meaning of terms used throughout this guidance on housing costs.

Dwelling occupied as the home

78186 Dwelling occupied as the home means¹

1. the dwelling and any
 - 1.1 garage **and**
 - 1.2 garden **and**
 - 1.3 outbuildingsnormally occupied by the claimant as the home **and**
2. any buildings or land not occupied as the home which it is impracticable or unreasonable to sell separately **and**
3. in Scotland, any croft land on which the dwelling is situated.

Note: This means only the dwelling currently occupied as the home. It does not include any dwelling that is no longer occupied as the home².

1 SPC Regs, reg 1(2); 2 R(IS) 5/96

Example

Shimon and Rachel live on a plot of land on which there is a caravan, some outbuildings and an old cottage in need of repair. The LA allow them to use the caravan as a temporary residence while the cottage is being repaired. They sleep in the caravan but have things stored in the outbuildings and cottage. The caravan has a fixed mains water supply and is linked directly to the electricity mains. There are no mains supplies to the cottage. The land cannot be divided into two, with the caravan and site being owned or used separately from the cottage and site.

The DM decides that the dwelling includes the caravan, outbuildings and land. The cottage is occupied to a limited extent as part of that dwelling. Shimon can therefore have an additional amount for housing costs assessed on the basis that the whole of the landholding, cottage, caravan and outbuildings are to be treated as the dwelling normally occupied by him.

Normally occupied

78187 The dwelling normally occupied as the home is the home where the claimant and their partner normally live. In this context “normally” means “usually”. Periods of residence, or absence, that are of an exceptional nature should be disregarded.

Example

Niamh lives alone in a flat on which she pays service charges. She goes to stay with her brother while he is recovering from an operation and is away from home for two weeks. While at her brother's house Niamh reaches age 60 and claims SPC. The DM decides that Niamh normally lives in her own flat. The time she spends at her brother's house is exceptional. An additional amount for housing costs can be considered for her service charges.

Rooms sublet

78188 Rooms that are sublet in a house are normally part of the dwelling occupied as the home. The exception is where it is practicable or reasonable to sell that part of the house separately. In such a case that part of the house is not part of the dwelling occupied as the home.

78189 - 78194

Housing costs

78195 Until 6.4.18 help for owner occupier payments was included in a claimant's award of an income related benefit (also referred to as support for mortgage interest (SMI)). From 6.4.18 SMI was changed from a benefit to a loan secured by a charge on the property. See ADM memo 8/18. Payments for other housing costs, such as service charges, continue. For guidance on the transition from SMI housing costs to SMI loans, see Appendix 6. For advice on Support for Mortgage Interest prior to 6.4.18, decision makers may wish to contact DMA Leeds.

78196 Housing costs are¹

1. rents or ground rents on long tenancies
2. service charges
3. payments by way of rent charge
4. payments under co-ownership schemes
5. payments for tenancies or licences of Crown tenants
6. payments for tents and their sites.

1 SPC Regs, Sch II, para 1(1), 1(2)(b), & 135

78197 Only those payments in DMG 78196 should be allowed as housing costs. For example, the following should not be allowed as housing costs

1. rent required by a person who
 - 1.1 owns jointly with the claimant the property occupied by the claimant
and
 - 1.2 does not live in that property

2. water charges paid via a landlord (for example, paid at the same time as service charges).

This list is not exhaustive.

1 R(IS) 19/93

Water charges

78198 Water charges means¹ any

1. water charges **and**
2. sewerage charges

in respect of the dwelling which a person occupies as their home.

1 SPC Regs, reg 1(2); Water Industry Act 1991, Part V, Ch 1; Local Government Finance Act 1992, Sch 11

78199 - 78209

Liable for two homes

- 78231 A person who is liable to make payments on two dwellings should be treated as living in, and allowed housing costs for, both dwellings where
1. they have left their former home, and remain absent, because of fear of violence
 - 1.1 in that home **or**
 - 1.2 by a close relative **or**
 - 1.3 by a former partnerand it is reasonable to meet housing costs on both homes¹ **or**
 2. in the case of partners, one partner is a F/T student or is on a training course and it is
 - 2.1 unavoidable that they should have two homes **and**
 - 2.2 reasonable to meet housing costs on both homes².

Note: This does not apply where a person is liable to make payments on more than two dwellings.

1 SPC Regs, Sch II, para 4(6)(a); 2 Sch II, para 4(6)(b)

- 78232 The question of reasonableness in DMG 78231 should be decided at the date the DM considers the issue and in the light of all the circumstances. These may include
1. the length of the absence
 2. whether the claimant could reasonably be expected to take steps to end the liability for the former home
 3. whether there is a hope of resuming occupation
 4. whether it is practicable to end the liability
 5. the claimant's situation and means of support
 6. the extent to which the liability was in practice being met other than through SPC.

Example

Kath lives with her partner Dave in a house on which she has service charges to pay. She gets SPC with an additional amount for housing costs for those service charges. Dave is violent towards Kath who leaves the house and moves to a rented flat. Kath starts legal proceedings and intends to return to her house as soon as it is safe for her to do so.

Kath is treated as living in both homes and the DM considers it is reasonable to meet the housing costs for both the house and the flat.

78233 A person can also be treated as living in, and allowed housing costs for, two homes for up to four weeks if¹

1. they move to a new home, for a reason other than those in DMG 78230 and 78231 **and**
2. they are liable for housing costs on both homes **and**
3. the liability to make payments for both homes is unavoidable.

1 SPC Regs, Sch II, para 4(6)

78234 The four weeks under DMG 78233 is payable from either

1. the first day of the benefit week where the move to the new home takes place on that day **or**
2. the first day of the next following benefit week in which the move occurs if it does not¹.

1 SPC Regs, Sch II, para 4(6)(c)

78235 Where SPC is payable in arrears the specified period of four weeks commences from the first day of the benefit week in which the move occurs¹.

1 SS (Miscellaneous Amendments) (No. 5) Regs, 2006, reg 4(3)

78236 A claimant can be allowed housing costs for two separate properties if he is treated as living in both the houses for which costs are allowed. See DMG 84395 for the criteria to be satisfied when more than one property could be the dwelling occupied as the home¹.

1 R(JSA) 9/03

78237 Claimants are entitled to an additional amount for housing costs if

1. the claimant or partner is
 - 1.1 liable for those costs (see DMG 78215) **and**
 - 1.2 responsible for those costs **and**
 - 1.3 treated as living in the home that those costs are for (see DMG 84395)
2. those costs are allowable.

Treated as living in the home before moving in

78238 A claimant may be treated as occupying a dwelling as the home for any period of up to four weeks immediately before the date they moved in where

1. they have moved in to the home and were liable to make payments for that home before moving in¹ **and**
2. they had claimed SPC before moving in² and a decision was
 - 2.1 not made on the claim **or**
 - 2.2 made on the claim but no additional amount for housing costs was included **or**

- 2.3 made refusing the claim, but another claim was made within four weeks of the date on which they moved in **and**
- 3. the delay in moving in was reasonable **and**
 - 3.1 necessary because the home was being adapted to meet the disablement needs of
 - 3.1.a the claimant **or**
 - 3.1.b the claimant's partner **or**
 - 3.1.c a person under the age of 20 for whom the claimant or partner is responsible³ **or**
 - 3.2 the move was delayed pending a decision on a connected social fund claim⁴ **or**
 - 3.3 they became liable to pay the housing costs while they were
 - 3.3.a a patient **or**
 - 3.3.b in a care home⁵.
 - 3.4 they were waiting for a decision on a local welfare provision claim

*1 SPC Regs, Sch II, para 4(7)(a); 2 Sch II, para 4(7)(b); 3 Sch II, para 4(7)(c)(i);
4 Sch II, para 4(7)(c)(ii); 5 Sch II, para 4(7)(c)(iii)*

78239

Temporary absences from home

Trial periods in a care home

78240 A person who enters a care home

- 1. to see whether the accommodation suits their needs **and**
- 2. with the intention of returning home if the accommodation is unsuitable **and**
- 3. whose part of the dwelling normally occupied as the home is not let or sub-let to another person

should be treated as living in their home, and have their housing costs allowed, for up to 13 weeks from the day they went into the care home¹. But DMs should note that the number of weeks for which an absence is treated as temporary is subject to an overall maximum of 52 weeks (see DMG 78254).

1 SPC Regs, Sch II, para 4(8) & (9)

Example

Diarmuid has been in hospital for 43 weeks and gets housing costs for his own home throughout that period. Diarmuid goes into a care home for assessment. He continues to be treated as temporarily absent from his own home and carries on getting housing costs for that home

1. for a further nine weeks **or**
 2. until a decision is made that he will not return to live in his own home
- whichever is the sooner.

Temporary absences up to 13 weeks

78241 Unless DMG 78240 or 78254 applies, a person should be treated as living in their home for any period of temporary absence of not more than 13 weeks if¹

1. they intend to return to live in the home **and**
2. the part of the home they normally live in has not been let or sub-let to another person **and**
3. the period of absence is unlikely to exceed 13 weeks.

1 SPC Regs, Sch II, para 4(10)

Example

Sara goes to stay with her brother while her home is renovated following flood damage. She expects to be away from home for ten weeks. Although Sara is temporarily absent from her home she is still treated as living in that home.

78242 The intention to return to live in the home must

1. be unqualified **and**
2. be present from the start of the period of absence **and**
3. not be conditional on a future event out of the claimant's control.

Note: An intention to return to live in the home formed after the start of the period of absence would not be enough.

78243 When considering DMG 78241, an additional amount for housing costs may be allowed for up to 13 weeks from the first day of absence. But where the absence is likely to exceed 13 weeks

1. the absence should be treated as permanent from the first day of the absence **and**
2. an additional amount for housing costs should not be awarded.

78244 - 78253

Temporary absences up to 52 weeks

78254 A person should be treated as living in their home for any period of temporary absence of not more than 52 weeks if¹

1. they intend to return to live in the home² **and**
2. the part of the home they normally live in has not been let or sub-let to another person³ **and**

3. they
 - 3.1 are detained in custody on remand pending trial **or**
 - 3.2 are detained pending sentence upon conviction **or**
 - 3.3 are required to live as a condition of bail in either
 - 3.3.a a dwelling other than a dwelling he occupies as his home **or**
 - 3.3.b an approved bail hostel **or**
 - 3.3.c an approved probation hostel⁴ **or**
 - 3.4 are resident in a hospital or similar institution as a patient⁵ **or**
 - 3.5 are, or their partner, or a person under the age of 20 for whom the claimant or partner is responsible, is undergoing
 - 3.5.a medical treatment **or**
 - 3.5.b medically approved convalescence

in the UK or elsewhere, in accommodation that is not a care home⁶ **or**
 - 3.6 are on a training course in the UK or elsewhere⁷ **or**
 - 3.7 are providing medically approved care for another person who is living in the UK or elsewhere⁸ **or**
 - 3.8 are caring for a person under the age of 20 whose parent or guardian is temporarily absent from their home because they are receiving medically approved care or treatment⁹ **or**
 - 3.9 are
 - 3.9.a living in the UK or elsewhere **and**
 - 3.9.b receiving medically approved care

in accommodation that is not a care home¹⁰ or independent hospital **or**
 - 3.10 are a F/T student to whom DMG 78225 and 78231 **2.** do not apply¹¹ **or**
 - 3.11 are receiving care in a care home or independent hospital, other than as in DMG 78240¹² **or**
 - 3.12 have left the home because of fear of violence
 - 3.12.a in that home **or**
 - 3.12.b by a former partner **or**
 - 3.12.c by a close relative

and DMG 78231 **1.** does not apply¹³ **and**
4. the absence is unlikely to
 - 4.1 exceed 52 weeks **or**

- 4.2** substantially exceed 52 weeks in exceptional circumstances¹⁴ (for example where a claimant has gone into hospital or has to live in a hostel as a condition of bail).

1 SPC Regs, Sch II, para 4(11) & (12); 2 Sch II, para 4(11)(a); 3 Sch II, para 4(11)(b); 4 Sch II, para 4(11)(c)(i); 5 Sch II, para 4(11)(c)(ii); 6 Sch II, para 4(11)(c)(iii); 7 Sch II, para 4(11)(c)(iv); 8 Sch II, para 4(11)(c)(v); 9 Sch II, para 4(11)(c)(vi); 10 para 4(11)(c)(vii); 11 Sch II, para 4(11)(c)(viii); 12 Sch II, para 4(11)(c)(ix); 13 Sch II, para 4(11)(c)(x); 14 Sch II, para 4(11)(d)

78255 The intention to return to live in the home must

1. be unqualified **and**
2. be present from the start of the period of absence **and**
3. not be conditional on a future event out of the claimant's control.

Note: An intention to return to live in the home formed after the start of the period of absence would not be enough.

78256 When considering DMG 78254, an additional amount for housing costs may be allowed for up to 52 weeks from the first day of absence¹. But a person may have several periods of temporary absence. Such absences are treated as temporary if the person is not absent from home for more than 52 consecutive weeks.

1 SPC Regs, Sch II, para 4(12)

78257 The absence should be treated as permanent from the day that it is known that the absence

1. will exceed 52 weeks **or**
2. is likely to
 - 2.1 exceed 52 weeks **or**
 - 2.2 substantially exceed 52 weeks in exceptional circumstances¹.

1 SPC Regs, Sch II, para 4(11)(d)

Example 1

Jon, who is in receipt of SPC, has to live in a hostel for eight weeks as a condition of bail. He intends to return to live in his own home when he leaves the hostel. His home has not been let or sub-let. Jon is temporarily absent from his home from the date he went to live in the hostel.

Example 2

Ann is in receipt of SPC and lives alone in her own home. In February, Ann decides to go and care for her sister who lives in the next town. She expects to be away from her home until August. The DM determines that Ann is not temporarily absent from home because the care has not been medically approved, housing costs stop from February.

78258 - 78269

Long tenancies

78456 Rents, and ground rents should be allowed where payments are connected to long tenancies¹.

1 SPC Regs, Sch II, para 13(1)(a)

Service charges

78457 **[See Memo DMG SPC 53]** Service charges should be allowed where they are¹

1. not eligible to be met by HB² **and**
2. payable as a condition of occupancy **and**
3. for
 - 3.1 the home **or**
 - 3.2 the building in which the home is situated **or**
 - 3.3 common areas for a group of homes³ **and**
4. for services provided by a landlord or the agents of a landlord.

1 SPC Regs, Sch II, para 13(1)(b); 2 para 5: R(IS) 4/92; 3 R(IS) 4/91

Note 1: Guidance on the amount of benefit allowed as a housing cost service charge for leasehold residents where their accommodation is modernised under the Decent Homes initiative is at Appendix 5.

Rent charges

78458 Rent charges, including chief rents, should be allowed as other eligible housing costs¹.

1 SPC Regs, Sch II, para 13(1)(c)

Co-ownership schemes

78459 Payments under co-ownership schemes should be allowed as eligible housing costs¹. Payments made under any other type of shared ownership scheme should be considered in the normal way but only in respect of the portion of the property owned.

1 SPC Regs, Sch II, para 13(1)(d)

Example

Helen rents her home through a housing association who let the property to Helen under a co-ownership scheme. If she leaves the scheme, Helen will receive a percentage of the value of the property. Helen has to make payments under the co-ownership scheme for rent, ground rent and service charges.

The payments under the co-ownership scheme are allowed as other eligible housing costs.

Crown tenants

78460 Payments under or relating to the tenancy or licence of the Crown tenants should be allowed as eligible housing costs¹.

1 SPC Regs, Sch II, para 13(1)(e)

Reduction for water charges

78461 In England and Wales, payments made by Crown tenants may include an amount for water charges. In such a case, the amount to be allowed as eligible housing costs should be reduced¹

1. where the amount payable for water charges is known, by that amount
2. in any other case, by the amount which would be the likely weekly water charge had the property not been occupied by a Crown tenant.

1 SPC Regs, Sch II, para 13(5)

Tents

78462 Where the dwelling occupied as the home is a tent, housing costs should be allowed for payments in respect of the

1. tent **and**
2. site on which the tent stands¹.

1 SPC Regs, Sch II, para 13(1)(f)

Mooring charges and pitch fees for owners

78463 Where the claimant is an owner any mooring charges for a houseboat or pitch fees for a caravan or mobile home will not be met by HB¹. Neither will they be eligible to be met as a housing cost under SPC because they do not fall under any of the other housing costs described at 78455.

1 HB Regs, reg 12(2)(c)

78464

Deductions from other eligible housing costs

78465 Deductions should be made from other eligible housing costs¹ where they include an amount for

1. fuel charges **or**
2. ineligible service charges **or**
3. repairs and improvements.

1 SPC Regs, Sch II, para 13(2)

Deductions for fuel charges

78466 Where any of the charges for other eligible housing costs in DMG 78455 include an amount for fuel charges, the following deductions should be made¹

Persons residing with the claimant

Introduction

78500 Where non-dependants live with the claimant, a deduction from the allowable housing costs may be appropriate¹. A deduction should be considered for each non-dependant or group of non-dependants, but only one deduction can be applied to each non-dependant²

1 SPC Regs, Sch II, para 14; 2 SPC Regs Sch II, para 14(2A)

Definition of a non-dependant

78501 With the exception of those people mentioned in DMG 78510, non-dependants are people aged 18 or over who normally reside with the claimant¹.

1 SPC Regs, Sch II, para 1(4) & 14

Meaning of normally resides

78502 A person normally resides where they usually live. Periods of residence or absence that are of an exceptional nature should be disregarded. A person who is temporarily absent from their normal home, continues to normally reside where they usually live and with the people they usually live with.

78503 When considering where a person normally resides the DM should have regard to

1. the total amount of time spent in a place
2. how often time is spent in a place
3. how permanent the stay is thought to be
4. the person's intentions
5. individual circumstances
6. what degree the accommodation is shared
7. the services provided
8. whether the person owns or rents any other accommodation.

Example

Mary normally lives alone in her own flat. She is entitled to an additional amount for housing costs. Her brother Steven comes to stay with her for a week at a time every three months. He does not normally live with Mary and is not a non-dependant.

Sharing the accommodation

78504 People should not be regarded as sharing the accommodation if¹

1. the only shared area is a

1.1 bathroom or

1.2 lavatory **or**

1.3 communal area **or**

2. they are separately liable to make payments to the landlord for that accommodation.

Note: A person should still be regarded as sharing the kitchen even if they do not enter or use it where items for the persons use are stored there or their meals are prepared there.

1 SPC Regs, Sch II, para 1(8); R(IS) 12/96

78505 A communal area is¹ an area of common access (not a room) including

1. halls
2. passageways
3. stairways
4. rooms of common use in sheltered accommodation.

1 SPC Regs, Sch II, para 1(9)

Example

Katja lives in a self-contained granny flat attached to her daughter's house. She has her own bathroom, kitchen, bedroom and living room. Access to the flat is from the hall of her daughter's house and the front door of the property is shared. Everything else is separate.

The hall is the only shared area and is a communal area. Katja does not share the accommodation and does not normally reside with her daughter.

78506 - 78509

People who are not non-dependants

78510 The following people who normally reside with the claimant are not non-dependants

1. any person aged under 18¹
2. a partner of the claimant or any person under the age of 20 for whom the claimant or partner is responsible²
3. a person who
 - 3.1 lives with the claimant in order to care for the claimant or partner **and**
 - 3.2 is engaged by a
 - 3.2.a charitable organization **or**
 - 3.2.b voluntary organizationwhich makes a charge to the claimant or partner for the care provided by that person³

4. the partner of a person to whom 3. applies⁴
5. any person who is not a close relative of the claimant or partner
 - 5.1 who is liable to make payments on a commercial basis to the claimant, or partner, for their occupation of the claimant's dwelling⁵ (see DMG 78079) **or**
 - 5.2 who is a member of the household of a person to whom 5.1 applies⁶
6. a person who jointly occupies the claimant's dwelling and who is⁷ either
 - 6.1 a co-owner of that dwelling with the claimant or partner **or**
 - 6.2 jointly liable with the claimant or partner to make payments to a landlord for their occupation of that dwelling
7. a partner of a person to whom 6. applies⁸.

Note 1: When considering 6.1, it does not matter if there are other co-owners.

Note 2: where a partner is a PSIC they cannot be a partner of the claimant as in 2. however the person will be a non-dependant and as a result attract the appropriate non-dependant deduction from any housing costs.

1 SPC Regs, Sch II, para 14(1) & (2); 2 Sch II, para 1(5)(a); 3 Sch II, para 1(5)(b); 4 Sch II, para 1(5)(c); 5 Sch II, para 1(6)(a); 6 Sch II, para 1(6)(c); 7 Sch II, para 1(7)(a); 8 Sch II, para 1(7)(b)

78511 - 78514

Amount of deduction

78515 The amount of deductions for non-dependants aged 18 or over depends on the

1. circumstances of the non-dependant **and** 2. amount of the non-dependant's gross weekly income¹.

See Appendix 1 to this Chapter for the rates of non-dependant deductions.

1 SPC Regs, Sch II, para 14(1) & (2)

Non-dependants who have partners

78516 A non-dependant may be a member of a couple or polygamous marriage. In such a case

1. only one deduction should be made **and**
2. where different amounts would apply to each partner or additional spouse, the higher of those deductions should be applied¹.

1 SPC Regs, Sch II, para 14(3)

78517 If any one of a couple or polygamous marriage is aged 18 or over, a deduction should be made unless a deduction is not appropriate (see DMG 78521).

Calculation of income

78518 When calculating the amount of a non-dependant's gross weekly income for claimants who have partners

1. only one deduction should be made
2. the deduction should be based on the joint income of the claimant and any partners¹.

1 SPC Regs, Sch II, para 14(4)

Non-dependant of more than one joint occupier

78519 A person may be a non-dependant in respect of more than one joint occupier of a dwelling. Unless the joint occupiers are partners, the deduction for that person should be apportioned between the joint occupiers, taking account of the

1. number of joint occupiers **and**
2. proportion of housing costs for which they are each responsible¹.

1 SPC Regs, Sch II, para 14(5)

78520 When apportioning the deduction as in DMG 78519, DMs should note that

1. the amount to be apportioned should be rounded to the nearest penny¹ **and**
2. all members of a couple, or polygamous marriage, who are occupying the same dwelling should be regarded as one joint occupier.

1 SPC Regs, Sch II, para 14(5)

Non-dependant deduction not appropriate

78521 Deductions should not be made if

1. the claimant or any partner
 - 1.1 is certified as blind or severely sight impaired by a consultant ophthalmologist or treated as blind or severely sight impaired¹ (see DMG 78008) **or**
 - 1.2 is receiving in respect of themselves²
 - 1.2.a "AA" **or**
 - 1.2.b the care component of DLA **or**
 - 1.2.c the daily living component of PIP **or**
 - 1.2.d AFIP **or**
 - 1.3 has a deduction in the calculation of a rent rebate or allowance in respect of the non-dependant³ **or**
2. non-dependants are
 - 2.1 living with the claimant but the dwelling normally occupied as the home is elsewhere⁴ **or**

- 2.2** in receipt of a training allowance in connection with a youth training scheme⁵ **or**
- 2.3** F/T students⁶
 - 2.3.a** in a period of study **or**
 - 2.3.b** not in remunerative work during the recognized summer vacation appropriate to their course **or**
- 2.4** aged under 25 and in receipt of IS or JSA(IB)⁷ **or**
- 2.5** aged under 25, in receipt of ESA and is not a member of the work-related activity group or are in receipt of the support component⁸ **or**
- 2.6** not living with the claimant because⁹ they
 - 2.6.a** have been patients for more than 52 weeks (see DMG 78700 et seq) **or**
 - 2.6.b** are prisoners (see DMG 78651) **or**
- 2.7** F/T student **and**
 - 2.7.a** claimant or partner has reached the age of 65¹⁰ **or**
- 2.8** in receipt of SPC¹¹ **or**
- 2.9** entitled to UC **and**
 - 2.9.a** is aged less than 25 **and**
 - 2.9.b** does not have any earned income

Note 1: When calculating the 52 weeks period in **2.5.a**, any periods separated by intervals of not more than 28 days, should be treated as a single period.

Note 2: Where a person under **1.2** has been an inpatient for a sufficient period of time they will no longer be receiving AA or DLA and as such the non-dependant will no longer be exempt from attracting a non-dependant deduction.

*1 SPC Regs, Sch II, para 14(6)(a); 2 Sch II, para 14(6)(b); 3 Sch II para 14(7)(dd);
4 Sch II, para 14(7)(a); 5 Sch II, para 14(7)(b); E & T Act 73, s 2;
Enterprise and New Towns (Scotland) Act 1990, s 2; 6 SPC Regs, Sch II, para 14(7)(c);
7 Sch II, para 14(7)(d); 8 Sch II, para 14(7)(g); 9 Sch II, para 14(7)(e);
10 Sch II, para 14(7)(cc); 11 Sch II, para 14(7)(f);*

Deduction appropriate – UC non-dependants

78522 Where a non-dependant is entitled to UC and is

- 1.** aged 25 or over **or**
- 2.** aged less than 25 and has earned income

a deduction at the rate described in Appendix 1 will be appropriate.

78523

Calculation of a non-dependant's gross weekly income

78524 When calculating the gross weekly income of a non-dependant (see DMG 78515 and Appendix 1 to this Chapter), disregard¹ any

1. "AA"
2. DLA
3. payments made under, or derived from
 - 3.1 the Macfarlane Trust
 - 3.2 the Macfarlane (Special Payments) Trust
 - 3.3 the Macfarlane (Special Payments) (No. 2) Trust
 - 3.4 the Fund
 - 3.5 the Eileen Trust
 - 3.6 the Independent Living Fund (2006) (but see note)
 - 3.7 the Skipton fund
 - 3.8 the Caxton Foundation
 - 3.9 MFET Limited
 - 3.10 any income from capital received from the London Emergencies Trust (LET) and the We Love Manchester Emergency Fund (WLMEF)
 - 3.11 any income from capital received from Infected Blood Schemes (IBS)
4. payment in kind.
5. PIP
6. AFIP

Note: The Independent Living Fund (2006) closed on 30.6.15 with some funding responsibilities transferring to LA's in England, the Welsh Independent Living Grant in Wales and the Independent Living Fund Scotland for Northern Ireland and Scotland. Please contact DMA Leeds for advice if a claimant receives funding from any of these replacement schemes.

1 SPC Regs, Sch II, para 14(8)

78525 - 78529

Insufficient information to determine housing costs

78530 Where, a DM is

1. deciding a claim to SPC **or**
2. determining an issue on SPC housing costs

the AMG should include any housing costs that can be determined immediately on the evidence available¹. Where there is insufficient evidence, SPC can be awarded without any additional amount for housing costs.

1 SS CS (D&A) Regs, reg 13(1)

78531 If there are several housing costs on the claim, the AMG should include only an amount for those that can be determined. The AMG should not include any amount for those housing costs where there is sufficient information to make a decision.

78532 The award may be revised or superseded if further evidence is received after the claim or question has been determined¹. See DMG Chapters 03 and 04 for guidance on revision and supersession.

1 SS CS (D&A) Regs, regs 3 & 6

78533 - 78599

Higher rate

78614 Claimants who are members of a polygamous marriage are entitled to the higher rate of additional amount for the severely disabled if¹

1. both partners and each additional spouse (whether of the claimant's or of a spouse of the claimant's) are in receipt of
 - 1.1 "AA" **or**
 - 1.2 the care component of DLA at the highest or middle rate **or**
 - 1.3 the daily living component of PIP at the standard or enhanced rate **or**
 - 1.4 AFIP **and**
2. there are no other persons aged 18 or over
 - 2.1 normally residing with the partners and any additional spouse **or**
 - 2.2 who the partners and any additional spouse normally reside with (see DMG 78065 et seq) **and**
3. no one is entitled to and in receipt of CA or UC that includes the CE, in respect of caring for any member of the polygamous marriage.

1 SPC Regs, reg 6(5)(b); Sch I, para 1(1)(b); Sch III, para 1(9)

78615 DMs should note that DMG 78614 1. is **not** satisfied if either partner or any additional spouse is treated as being in receipt of "AA" or DLA or PIP or AFIP as in DMG 78059 2.¹. In such a case the lower rate of additional amount should be considered.

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

78616 - 78619

Additional amount for carers

78620 The additional amount for carers is paid at one rate. In polygamous marriage cases, that amount is applicable for each partner or additional spouse who satisfies the qualifying conditions in DMG 78105¹. See Appendix 2 to DMG Chapter 77 for details of the rate.

1 SPC Regs, reg 6(8); Sch III, para 1(8)

Additional amount for former claimants of IS/JSA(IB)

78621 A transitional amount may need to be considered if a claimant who is a member of a polygamous marriage transfers from IS or JSA(IB) to SPC. In such a case the DM should

1. follow the guidance in DMG 78120 et seq **and**
2. note that when calculating the relevant amount (see DMG 78128), an additional spouse is the equivalent of a partner¹ **not** a dependant.

1 SPC Regs, Sch III, para 1(8)

Additional amount for housing costs

78622 When considering the amount of the AMG, an additional amount for housing costs may be applicable. In polygamous marriage cases, DMs should note that any references to a partner in the guidance at DMG 78170 et seq, also includes a reference to any additional spouse¹.

1 SPC Regs, Sch III, para 1(8)

Savings credit

78623 In polygamous marriage cases, an SPC claimant can get a SC if¹

1. at least one member of the polygamous marriage
 - 1.1 has obtained pensionable age before 6.4.16 **and**
 - 1.2 has reached the age of 65 before, on or after that date; **and**
 - 1.3 at least one of those members had not².
2. the claimant had
 - 2.1 been entitled to SC immediately before 6.4.16 **and**
 - 2.2 remained entitled to a SC at all times since that date³.
3. the claimant had
 - 3.1 qualifying income that is more than the savings credit threshold (SCT) **and**
 - 3.2 an income which, after the calculation at DMG 77170 et seq, allows amount A to be greater than amount B⁴.

1 SPC Act 02, s 3(1) & 12(3); SPC Regs, Sch III, para 1(2);

2 Pensions Act 07, s 13(3), SPC Regs Sch III para 1(7A)(1);

3 SPC Regs Sch III, para 1(7A)(2); 4 SPC Act 02, s 3(2)

78624 DMs should note that in polygamous marriage cases the SCT and the maximum savings credit (MSC) are set at the same rates as for a couple¹. See Appendix 2 to Chapter 77 for details of the rates.

1 SPC Act 02, s 3; SPC Regs, reg 7; Sch III, para 1(6) & (7)

78625 - 78649

Community care arrangements

Arrangements by Health Authorities and Health Boards

78755 As part of a community care programme, a Health Authority or Health Board may make a variety of arrangements with care homes or hostels for

1. the continuing care of a patient in one of these homes **or**
2. a person in the community to be admitted directly to one of these homes.

The DM should consider DMG 78720 et seq to decide whether the person is receiving free in-patient treatment in the home or hostel (see DMG 78764 if the LA is involved in the arrangements).

78756 Examples of arrangements made by Health Authorities and Health Boards under community care programmes are

1. setting up their own homes or hostels
2. setting up trusts to provide homes
3. contracting with private and voluntary sector homes for the provision of accommodation and services
4. contracting with a voluntary agency to find suitable placements for patients.

Points to consider

78757 When deciding whether the new accommodation is a hospital or similar institution the DM should

1. consider the definition in DMG 78731 et seq **and**
2. **not** compare the new accommodation with the person's previous hospital accommodation.

78758 If the arrangements between the Health Authority or Health Board and the home or hostel are under any of the provisions of the prescribed legislation¹, DMG 78720 is satisfied.

1 NHS Act 77; NHS (Scotland) Act 78; NHS & CC Act 90

78759 If a Health Authority or Health Board helps a voluntary sector home by awarding a grant or loan under other legislation¹, DMG 78720 is **not** satisfied. But if the Health Authority or Health Board have a contractual agreement to pay a grant for future financial years, this may be evidence that the agreement has been made under prescribed legislation (see DMG 78746). If that is the case, the person may be receiving free in-patient treatment.

1 HS & PH Act 68, s 64; NHS (Scotland) Act 78, s 16B

78760 A Health Authority or Health Board may agree to provide help to a home on the assumption that the person will not be treated as receiving free in-patient treatment for SPC purposes. For example they may agree to pay the difference between the

1. normal amount of SPC payable **and**
2. amount charged for the home.

Note: If the agreement is made under prescribed legislation (see DMG 78746), the Health Authority or Health Board is responsible for the full cost of the accommodation and services no matter what the agreement states.

78761 A Health Authority or Health Board can provide financial assistance or services, for example they may provide trained nursing staff. If the home reimburses

1. the **full** cost of the services to the Health Authority or Health Board, the person is not receiving free in-patient treatment **or**
2. part of the cost of the services, the arrangement may be under prescribed legislation (see DMG 78746).

78762 The arrangement by the Health Authority or Health Board must include continuing help. If a placement is found without any continuing commitment from the Health Authority or Health Board to fund the care, DMG 78720 is not satisfied. For example a hospital social worker may help a patient who is about to be discharged to find a suitable care home.

Existing cases - revision or supersession

78763 Enquiries should be made to decide whether all the conditions in DMG 78720 are satisfied if

1. a person is living in a care home **and**
2. the Health Authority or Health Board reports that the person is receiving free in-patient treatment.

If all the conditions in DMG 78720 are satisfied, the person is receiving free in-patient treatment and the claim should be revised or superseded. (see DMG 78770)

Local authority placements

78764 LAs have responsibilities for placing some people in residential care¹. The LAs

1. contract with the home owners **and**
2. are responsible for the full cost of the placement **and**
3. may be helped with funding from a Health Authority or Health Board².

Savings credit for people in hospital

General

- 78840 When considering the effect of hospital admission on a claimant's SC, DMs should note that
1. unless 2. applies, SC remains payable whilst a person is in hospital, irrespective of the length of time spent in hospital¹ **and**
 2. a re-assessment following the end of an AIP may remove SC if the claimant's circumstances have changed (see DMG Chapter 83 for guidance on AIPs) **and**
 3. the amount of SC payable is not normally affected by hospital admission unless
 - 3.1 additional amounts are applicable for
 - 3.1.a the severely disabled (see DMG 78030 et seq) **or**
 - 3.1.b carers (see DMG 78100 et seq) **or**
 - 3.2 the patient stops being a member of the same household as any partner (see DMG 77100 et seq).

1 SPC Act 02, s 3(5)

In hospital four weeks or more

- 78841 When a person has been in hospital for four weeks, the DM should consider the effect of the hospital admission on any additional amounts that may be applicable.

Additional amount for the severely disabled

- 78842 When a person in receipt of AA or DLA has been in hospital for four weeks, payments of AA and DLA are withdrawn. As a result¹, a claimant who
1. has no partner will no longer qualify for the additional amount for the severely disabled and this will also be withdrawn
 2. has a partner, may
 - 2.1 be entitled to a reduced rate of additional amount for the severely disabled (see DMG 78045 - 78047) **or**
 - 2.2 no longer qualify for the additional amount for the severely disabled, in which case it will be withdrawn

3. is a member of a polygamous marriage, may
- 3.1 be entitled to a reduced rate of additional amount for the severely disabled (see DMG 78611 - 78613) **or**
- 3.2 no longer qualify for the additional amount for the severely disabled, in which case it will be withdrawn.

1 SPC Regs, Sch 1, para 1(1)

78843 The additional amount for the severely disabled should be withdrawn, or reduced, from the date that AA or DLA stops. The DM should then recalculate the claimant's SC entitlement and normal change of circumstances rules should be applied (see DMG Chapter 4). See Appendix 4 to this Chapter for some examples involving people in hospital.

Example

Ulrika is aged 66 and lives alone. She is entitled to RP of £77.45 a week and an occupational pension of £40. Ulrika qualifies for an additional amount of £42.95 because she is severely disabled and the SMG for her is £102.10. Under the normal calculation of SPC, Ulrika is entitled to:

AMG [£102.10 + £42.95]		£145.05
DLA [disregarded]		
RP £77.45		
Occupational pension	<u>£40</u>	<u>£117.45</u>
GC		£27.60
SC [£40x60% restricted to MSC]	<u>£14.79</u>	
Total SPC payable		£42.39

After four weeks in hospital, payment of DLA is withdrawn and the additional amount for the severely disabled is also withdrawn. Ulrika is then entitled to SC only, calculated as follows:

AMG [£102.10]		£102.10
RP £77.45		
Occupational pension	<u>£40</u>	<u>£117.45</u>
GC		Nil
SC [£14.79] – £6.14 [£15.35 x 40%]		<u>£8.65</u>
Total SPC payable		<u>£8.65</u>

78844 - 78854

Additional amount for carers

- 78855 Entitlement to CA may cease when the carer, or the disabled person they look after, is in hospital. As a result, the carer will no longer qualify for the additional amount of GC for carers and this too will be withdrawn.
- 78856 The additional amount for carers should be withdrawn after a period calculated as in DMG 78107 et seq. The DM should then recalculate the claimant's SC entitlement. See Appendix 4 to this Chapter for some examples involving people in hospital.

Example

Bob is aged 67 and lives alone. He is entitled to RP of £77.45 a week and an occupational pension of £40. Bob has entitlement to CA, which overlaps with his RP. He satisfies the conditions for the award of an additional amount for carers of £25.10 and the SMG for him is £102.10.

Under the normal calculation of SPC, Bob is entitled to:

AMG [£102.10 + £25.10]		£127.20
RP £77.45		
Occupational pension	<u>£40</u>	<u>£117.45</u>
GC		£9.75
SC [£40x60% restricted to MSC]	<u>£14.79</u>	
Total SPC payable		£24.54

Disabled person in hospital

- 78857 The disabled person that Bob looks after is in hospital and their entitlement to AA is lost after four weeks. Bob is treated as satisfying the conditions for the additional amount for carers for a further eight weeks. After twelve weeks in hospital, the additional amount for carers is withdrawn. Bob is then entitled to SC only, calculated as follows:

AMG [£102.10]		£102.10
RP	£77.45	
Occupational pension	<u>£40</u>	<u>£117.45</u>
GC		Nil
SC [£14.79] – £6.14 [£15.35 x 40%]		<u>£8.65</u>
Total SPC payable		£8.65

Carer in hospital

- 78858 Bob is in hospital and whilst there he is not able to provide care for the disabled person. But Bob's entitlement to CA can continue for a further twelve weeks whilst unable to provide care. After twelve weeks in hospital entitlement to CA ends. Bob

is treated as satisfying the conditions for the additional amount for carers for a further eight weeks. After 20 weeks in hospital the additional amount for carers is withdrawn and Bob is then entitled to SC only.

78859 - 78861

In hospital 52 weeks or more

Claimant who has no partner

78862 When a single claimant has been a patient for 52 weeks or more, DMs should note that the amount of SC payable will

1. not change **and**
2. remain in payment irrespective of the length of time spent in hospital.

Couples and members of a polygamous marriage

78863 Couples normally stop being members of the same household when one of them has been a patient for 52 weeks or more (see DMG 77117 et seq). Members of polygamous marriages also stop being members of the same household when they have been patients for 52 weeks or more. In such a case the DM should

1. revise or supersede the claimant's award on the basis of the new circumstances **and**
2. invite a separate claim from each member of the couple or polygamous marriage **and**
3. attribute any resources that were brought into account in their claim as a couple or polygamous marriage, between them.

78864 - 78919

Asylum Seekers

78955 Under IS and JSA(IB) rules, some asylum seekers who applied for asylum before 3.4.00 were entitled to IS or JSA(IB) at urgent case payment rates. On 3.4.00 the law was changed and all new asylum seekers were excluded from SS benefits¹. Instead they received support under a new support system provided by the Home Office

1 I & A Act 99, s 115(1); SS (I&A) Cpl Amdts Regs, reg 2 (4)(c) & (7)

78956 - 78999

Appendix 1

Housing costs - amount of non-dependant deductions

This appendix provides details of the rates of the non-dependant deductions¹ (see DMG 78500 et seq

1 SPC Regs, Sch II, para 14(1) & (2)

Rates from 8.4.13

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £87.75
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £126.00 £13.60
 - 2.2 £126.00 to £185.99 £31.25
 - 2.3 £186.00 to £241.99 £42.90
 - 2.4 £242.00 to £321.99 £70.20
 - 2.5 £322.00 to £400.99 £79.95
 - 2.6 £401.00 or more £87.75
3. any other non-dependant aged 18 or over for whom deductions are relevant - £13.60.

Rates from 7.4.14

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £91.15
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £128.00 £14.15
 - 2.2 £128.00 to £187.99 £32.45
 - 2.3 £188.00 to £244.99 £44.55
 - 2.4 £245.00 to £325.99 £72.95
 - 2.5 £326.00 to £405.99 £83.05
 - 2.6 £406.00 or more £91.15
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.15.

Rates from 6.4.15

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £93.80
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £129.00 £14.55
 - 2.2 £129.00 to £188.99 £33.40
 - 2.3 £189.00 to £245.99 £45.85
 - 2.4 £246.00 to £327.99 £75.05
 - 2.5 £328.00 to £407.99 £85.45
 - 2.6 £408.00 or more £93.80
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.55.

Rates from 11.4.16

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £94.50
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of
 - 2.1 Less than £133.00 £14.65
 - 2.2 £133.00 to £194.99 £33.65
 - 2.3 £195.00 to £252.99 £46.20
 - 2.4 £253.00 to £337.99 £75.60
 - 2.5 £338.00 to £419.99 £86.10
 - 2.6 £420.00 or more £94.50
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.65.

Rates from 10.4.17

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £95.45
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

- | | | |
|-----|--------------------|--------|
| 2.1 | Less than £136.00 | £14.80 |
| 2.2 | £136.00 to £199.99 | £34.00 |
| 2.3 | £200.00 to £258.99 | £46.65 |
| 2.4 | £259.00 to £345.99 | £76.35 |
| 2.5 | £346.00 to £429.99 | £86.95 |
| 2.6 | £430.00 or more | £95.45 |
3. any other non-dependant aged 18 or over for whom deductions are relevant - £14.80.

Rates from 6.4.18

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £98.30
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	Less than £139.00	£15.25
2.2	£139.00 to £203.99	£35.00
2.3	£204.00 to £264.99	£48.05
2.4	£265.00 to £353.99	£78.65
2.5	£354.00 to £438.99	£89.55
2.6	£439.00 or more	£98.30
3. any other non-dependant aged 18 or over for whom deductions are relevant - £15.25.

Rates from 8.4.19

Deductions apply where

1. non-dependants aged 18 or over are in remunerative work - £100.65
2. the DM is satisfied that the non-dependant in remunerative work has a gross weekly income of

2.1	Less than £143.00	£15.60
2.2	£143.00 to £208.99	£35.85
2.3	£209.00 to £271.99	£49.20
2.4	£272.00 to £362.99	£80.55
2.5	£363.00 to £450.99	£91.70
2.6	£451.00 or more	£100.65
3. any other non-dependant aged 18 or over for whom deductions are relevant - £15.60.

Appendix 2

Housing costs - meaning of remunerative work

Introduction

1 Remunerative work is¹ work for which payment is made, or which is done in expectation of payment and in which the person is engaged for not less than

1. 16 hours a week **or**
2. 16 hours a week on average where the hours of work fluctuate.

1 SPC Regs, Sch II, para 2(1)

Does the person have employment

2 DMs should decide that a person is not in remunerative work if they do not have any employment and are between jobs. DMs will need to decide whether employment has ended if someone has been engaged in remunerative work.

3 DMs should decide that a person is still in employment and not between jobs if

1. the contract of employment (which can be written or verbal) is still current **or**
2. the contract of employment ends at the beginning of what would be a period of absence even if the contract continued (e.g. a school holiday) and it is expected that the person will return to employment after that period because

2.1 there is an express agreement (written or verbal) **or**

2.2 it is reasonable to assume that a long standing practice of re-employment will continue.

Off-shore oil workers

4 Off-shore oil workers may be employed on an ad-hoc basis. They may be contracted by companies to perform work for a specific period with no obligations on either party to provide work or to accept offers of work.

5 It is a question of fact for the DM whether the work is continuing or not. The DM will need to consider, amongst other things, whether there is a continuing relationship between the person and the employer. Frequent resumption of work with the same employer may be an indication that work is continuing (see paragraph 3 **2.2**).

Example

Dennis works for an oil company as a welder on oil rigs. He does not have a recognizable pattern of work as the company request his services on an irregular basis and he is not guaranteed a specific amount of work in any period. The DMG

has to decide whether Dennis is in remunerative work at a time when he is not working. On looking at the facts of Dennis' past work for the company, the DM is satisfied that there has been a continuing provision of employment that has been accepted by Dennis, and that it averages 16 hours or more a week. The DM decides that there is a continuing relationship and that Dennis continues to be in remunerative work during periods when he is on-shore and not physically working nor being paid.

Treated as in or not in remunerative work

- 6 A person engaged in remunerative work may be **treated** as **not** being in remunerative work (see paragraph 140 et seq)¹. Also, there are circumstances in which a person who is **not actually** in remunerative work may be **treated** as engaged in remunerative work² (see paragraphs 126 et seq).

1 SPC Regs, Sch II, para 2(6), (7) & (8); 2 para 2(5)

7

Appendix 3

Examples of calculations for special groups

This Appendix contains examples of how the amount of SPC payable is worked out where people are

- members of polygamous marriages (see DMG 78600)
- prisoners (see DMG 78650)
- members of religious orders (see DMG 78680).

DMs should note that these examples are

- for illustrative purposes only **and**
- based on the rates and percentages applicable as from 6.04.04.

See Appendix 4 to DMG Chapter 77 for examples of how the amount of SPC payable is worked out in normal circumstances.

Polygamous marriages

Example 1 No additional amounts

Example 2 Additional amount for the severely disabled

Example 3 Additional amount for carers

Prisoners

Example 4 Single remand prisoner

Example 5 Partner becomes a prisoner

Members of religious orders

Example 6 Claimant not fully maintained by the religious order

Example 1 - No additional amounts

Sanjay, who is aged 65, is a member of a polygamous marriage and is married to Gita and Bina. Sanjay is entitled to RP of £127.25 a week and has no other income. Sanjay does not qualify for any additional amounts.

Calculation of GC:

SMG for Sanjay and his eldest wife Gita	£160.95
SMG for additional spouse Bina	£55.50
Additional amounts	nil
AMG	£216.45
Less income	£127.25
Amount of GC	£89.20

Calculation of SC:

SCT	£127.25
QI	£127.25
Amount of SC	Nil
Total SPC payable	£89.20

Calculation of total weekly income:

RP	£127.25
SPC	£89.20
Total weekly income is	£216.45

Appendix 4

Hospital cases - rates of reduction and examples of calculations

This Appendix contains

1. details of the rates of reduction that apply where a claimant's GC falls to be reduced because of hospital admission (see DMG 78805 et seq) **and**
2. some examples of how the amount of SPC payable is worked out in cases involving people in hospital (see DMG 78700 et seq).

Note: The examples in this Appendix are for illustrative purposes only and are based on the rates applicable as from 6.10.03.

Examples of calculations for hospital cases

Example 1 Single - additional amount for the severely disabled

Example 2 Single - additional amount for carers

Example 3 Couple - additional amount for the severely disabled

Example 4 Couple - additional amount for carers

Example 1: Single - additional amount for the severely disabled

Ulrika is aged 66 and lives alone. She is entitled to RP of £77.45 a week and an occupational pension of £40. Ulrika qualifies for an additional amount of £42.95 because she is severely disabled and the SMG for her is £102.10.

Under the **normal calculation** of SPC, Ulrika is entitled to

AMG [$£102.10 + £42.95$]		£145.05
DLA [disregarded]		
RP	£77.45	
Occupational pension	<u>£40</u>	<u>£117.45</u>
GC		£27.60
SC [$£40 \times 60\%$ restricted to MSC]		<u>£14.79</u>
Total SPC payable		£42.39

After **four weeks** in hospital, payment of DLA is withdrawn and the additional amount for the severely disabled is also withdrawn (see DMG 78806). Ulrika is then entitled to SC only, calculated as follows;

AMG [$£102.10$]		£102.10
RP	£77.45	
Occupational pension	<u>£40</u>	<u>£117.45</u>
GC		nil
SC [$£14.79$ MSC] – $£6.14$ [$£15.35 \times 40\%$]		<u>£8.65</u>
Total SPC payable		£8.65

Appendix 5

Housing costs - leasehold major works

Introduction

- 1 The following guidance explains about the amount of benefit allowed as a housing cost for leasehold residents where their accommodation is modernised under the Decent Homes initiative.

Background

- 2 The Decent Homes initiative was extended by the Public Service Agreement in response to a challenge from the government to increase the number of households in the private sector living in decent homes. This includes homes of former LA tenants who have purchased their property under the right to buy scheme.
- 3 In order to be decent a home should meet the current statutory minimum standard for housing, be in a reasonable state of repair and have reasonably modern facilities and services.
- 4 The building components that should be in a reasonable state of repair include external walls, roof structure and coverings, windows and doors, heating systems, plumbing and electrics. Modern facilities are indicated by kitchens less than 20 years old and bathrooms less than 30 years old and, for blocks of flats, there should be adequate size and layout of common areas.
- 5 Landlords are achieving the Decent Homes standard by a programme of regeneration and refurbishment with building works carried out on their leasehold housing stock.

Costs

- 6 The cost of the structural work and refurbishments will be charged to leaseholders through service charges. A service charge is, as decided in R(IS) 4/91, a charge which the claimant is obliged to pay in terms of their occupancy agreement for services rendered in terms of that agreement.
- 7 Some residents may choose to meet their service charge costs by obtaining a home improvement loan. From 6.4.18, these loans can no longer be considered as housing costs (see ADM Memo 8/18).

Service charge

- 8 To determine what part of the service charge is eligible to be met as a housing cost the claimant will provide the annual service charge account which should include an

itemised breakdown of the total expenditure including the reason that each item or structure has been replaced or refurbished. For example

Items	Major building works	Costs	Unit cost/ dwelling	Reason for work
Electrical installations	Replace mains distribution board, rising and lateral mains cables	£13,040	£1,630	Updating old systems and wiring
Rainwater goods	Replace guttering and down pipes	£2,400	£300	Leaking, broken and in disrepair

Note: To be representative of different sized dwellings the unit cost may be presented on the annual account as a fraction or a percentage of the total cost.

- 9 Having identified the amount charged for a year the DM should convert the total costs for the claimant's portion of the refurbishment works into a weekly amount (dividing by 52) and then from that weekly total deduct any ineligible costs. The resulting sum represents the weekly amount of eligible service charge.

Ineligible costs

- 10 Ineligible costs¹ which should be deducted from the weekly amount arise in three circumstances. These are

1. where the costs are inclusive of any items mentioned in paragraph 6(2) of Schedule 1 to the Housing Benefit Regulations 2006 (payments in respect of fuel charges)
2. where the costs are inclusive of ineligible service charges within the meaning of paragraph 1 of Schedule 1 to the Housing Benefit Regulations 2006 (ineligible service charges) the amount attributable to those ineligible service charges
3. any amount for repairs and improvements.

1 JSA Regs, Sch 2, para 16(2); IS (Gen) Regs, Sch 3, para 17(2); ESA Regs, Sch 6, para 18(2); SPC Regs, Sch 2, para 13(2)

- 11 The ineligible charges¹ mentioned in paragraph 10 1. above concern payments in respect of fuel charges and are unlikely to arise under the Decent Homes improvements.

1 HB Regs 06, Sch 1, para 6(2)

- 12 There are several ineligible service charges¹, mentioned in paragraph 10 2. above, which includes any charges that are not connected with the provision of adequate accommodation, however these are unlikely to arise under the Decent Homes improvements.

1 HB Regs 06, Sch 1, para 1

Appendix 6

Transitional end day

1. From 6.4.18 the regulations which provide for entitlement to payments in respect of loans and loans for repairs and improvements¹ within the IS, JSA(IB), ESA(IR) and SPC regulations are omitted². As a result these SMI payments will no longer be met through those benefits. Payment towards other housing costs, for example, service charges, will continue. Certain transitional arrangements are in place for existing claimants whose housing costs can continue to be met (beyond 6.4.18) but only until the transitional end day¹.

*1 IS Gen Regs, reg 17(e) & 18(1)(f); JSA Regs, reg 83(f) & 84(1)(g) & 86A;
ESA Regs, reg 67(1)(c) & 68(1)(d); SPC Regs, Sch II, Para 1(1)(b) & 1(2)(c) & 8, 9, 11, 12;
2 LMI Regs, reg 18; 3., reg 19*

Loan offer made before 6.4.18

2. Where the loan offer is made before 6.4.18 the transitional end day will be the earlier of
 1. the day described at paragraph 3 below **or**
 2. the day immediately following the day on which entitlement to a qualifying benefit ends¹.

Note: the following paragraphs contain detailed options. DMs should be vigilant when establishing the transitional end day.

1 LMI Regs, reg 19(1)

3. For the purposes of paragraph 2.1 the day referred to is the later of
 1. for claimants of IS, JSA(IB), ESA(IR) or SPC, where 6.4.18 is not the first day of the claimants benefit week, the first day of the first benefit week that begins after 6.4.18 **or**
 2. the day immediately following the day which is the earliest¹ to occur of the following
 - 2.1 the day the DM receives notification that the claimant does not wish to accept the offer of loan payments **or**
 - 2.2 where the DM
 - 2.2.a receives the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day described in paragraph 9 below **or**

2.2.b has not received the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, the day on which that 6 week period ends².

Note: The loan payments offer date is the day on which the loan agreement is sent to the claimant³.

1 LMI Regs, reg 19(2); 2 reg 19(3); 3 reg 2(1)

Example:

William is in receipt of IS that includes owner-occupier payments, his benefit week ends each Wednesday. The transitional end day is Thursday 12 April (the day after the first benefit week that ends after 6.4.18). From this date William is no longer entitled to mortgage payments but he will get loan payments from this date (because he had returned all the appropriate signed documents).

- 4 For the purposes of paragraph 3.2.2.a the day referred to is the last day of a 4 week period where that period begins on the day the fully completed loan agreement and associated documents are received¹.

1 LMI Regs, reg 19(3)(b)

Loan offer made on or after 6.4.18

- 5 Where the loan offer does not occur before 6.4.18 the transitional end day will be the earlier of

1. the day described at paragraph 6 below **or**
2. the day immediately following the day on which entitlement to a qualifying benefit ends¹
3. the day immediately following the day the DM receives notification that the claimant does not wish to receive loan payments¹.

1 LMI Regs, reg 19A(1)

- 6 For the purposes of paragraph 5.1 the day referred to is

1. 7.5.18¹ **or**
2. where the loan payments offer date is before 7.5.18 **and**
 - 2.1 the DM receives the fully completed loan agreement and appropriate documents within the period of 6 weeks beginning with the loan payments offer date, then the day referred to is the last day of a 4 week period where that period begins on the day the fully completed loan agreement and associated documents are received **or**