

Benefits

Tax Credits

Universal Credit

Benefit Notes

April 2021 – April 2022

Mike Bolton - Benefits Training

About these Notes:

There is no point in plebeian people having rights unless we know what they are and we can put them into effect.

These notes are a partial and personal understanding of much of the benefits system in England.

I would love it if they were perfect, but if you spot any errors or omissions I would be very grateful if you would let me know.

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Abbreviations

As far as possible I try to avoid using abbreviations, but some benefits language is so long-winded that it's impossible to avoid them. The ones used in these notes are:

AA	Attendance Allowance
cESA	Contributory Employment and Support Allowance
cJSA	Contribution-based Jobseeker's Allowance
DLA	Disability Living Allowance
DWP	Department for Work and Pensions
ESA	Employment and Support Allowance
HMRC	Her Majesty's Revenue and Customs
iESA	Income-related Employment and Support Allowance
iJSA	Income-based Jobseeker's Allowance
JSA	Jobseeker's Allowance
nsESA	<i>New-style ESA</i> - Another name for cESA if the claim was made after Universal Credit was introduced
nsJSA	<i>New-style JSA</i> - Another name for cJSA
PIP	Personal Independence Payment
QYP	Qualifying Young Person. <small>KI-2.</small>
SAP	Statutory Adoption Pay
SMP	Statutory Maternity Pay
SPBP	Statutory Parental Bereavement Pay
SPP	Statutory Paternity Pay
SSPP	Statutory Shared Parental Pay
SSP	Statutory Sick Pay

Key Ideas

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Key Ideas 1 – The Three Types of Benefit

Non-Means-Tested Benefits

These are paid at flat rates laid down in the law. Your income does not usually affect your entitlement to these benefits. Non-means-tested benefits are paid to individuals so it will not matter whether you are single or have a partner.

Some non-means-tested benefits are contributory, depending on your National Insurance record. Others are non-contributory where your National Insurance is irrelevant.

Some of the non-means-tested benefits are paid instead of a wage. They are sometimes referred to as *overlapping benefits*. If you meet the rules for more than one of these, only the best one will be paid.

Means-Tested Benefits

Means-Tested Benefits are individually worked out for each claim, taking into account your family circumstances, your health and disabilities, and your income and savings.

If you have a partner, your claim will cover both of you and will include a joint assessment of your joint circumstances.

The most common type of means test, referred to in these notes as a ‘top-up’ means test, compares your hypothetical income with a hypothetical figure for the amount of money that you need to live on. If your income is lower than your needs you receive a top-up benefits payment.

This type of means test is used to work out Universal Credit, Guarantee Credit from Pension Credit, Income Related Employment and Support Allowance, Income Support and Income Based Jobseeker’s Allowance.

A variation of this is used to work out Tax Credits, Saving Credit from Pension Credit and Housing Benefit.

One-Off Benefits

One-Off Benefits are paid or allowed only when you meet the rules for them. They include things like free prescriptions and Budgeting Advances.

Key Ideas 2 – Who's Who?

Households

A household is a domestic establishment containing the essentials of home life.

To be members of the same household you must normally live together regularly in the same place, apart from temporary absences for work, to visit relatives and friends etc.

There may be more than one household in a single property, for example, a couple who split up may have separate households within a single property.

In benefit law you cannot be a member of more than one household at the same time. If you normally live in more than one place, Decision Makers are told to look at the ownership or tenancies of the homes that you are living in; and the extent to which your rooms and facilities are shared; and the ownership of the furniture.

Couples

Throughout the benefit and tax credit system, you count as a member of a couple if you are living in the same household with someone and you are married, civil partners or living together as though you are married or civil partners. The DWP's *Advice for Decision Makers* says:

To be treated as a couple, the relationship has to be the same as that of a married couple. Marriage is where two people join together with the intention of sharing the rest of their lives. There is no single template of what the relationship of a married couple is. It is a stable partnership, not just based on economic dependency but also on an emotional relationship of lifetime commitment rather than one of convenience, friendship, companionship or the living together of lovers.

Unless it is more likely than not that the relationship between two people has the emotional quality that characterizes a married couple's partnership, the DM should find that they are not a couple.

The characteristics of the relationship of husband and wife may include mutual love; faithfulness; public acknowledgement; sexual relations; shared surname; children; endurance; stability; interdependence; devotion.

Not all of these characteristics need be present and two people may be treated as a couple even though the relationship is unsatisfactory or unhappy.

Dependent Children and Qualifying Young Persons

A child is a person under the age of 16.

You are a Qualifying Young Person if you are:

- Aged 16, from your 16th birthday until the 31 August following it.
- Aged 16-19, and before your 19th birthday you enrolled on a non-advanced course of 12 or more hours of supervised study each week. This is sometimes called *relevant education*. Non-advanced means a course up to A-level or NVQ level 3.
- Aged 16-19, and before your 19th birthday you enrolled on a programme of approved training that is not provided under a contract of employment.

You count as Qualifying Young Person for a short time after the end of your course:

- For Child Benefit, Child Tax Credit and Income Support - If you are 16 or 17 you are a Qualifying Young Person until the end of your *Child Benefit Extension Period*. This is a twenty week period that begins on the Monday after you "cease to be in education or training".
- For Child Benefit and Income Support - If you are 18 or 19 you are a Qualifying Young Person until the first Sunday after the next *terminal date* after the end of your course. The terminal dates are the last days of February, May, August and November.
- For Universal Credit – If you are aged 19, you can count as a Qualifying Young Person only until the 31 August following your 19th birthday.
- For Universal Credit – If you make a claim for Universal Credit because come into the categories of people who can claim while *receiving education* you no longer count as a Qualifying Young Person.

Two Child Limit

From 6th April 2017 a two child limit applies to Child Tax Credit and, Universal Credit and Housing Benefit.

The limit does not apply to Child Benefit, Pension Credit or to Bedroom Tax.

In Child Tax Credit and Universal Credit no 'elements' are allowed for a third or subsequent child born after April 2017, unless an exception applies.

In Housing Benefit claims made before April 2017, no personal allowance is allowed for a third or subsequent child who is born or joins your household after this date, unless you get Child Tax Credit for them, or an exception applies.

In Housing Benefit claims made after April 2017, no Personal Allowance is allowed for a third or subsequent child unless you get Child Tax Credit for them, or an exception applies.

The exceptions to the two child limit cover:

- Multiple births
- Adopted children
- Non-parental caring arrangements – where you care for the child of a family member or friend.
- Children whose mother is under 16 and living with you.
- Children born as a result of rape
- Children conceived during a coercive or controlling relationship.

The exceptions relating to non-consensual conception only apply if you are not living with *the other party*.

The non-consensual conception exceptions apply if there has been a conviction or a criminal injuries compensation award for rape or coercive and controlling behaviour.

If there has been no conviction or award you must get help from a sexual assault referral centre, specified rape charity, registered social worker or healthcare professional, to complete a form to allow your claim.

This is not a question of proof, which is often impossible. The worker who helps you complete your form simply says that she believes that your circumstances are *consistent with* a non-consensual conception.

Non-Dependants

A non-dependant is someone who lives in your household on a non-commercial basis.

If you have a non-dependant living with you this may affect the amount of help that you get with your rent.

A non-dependant can stop you qualifying for a *Severe Disability Premium*.

Boarders and lodgers who live with you on a commercial basis do not count as your non-dependants.

A Qualifying Young Person does not count as a non-dependant.

Lodgers and Boarders

If other people live in your household and pay rent to you, they are referred to as lodgers or boarders.

Under HMRCs Rent a Room scheme, if you make less than £7,500 per year from renting out furnished accommodation in your own home, the rent that you receive is not taxable. Because it is non-taxable it will have no effect on your Universal Credit.

The rent that boarders and lodgers pay to you may have an effect on your legacy means-tested benefits.

Extended Benefit Unit

Under Universal Credit you may be allowed a Housing Costs Element covering everyone in your *Extended Benefit Unit*.

This is you, your partner, any children or Qualifying Young Persons that you are responsible for, and your non-dependants.

Foster children, boarders and lodgers are not part of your Extended Benefit Unit.

Key Ideas 3 - Students – Legacy Benefits

You are a student if you are not getting a training allowance and you are:

- Aged 19 doing a full-time non-advanced course that you enrolled on after your 19th birthday. Non-advanced includes courses up to A level.
- Aged under 20, doing a full-time advanced course. Advanced means above A level.
- Aged between 20 and Pension Age doing any full-time course.

Full-Time - As a general rule a course counts as full-time:

- In further education, if it is for 16 or more hours per week.
- In higher education, if it is classed by the university or college as full-time.

Duration - You count as a student from the first day of the first academic term of your course until:

- the last date you are registered on the course, or,
- the date you abandon the course, or,
- the date you are dismissed from the course.

Breaks - You continue to count as a student during breaks, holidays or periods of work experience on sandwich courses.

Modular Courses - You count as a student throughout each module and through the holiday following the module, but not the holiday following your final module. You do not count as a student during other breaks between modules.

Re-sits – If you have to re-sit an exam or module you count as a student until the re-sit is completed, even if you are not studying for 16 or more hours during this time.

Key Ideas 4 – 16 and 17 Year Old Care Leavers

The Children Leaving Care Act 2000, places responsibility for care leavers upon the Local Authority's Social Services Department.

If you are a care leaver you cannot claim Universal Credit, Income Support, income-based JSA, or Housing Benefit unless an exception applies.

You count as a care leaver if you are:

- An **eligible child** – you are aged 16 or 17, and in the time since your 14th birthday you have been looked after by Social Services for a total of at least 13 weeks, that ended after you reached the age of 16.
- A **relevant child** - you are aged 16 or 17; you were in custody or hospital on reaching the age of 16; immediately before you went into custody or hospital you were being looked after by Social Services; and in the time since your 14th birthday you have been looked after by Social Services for a total of at least 13 weeks,.

When counting the period that you have been looked after, short term placements of less than four weeks where you then returned to your family home are ignored.

Exceptions

You can claim Universal Credit if you, or your partner if you have one, are responsible for a child; but you cannot get UC's Housing Costs Element.

You can claim Universal Credit if you have Limited Capability for Work; but you cannot get UC's Housing Costs Element.

If you are a lone parent you are not excluded from Income Support or income-based JSA, but since these benefits are almost entirely closed for new claims this rule will rarely be useful.

Key Ideas 5 – National Minimum Wage and Living Wage

- Aged 23 or over - £8.91 per hour
- Aged 21-24 – £8.36 per hour
- Aged 18 – 20 – £6.56 per hour
- Aged 16-17 – £4.62 per hour
- Apprentices – £4.30 per hour

Key Ideas 6 – Tax, National Insurance and NI Credits

Some non-means-tested benefits are *contributory* or *contribution based*.

To get these you, or sometimes your spouse, must have paid, or been credited with National Insurance Contributions.

The rules for each benefit are outlined in the relevant sections.

If you are an employee earning more than £184 per week, part of your wage is deducted to pay *Class 1* National Insurance contributions. Your employer also makes additional contributions on your behalf. If you earn between £120 and £184 per week, you pay a 0% contribution but this still counts towards your NI record.

If you are self-employed you pay weekly *Class 2* and annual *Class 4* contributions. The *Class 2* contributions count towards your record.

If you are not working, but are claiming Universal Credit, ESA, JSA, IS, Carer's Allowance, Child Benefit for a child under 12, or several other benefits, you can get *National Insurance Credits* to count towards your record so that you can later claim contributory State Pension.

Sometimes, you may not meet the rules of entitlement to get payments of a particular benefit, but may still be allowed to make a *credits-only claim*.

If you are a carer, but you do not get Carer's Allowance you may be able to get *Carer's Credit*.

Tax and NI Rates and Thresholds

You pay no tax on income under:

- £242 per week
- £1,048 per month
- £12,570 per year

You pay 20% tax on income over this level.

You pay no National Insurance on earnings under:

- £184 per week
- £797 per month
- £9,568 per year

You pay 12% National Insurance on earnings over this level.

Different rates of tax and NI apply to earnings over £50,270 per year.

Key Ideas 7 – Illness, Disability and Work Capability

Limited Capability for Work and Incapable of Work

If your illness or disability affects your ability to work, you may be able to claim benefits from either, or both, the non-means-tested and means-tested groups. Different people claim different combinations of benefits that depend upon their circumstances.

Benefit law uses two different phrases in relation to a condition that affects your work capability: *Limited Capability for Work* and *Incapable of Work*.

You may be able to *self-certificate* your condition or you may have to provide a Doctor's Statement; also commonly known as a sick-note or medical certificate. Doctor's Statements are paradoxically called fit-notes by DWP.

- You must be *Incapable of Work* to claim Statutory Sick Pay. For the first seven days of your illness, you complete a self-certificate form. After this you must provide a *Doctor's Statement*.
- You must have *Limited Capability for Work* to claim Universal Credit on the grounds of ill-health. If you are told to do so, you must provide a *Doctor's Statement* until you pass a *Work Capability Assessment*.
- You must have *Limited Capability for Work* to claim Employment and Support Allowance. You must provide a *Doctor's Statement* until you pass a *Work Capability Assessment*.

The Work Capability Assessment

The Work Capability Assessment is used to assess whether you have:

- Limited Capability for Work, and
- Limited Capability for Work Related Activity.

If you have Limited Capability for Work but can manage Work Related Activity you are said to be in the *Work Related Activity Group*.

If you have both Limited Capability for Work and Limited Capability for Work Related Activity you are said to be in the *Support Group* or the *No Work Related Activity Group*

Some people automatically pass both parts of the Work Capability Assessment; others get an automatic pass only on the Limited Capability for Work part.

If the automatic pass rules do not apply, a scoring system is used to assess whether you have Limited Capability for Work; then a checklist is used to assess whether you also have Limited Capability for Work Related Activity.

Why You Might Want A Work Capability Assessment

You must have a Work Capability Assessment to claim Employment and Support Allowance since ESA is a benefit only for people who have Limited Capability for Work.

Universal Credit is a benefit for all adults under pension age.

- If you have Limited Capability for Work:
 - You cannot be required to job-seek, so there is no danger of an inappropriate sanction.
 - If you do work, or if your partner works, you are allowed a *Work Allowance*. This means that part of your wage will be ignored in the Universal Credit calculation.
- If you have both Limited Capability for Work and Limited Capability for Work Related Activity:
 - You get an extra *LCWRA element* included in the Universal Credit award.
 - You are exempt from the Benefit Cap ^{KI-11}

Migrating from ESA to Universal Credit

If you were getting ESA and you make a claim for Universal Credit, DWP staff may say that you have to have a new Work Capability Assessment.

This is incorrect. The Work Capability Assessment that you had for ESA carries through to your Universal Credit claim.

If you refer to *Regulation 19 of the Transitional Provisions Regulations*, this will often sort the problem out.

The Work Capability Assessment Process

As part of your Work Capability assessment you are usually asked to complete a UC50 questionnaire and then take part in a medical examination with a Health Professional who works for a private contractor

The health professional writes a report which is returned, along with any other evidence, to a Decision Maker who works for the Department for Work and Pensions.

Starting the Work Capability Assessment Process

To start the Work Capability Assessment process you must tell the DWP that you are ill or disabled. You do not have to provide a Doctor's Statement unless the DWP tells you to do so, but it is a good idea to submit one if you can. You can upload an image of it to your journal.

If you submit a Doctor's Statement with a new claim for Universal Credit you should be immediately referred for an assessment if you are:

- terminally ill
- pregnant and there is a serious risk of damage to your health, or to the health of your unborn child
- receiving, or are about to receive, or recovering from treatment for cancer by way of chemotherapy or radiotherapy
- in hospital or similar institution for 24 hours or longer
- Legally prevented from working because of an infectious disease
- Receiving or recovering from treatment such as dialysis, plasmapheresis or total parenteral nutrition or are recovering after one of these treatments

If you do not come into one of these categories you should be referred for an assessment on day 29 of the claim.

If you are already getting Universal Credit when you become ill, you should notify DWP of this and provide a Doctor's Statement. If you have already signed a Claimant Commitment to say that you will job-seek in return for your Universal Credit, your *employment officer* can suspend your Work Search and Work Availability requirements.

If you are in work and getting Universal Credit when you become ill you should notify the DWP that you have stopped work because of illness. If you have a Doctor's Statement, upload a photo of this to your Universal Credit journal.

If you are in work and not already getting Universal Credit when you become ill, you can make a claim for UC and tell the DWP that you are unwell

The UC50 Questionnaire

Your Doctor's Statements may tell the Decision Maker everything that s/he needs to know to complete your assessment, but in most cases you will be asked to complete a questionnaire about the activities that are covered by the scoring system.

You have four weeks to complete the questionnaire. If you do not return it within three weeks a further copy must be sent to you. You must return this within one week.

If you fail to return your questionnaire and you do not have a good reason for this failure, you will be treated as fit-for-work.

The Medical Examination

Your Doctor's Statements and questionnaire may tell the Health Professional everything that they need to know to write their report for the Decision Maker, but in most cases you will be asked to take part in a medical examination. You must be given seven days' notice of the medical examination unless you accept a shorter period.

In normal times the medical examination takes place during a face to face meeting which will take up to 75 minutes. It will usually be at a Medical Examination Centre but it can take place at your home.

During Covid, medical examinations have been carried out by phone.

If you fail to attend your medical and you do not have a good reason for this failure, you will be treated as fit-for-work.

During the medical examination you must use or wear any aid or appliance that you normally use. The examination is usually verbal but can include a short physical check-up.

The assessment of how you manage the activities in the scoring system should look at *the majority of the time or the majority of the occasions on which you undertake the activity*.

Decisions, Reconsiderations and Appeals

After the medical examination, the Health Professional writes a detailed report that is passed to a Decision Maker at the Department for Work and Pensions. The Decision Maker considers this along with any other evidence.

You must be notified of the decision in writing.

If you disagree with most DWP decisions you must first ask for an internal *revision*. If you are still dissatisfied after this *Mandatory Reconsideration* you can appeal to an independent tribunal ^{KI-14}.

ESA Work Capability Assessment decisions are an exception to this general rule.

If your ESA Work Capability Assessment has been completed and it had been decided that you are fit for work you can appeal directly to a tribunal without going through the revision stage.

If you failed your Work Capability Assessment because you did not return the form or did not participate in a medical you must go through the mandatory reconsideration stage before appealing to a tribunal.

If you are getting ESA when you are found to be fit for work your benefit will usually be stopped, but it can be reinstated if you provide doctor's statements and appeal to the tribunal. You will be able to stay on ESA until the tribunal makes a decision.

For Universal Credit Work Capability Assessments, you must ask for the Mandatory Reconsideration before appealing to the tribunal.

Your Universal Credit claim can continue while you wait for the reconsideration or appeal but you may have to meet Work Related Requirements.

Whether you ask for a revision or appeal, you must give reasons. It is not enough to say that you think the decision is wrong. You must identify the parts of the assessment that apply to you, and you should provide evidence of the points that you score if this is possible.

Linking Rules

For ESA, if you become ill within 12 weeks of an earlier period when you had Limited Capability for Work the two periods will be counted together.

Working While you Have Limited Capability for Work.

ESA - Permitted Work

If you are claiming ESA, you can get permission to do part-time work.

You can do voluntary work; or paid work of less than 16 hours a week, earning £143.00pw or less.

The £143.00 threshold is the weekly amount you earn if you work for 16 hours earning National Minimum Wage, rounded up to the next 50 pence

Wages from permitted work have no effect on any of your benefit entitlements.

Universal Credit

You do not have to get permission to work if you are claiming Universal Credit on the grounds that you have Limited Capability Work.

If you start work the DWP may decide to reassess you, if your work suggests that your capability has improved since the last assessment.

Because you have Limited Capability for Work you will be allowed a *Work Allowance* of either £293pcm or £515pcm.

Earnings below this level will not affect your Universal Credit. Earnings above this level will cause an *earnings deduction*.

If you earn more than £617.76 in any month you will be automatically treated as not having Limited Capability for Work unless:

- you get Personal Independence Payment, Disability Living Allowance or Attendance Allowance, or,
- you get an automatic pass on the Work Capability Assessment.

The threshold of £617.76 is the monthly amount you earn if you work for 16 hours each, week earning National Minimum Wage for a person aged 25 or over.

Reassessments

If you have already had a Work Capability Assessment and been found to have Limited Capability for Work the DWP can refer you for a reassessment whenever they wish to do so.

If you have already had a decision that you are fit-for-work you cannot have another Work Capability Assessment unless:

- the earlier decision made in ignorance of, or was based on a mistake as to, some material fact; or,
- there has been a relevant change of circumstances in relation to your physical or mental condition.

The Work Capability Assessment

You automatically pass both parts of the Work Capability Assessment if you are:

- Terminally ill.
- Pregnant, and there is a serious risk of damage to your health or the health of your unborn child
- Receiving or recovering from radiotherapy or chemotherapy, or likely to receive it within 6 months.
- For UC - Over Pension Age and you get AA, high rate DLA Care or enhanced rate PIP Daily Living.
- Have an illness or disability that would cause a *substantial risk to the health of any person* if you were not automatically passed – but only if you have been assessed and not met the usual rules.

You automatically pass the Limited Capability for Work part of the assessment if you are:

- Over Pension Age and you get Disability Living Allowance or a Personal Independence Payment
- Legally prevented from work because of an infectious disease
- In hospital
- In a residential programme for the treatment of drug or alcohol dependency.
- Recovering from hospital treatment and the Secretary of State is satisfied that you should be treated as having Limited Capability for Work.
- Receiving regular weekly haemodialysis for chronic renal failure; treatment by plasmapheresis; regular weekly treatment by total parenteral nutrition for gross impairment of enteric function; or, recovering from these treatments and the Secretary of State is satisfied that you should be treated as having Limited Capability for Work.
- Suffering from an uncontrolled or uncontrollable life-threatening disease - but only if you have been scored and not met the points threshold.
- Suffering from an illness or disability that would cause a “substantial risk to the health of any person” if you were not passed - but only if you have been scored and not met the points threshold.

For ESA only, you automatically pass the Limited Capability for Work part of the assessment if you are:

- Waiting for a Work Capability Assessment decision, and have provided Doctor’s Statements.
- Waiting for an appeal decision (but not a reconsideration decision) about your Work Capability Assessment and have provided Doctor’s Statements.
- You are pregnant, from six weeks before your due date or have given birth in the last 14 days
- You are not a Qualifying Young Person but you are in education and you can get iESA because you are also getting DLA or PIP.
- You cannot eat or drink without help – See activities 15 and 16 in the Support Group Checklist.

The Work Capability Assessment Scoring System

If you do not get an automatic pass on the Work Capability Assessment, the scoring system will be used.

You are scored on your ability to manage ten physical activities and seven mental, cognitive and intellectual activities. You are scored on how you manage these activities most of the time.

You get one score from each activity. If more than one descriptor in any activity applies, you get the points from the highest scoring one.

If your total score from all 17 activities comes to 15 points or more you have *Limited Capability for Work*.

Physical Disabilities

1 Mobilising

Mobilising unaided by another person, with or without a stick, manual wheelchair or other aid if such aid is or could reasonably be worn or used.

a (i)	Cannot mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion.	15
a (ii)	Cannot repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.	15
b	Cannot mount or descend two steps even with the support of a handrail.	9
c (i)	Cannot mobilise more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion.	9
c (ii)	Cannot repeatedly mobilise 100 metres within a reasonable timescale because of significant discomfort or exhaustion.	9
d (i)	Cannot mobilise more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion.	6
d (ii)	Cannot repeatedly mobilise 200 metres within a reasonable timescale because of significant discomfort or exhaustion.	6
e	None of the above applies.	0

2 Standing and sitting		
a	Cannot move between one seated position and another seated position which are located next to one another without receiving physical assistance from another person.	15
b	Cannot, for the majority of the time, remain at a work station (i) standing unassisted by another person (even if free to move around); (ii) sitting (even in an adjustable chair); or (iii) a combination of paragraphs (i) and (ii), for more than 30 minutes, before needing to move away in order to avoid significant discomfort or exhaustion.	9
c	Cannot, for the majority of the time, remain at a work station (i) standing unassisted by another person (even if free to move around); (ii) sitting (even in an adjustable chair); or (iii) a combination of paragraphs (i) and (ii), for more than one hour, before needing to move away in order to avoid significant discomfort or exhaustion.	6
d	None of the above applies.	0

3 Reaching		
a	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
b	Cannot raise either arm above head height as if to put on a hat.	9
c	Cannot raise either arm above head height as if to reach for something.	6
d	None of the above applies.	0

4 Picking up and moving or transferring by use of the upper body and arms		
a	Cannot pick up and move a 0.5 litre carton full of liquid.	15
b	Cannot pick up and move a one litre carton full of liquid.	9
c	Cannot transfer a light but bulky object such as an empty cardboard box.	6
d	None of the above applies.	0

5 Manual dexterity		
a	Cannot press a button (such as a telephone keypad) with either hand or cannot turn the pages of a book with either hand.	15
b	Cannot pick up a £1 coin or equivalent with either hand.	15
c	Cannot use a pen or pencil to make a meaningful mark with either hand	9
d	Cannot single-handedly use a suitable keyboard or mouse.	9
e	None of the above applies.	0

6 Making yourself understood		
Making self understood through speaking, writing, typing or other means which are normally or could reasonably be used unaided by another person		
a	Cannot convey a simple message such as the presence of a hazard.	15
b	Has significant difficulty conveying a simple message to strangers.	15
c	Has some difficulty conveying a simple message to strangers.	6
d	None of the above applies.	0

7 Understanding communication

Understanding communication by verbal means such as hearing or lip reading; by non-verbal means such as reading 16pt print or Braille; or by a combination of these methods; using any aid that is normally or could reasonably be used, unaided by another person.

a	Cannot understand a simple message, such as the location of a fire escape, due to sensory impairment.	15
b	Has significant difficulty understanding a simple message from a stranger due to sensory impairment.	15
c	Has some difficulty understanding a simple message from a stranger due to sensory impairment.	6
d	None of the above applies.	0

8 Navigation

Navigation and maintaining safety using a guide dog or other aid if either or both are normally used or could reasonably be used

a	Unable to navigate around familiar surroundings without being accompanied by another person, due to sensory impairment.	15
b	Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another person, due to sensory impairment.	15
c	Unable to navigate around unfamiliar surroundings, without being accompanied by another person, due to sensory impairment.	9
d	None of the above applies.	0

9 Bowel and bladder control		
Absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or bladder, other than enuresis (bed-wetting) despite the wearing or use of any aids or adaptations which are normally or could reasonably be worn or used		
a (i)	At least once a month experiences loss of control leading to extensive evacuation to the bowel and/or voiding of the bladder sufficient to require cleaning and a change in clothing.	15
a (ii)	At least once a month experiences substantial leakage of the contents of a collecting device sufficient to require cleaning and a change in clothing.	15
b	The majority of the time is at risk of loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, sufficient to require cleaning and change in clothing, if not able to reach a toilet quickly.	6
c	None of the above applies.	0

10 Consciousness during waking moments		
a	At least once a week, has an involuntary episode of lost or altered consciousness, resulting in significantly disrupted awareness or concentration.	15
b	At least once a month, has an involuntary episode of lost or altered consciousness, resulting in significantly disrupted awareness or concentration.	6
c	Neither of the above applies.	0

Mental, Cognitive and Intellectual Function

11 Learning tasks

a	Cannot learn how to complete a simple task, such as setting an alarm clock.	15
b	Cannot learn anything beyond a simple task, such as setting an alarm clock.	9
c	Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine to clean clothes.	6
d	None of the above applies.	0

12 Awareness of everyday hazards - such as boiling water or sharp objects

a	Reduced awareness of the risks of everyday hazards leads to a significant risk of injury to self or others; or damage to property or possessions, such that the claimant requires supervision for the majority of the time to maintain safety.	15
b	Reduced awareness of the risks of everyday hazards leads to a significant risk of injury to self or others; or damage to property or possessions, such that the claimant frequently requires supervision to maintain safety.	9
c	Reduced awareness of the risks of everyday hazards leads to a significant risk of injury to self or others; or damage to property or possessions, such that the claimant occasionally requires supervision to maintain safety.	6
d	None of the above applies.	0

13 Personal action		
Initiating and completing personal actions (which means planning, organisation, problem solving, prioritising or switching tasks).		
a	Cannot, due to impaired mental function, reliably initiate or complete at least two sequential personal actions.	15
b	Cannot, due to impaired mental function, reliably initiate or complete at least two sequential personal actions for the majority of the time.	9
c	Frequently cannot, due to impaired mental function, reliably initiate or complete at least two sequential personal actions.	6
d	None of the above applies.	0

14 Coping with change		
a	Cannot cope with any changes to the extent that day to day life cannot be managed.	15
b	Cannot cope with minor planned change (such as a pre-arranged change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult.	9
c	Cannot cope with minor, unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult.	6
d	None of the above applies.	0

15 Getting about		
a	Cannot get to any place outside the claimant's home with which the claimant is familiar.	15
b	Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person.	9
c	Is unable to get to a specified place with which the claimant is unfamiliar, without being accompanied by another person.	6
d	None of the above applies.	0

16 Social engagement		
Coping with social engagement due to cognitive impairment or mental disorder.		
a	Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the claimant.	15
b	Engagement in social contact with someone unfamiliar to the claimant is always precluded due to difficulty relating to others or significant distress experienced by the claimant.	9
c	Engagement in social contact with someone unfamiliar to the claimant is not possible for the majority of the time due to difficulty relating to others or significant distress experienced by the claimant.	6
d	None of the above applies.	0

17 Appropriateness of behaviour

Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder.

a	Has on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
b	Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
c	Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	9
d	None of the above applies.	0

Limited Capability for Work Related Activity

In addition to the automatic passes listed on page 21 if you come into any of the *descriptors* in this list you have *Limited Capability for Work Related Activity*.

ESA says that you are in the *Support Group*.

Universal Credit says that you are in the *no-work-related-activity group*

1(a)	Cannot mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion.
1(b)	Cannot repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.
2	Cannot move between one seated position and another seated position which are located next to one another without receiving physical assistance from another person.
3	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.
4	Cannot pick up and move a 0.5 litre carton full of liquid.
5	Cannot press a button (such as a telephone keypad) with either hand or cannot turn the pages of a book with either hand.
6	Cannot convey a simple message such as the presence of a hazard.
7	Cannot understand a simply message, such as the location of a fire escape, due to sensory impairment.
8(a)	At least once a week experiences loss of control leading to extensive evacuation to the bowel and/or voiding of the bladder.
8(b)	At least once a week experiences substantial leakage of the contents of a collecting device sufficient to require the individual to clean themselves and change clothing.
9	Cannot learn how to complete a simple task, such as setting an alarm clock, do to cognitive impairment or mental disorder.
10	Reduced awareness of the risks of everyday hazards due to cognitive impairment or mental disorder, leads to a significant risk of injury to self or others; or damage to property or possessions, such that the claimant requires supervision for the majority of the time to maintain safety.

11	Cannot, due to impaired mental function, reliably initiate or complete at least two sequential personal actions.
12	Cannot cope with any change due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed.
13	Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the claimant.
14	Has on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.
15(a)	Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else.
15(b)	(b) Cannot convey food or drink to the claimant's own mouth without repeatedly stopping or experiencing breathlessness or severe discomfort.
15(c)	(c) Cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's presence.
15(d)	Owing to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving physical assistance from someone else or regular prompting given by someone else in the claimant's presence.
16(a)	Cannot chew or swallow food or drink.
16(b)	Cannot chew or swallow food or drink without repeatedly stopping or experiencing breathlessness or severe discomfort.
16(c)	Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence
16(d)	Owing to a severe disorder of mood or behaviour, fails to chew or swallow food or drink; or fails to chew or swallow food or drink without regular prompting given by someone else in the claimant's presence.

Key Ideas 8 - Claimant Responsibilities and Benefit Sanctions – Legacy Benefits

This section covers:

- Income Support
- *Old-style JSA* – income-based JSA claims that were made before UC was introduced
- *Old-style ESA* — including both contribution-based ESA claims that were made before UC was introduced; and income-related ESA claims.

The rules relating to claimant responsibilities and sanctions in Universal Credit, new-style ESA and new-style JSA are described in the section on Universal Credit Claimant Commitments.

Work Focussed Interviews

A Work Focussed Interview may cover job opportunities, training and rehabilitation. You may have to take part if you are:

- Claiming ESA – unless you are in the Support Group ^{ki-7}
- A lone parent entitled to Income Support – unless you have a child aged under one
- A new claimant for Income Support
- The partner of someone who claims Income Support, income-related Employment and Support Allowance or income-based Jobseeker's Allowance

Work Related Activity

You may have to undertake Work Related Activity if you are getting:

- Employment and Support Allowance and not in the Support Group
- Income Support because you are a lone parent of a young child, and you do not have any children aged under three.

Work Related Activity is activity that will make it more likely that you will get a job or keep a job.

The activity must be reasonable, taking all your circumstances into account. It cannot include a requirement for you to apply for a job, take work or undergo medical treatment.

If you are a lone parent you can only be required to undertake Work Related Activity during your child's normal school hours.

For ESA the rules say that Work Related Activity includes work placements and work experience but these are voluntary so you should not be sanctioned for refusing to take part.

Work Focussed Interview and Work Related Activity Sanctions

If you fail to take part in Work Focussed Interviews or Work Related Activity and you do not have a *good cause* for your failure you will be sanctioned and your benefit will be reduced.

Good causes include accidents, sudden illnesses or relapses that made it impossible to attend.

You must usually explain your good cause within five days of your failure to take part although sometimes a longer period may apply.

The benefit reduction and the length of the sanction period depend on which benefit you are claiming and whether you have been sanctioned on previous occasions.

ESA sanctions apply until you take part in the activity and then run for one, two or four weeks.

For other benefits the sanction applies until you take part in the activity.

Jobseeking Conditions for Jobseeker's Allowance

To claim Jobseeker's Allowance you must:

- Be Available For Work
- Be Actively Seeking Work

You must sign on regularly and take part in interviews to show that you meet these rules.

If you are a member of a couple you may both have to show that you meet the Jobseeking Conditions or you may be able to make a joint claim on the basis of only one of you being a Jobseeker.

If you fail to meet these rules you may be sanctioned. Your benefit may be reduced – sometimes to zero. If your benefit is reduced, you may be able to get hardship payments.

Actively Seeking Work and Available for Work

To claim Jobseeker's Allowance you must take *such steps as can reasonably be expected to take in order to have the best prospects of securing employment*.

To count as available for work you must usually be prepared to immediately take up any job, of at least 40 hours per week.

You can restrict your availability if your health, disability or caring responsibilities affect your ability to job-seek.

Treated As Available for Work and Actively Seeking Work

In some circumstances the law will say that you are available for work and actively seeking work, even though you are not, including if you:

- Are ill, for a *short period of sickness* of up to two weeks – This rule can apply twice in 12 months.
- Are ill for an *extended period of sickness* of upto 13 weeks – This rule can apply once in 12 months.
- Are temporarily looking after a child full-time because the person who normally looks after the child is ill or temporarily away from home or looking after a member of their family who is ill. Maximum eight weeks.
- Have to deal with:
 - The death or serious illness of a close relative or close friend.
 - A domestic emergency affecting you or a close relative or a close friend.
 - A funeral of a close relative or a close friend.
 - The death of a person that you used to care for.

This rule applies for upto four periods of up to one week in any 12 months.

- Have to care for a child following:
 - The death or serious illness of a close relative or close friend.
 - A domestic emergency affecting you or a close relative or a close friend.
- Have recently been threatened with domestic violence or had domestic violence inflicted upon you during the last 26 weeks.

Jobseeker's Allowance Sanctions

Sanctions are applied if without good reason you:

- Leave a job voluntarily.
- Lose a job through misconduct.
- Refuse or fail to apply for or accept a job that you were notified of by an Employment Officer.
- Neglect an employment opportunity.
- Fail to participate in an interview.
- Fail to participate in a specific scheme for assisting people to obtain employment.
- Fail to comply with Jobseeker Direction.
- Do not take part in a training scheme because you:
 - Fail to apply for or accept a place.
 - Neglect to avail yourself of an opportunity of place.
 - Give up a place.
 - Fail to attend.
 - Lose a place through misconduct.
- Make a new claim for Jobseeker's Allowance within 13 weeks of an old claim ending because you had failed to be Actively Seeking Work or Available for Work

If you are a single person, your Jobseeker's Allowance is reduced by 100% and paid at a nil-rate. Even though your benefit has been reduced, you remain entitled to it, so you retain your passport to Maximum Housing Benefit.

Hardship Payments

Hardship Payments are reduced rate payments of Jobseekers Allowance that can be allowed while your benefit is sanctioned. Once your sanction period is over the hardship payments will be recovered from you.

Key Ideas 9 - Pension Credit Age and Pension Age

Pension Credit Age is the lower age limit for many older persons' benefits.

Pension Age is the lower age limit for State Pension.

Pension Credit Age and Pension Age used to be different, but from November 2018 they have been the same.

Pension Age is currently 66 years, but this is increasing:

Under current law:

If you were born before 6th March 1961 you will reach pension age on your 66th birthday.

If you were born between 6th March 1961 and 5th April 1978 you will reach Pension Age on your 67th birthday.

If you were born after 6th April 1978 you will reach Pension Age on your 68th birthday.

It has been announced, but not yet included into the law that Pension Age and Pension Age will be increased for anyone born after 5 April 1970.

Even though Pension Age and Pension Credit age are legally different things these notes just use the words Pension Age to refer to both.

Key Ideas 10 - Coming From Abroad

Social security and immigration law restricts your entitlement to Tax Credits and many benefits according to whether you:

- Are a *Person Subject to Immigration Control*
- Have a *Right to Reside*
- Are *Habitually Resident*
- Are *Present or Ordinarily Resident* in Great Britain or the United Kingdom.

Different combinations of rules apply to different benefits.

The effect of these rules is different according to whether you are a British Citizen, an EEA National or a Non-British-Non-European National.

British Citizens - The United Kingdom consists of Great Britain (Scotland, England and Wales) and Northern Ireland. The Channel Islands and The Isle of Man are Crown Dependencies and are not part of the United Kingdom. Nonetheless, the benefits system treats citizens of all of these territories as British Citizens.

Common Travel Area - The United Kingdom and the Republic of Ireland have a long-standing agreement allowing citizens to move between the two countries. Together they are known as the Common Travel Area

EEA Nationals - The European Union (EU) consists of Austria, Belgium, Bulgaria, Cyprus, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Spain, Slovakia, Slovenia and Sweden.

The European Economic Area (EEA) includes all of the EU states and Iceland, Liechtenstein and Norway.

Switzerland is not part of the EU or the EEA but since 1 June 2002 Swiss nationals have had the same rights as EU and EEA nationals.

Person Subject To Immigration Control

Benefits law calls you a Person Subject To Immigration Control if you are a non-British citizen and you:

- Need leave to be in the United Kingdom but do not have it.
- Have leave with a public funds restriction.
- Have indefinite leave that was given because someone sponsored you by giving a *maintenance undertaking*.
- Have leave solely because you are waiting for a review or appeal of a decision about your leave; although this is sometimes challengeable.

If you are a Person Subject to Immigration Control you may not claim:

- Attendance Allowance
- Disability Living Allowance
- Personal Independence Payments
- Carer's Allowance
- Child Benefit
- Pension Credit
- Income Related Employment and Support Allowance
- Income Support
- Income Based Jobseeker's Allowance
- Housing Benefit
- Working Tax Credit
- Child Tax Credit
- Universal Credit
- Council Tax Reduction
- Social Fund Payments
- Local Welfare Assistance Payments

unless you come into the exceptions detailed below.

If you are a Person Subject to Immigration Control, but you are also the family member of an EEA national you should check whether this gives you better rights.

Leave - Permission to be in the United Kingdom

Non-UK nationals need permission to be in the United Kingdom. This permission is called *leave*. There are different types of leave:

Limited Leave is a temporary status, given for a fixed period. It is allowed to visitors, spouses, fiancées, workers and students.

Immigration law usually says that you may not have *recourse to public funds* while you have limited leave. Public funds are the benefits listed in the section below, plus council housing. If you do take public funds you could be deported, or have further leave refused, and be prosecuted.

If your limited leave has a public funds restriction, no-one else must get any extra benefit because of you. If they do get extra benefit, you could be deported, or have further leave refused.

Indefinite Leave is permanent permission to stay in the UK, often known as settlement.

Some people must have a sponsor to get indefinite leave. A sponsor must promise to support and house you while you are in the UK. Sponsorship is officially called a maintenance undertaking.

Other Types of Leave include:

- Refugee Leave, Humanitarian Protection and Temporary Protection
- Discretionary Leave and Leave Outside the Rules.
- Leave under the Destitute Domestic Violence Concession if you came to the UK on a family visa as a spouse civil partner or unmarried partner.

Variations and Extensions - If you request a variation or extension of your leave before the period of leave expires, your old leave status continues until the Home Office makes a decision on your application. If your application is refused your leave continues for 28 days after the unfavourable decision and may be extended while you are waiting for a review or appeal.

Exceptions to the PSIC Restrictions

Even if you are a Person Subject to Immigration Control, you can claim:

Non-Means-Tested Benefits and Social Fund Payments if:

- You are a (family member of a) national Algeria, Morocco, San Marino, Tunisia or Turkey, and you are lawfully working in the UK; or you previously worked and this has now stopped because of a reason such as pregnancy, childcare, illness, accident or retirement.
- You have Indefinite Leave, given because someone sponsored you.
- For CB, DLA, PIP and AA only – You are a national of a country that has a reciprocal agreement with the UK. The main relevant agreement is with the nations of the former Yugoslavia that allows claims for Child Benefit.

Means-Tested Benefits and Social Fund Payments if:

- You are Macedonian or Turkish and you are lawfully present in the UK.
- You have Indefinite Leave, given because someone sponsored you, and your sponsor has died; or you have lived in the UK for five years since the sponsorship undertaking was signed.

Tax Credits if:

- You have Indefinite Leave, given because someone sponsored you, and your sponsor has died; or you have lived in the UK for five years since the sponsorship undertaking was signed.
- Working Tax Credit only - You are Macedonian or Turkish and you are lawfully present in the UK.
- Child Tax Credit only - You are a national of Algeria, Morocco, San Marino, Tunisia or Turkey, and you are lawfully working in the UK; or you previously worked and this has now stopped because of a reason such as pregnancy, childcare, illness, accident or retirement.

If Your Partner Has a Public Funds Restriction

iESA, IS and iJSA - You claim as a couple, your partner's income and savings count in the calculation but you get only a single person's personal allowance. IS, iESA and iJSA claims can include premiums. You may breach your partner's Public Funds restriction if they qualify for any of these; or if you are allowed a higher couple-rate of any of these.

Pension Credit - You claim as a single person. Your partner's income and savings do not count in the calculation. Your claim cannot breach your partner's Public Funds Restriction. Your partner might stop you getting a Severe Disability Premium since this is usually allowed only if you live alone.

Universal Credit – You claim as a single person. Your partner's income and savings count. You do not breach your partner's restriction.

Housing Benefit – If you claim Housing Benefit you get the couple rate personal allowance and the couple rates of any relevant premiums. This may mean that you breach your partner's public funds restriction.

Working Tax Credit - You claim Working Tax Credit in the normal way but this will not include the couple element unless you have a child, or your partner is Macedonian or Turkish and is lawfully present in the UK. Your joint claim does not breach your partner's public funds restriction.

Council Tax Reduction – Claiming Council Tax Reduction can breach your partner's public funds restriction.

Public Funds and Children

If you claim Child Benefit for a child who has no recourse to public funds this may jeopardize their leave.

A child with a disability can claim DLA. Legally the claim belongs to the child, not the parent. If your child has a disability their DLA claim does not breach your public funds restriction.

You can claim Child Tax Credit for a child regardless of their leave status. If you make a joint claim for with a partner who is a PSIC this does not breach the child's Public Funds Restriction. Any other Child Tax Credit claim might breach the child's Public Funds Restriction.

Other PSICs in Your Household

Housing Benefit and UC Housing Costs Element include allowances for non-dependants such as grown-up children, parents or friends. If one of these is has a Public Funds Restriction you may breach this if you get extra Housing Benefit because of them.

Right to Reside

You must have a *right to reside* in the Common Travel Area (or UK) to claim:

- Pension Credit
- Income Related Employment and Support Allowance
- Income Support
- Income Based Jobseeker's Allowance
- Housing Benefit
- Universal Credit
- Council Tax Reduction
- Child Benefit - UK
- Child Tax Credit - UK

You have a legal right to reside in the United Kingdom if you are:

- A British citizen.
- An Irish citizen.
- A Commonwealth citizen with *right of abode*.
- Someone who has leave to be in the UK
- Someone who has *settled status* – which is a form of indefinite leave granted under the EU settlement scheme.
- Someone who has *pre-settled status* which is a form of limited leave granted under the EU settlement scheme.

At the time of writing tests-cases going through the courts are considering whether pre-settled status will allow you to pass the right to reside test for benefits.

Check the *News & Advice* page of www.mikebolton.co.uk for updates.

- Until 30th June 2021 - Someone who has an EEA right of residence.

The EU Settlement Scheme

The settlement scheme gives EEA and Swiss nationals, their family members and people with derivative rights of residence, permission to live in the UK.

The scheme comes under *the immigration rules* and so it is unlawful to offer advice on it unless you are a registered adviser.

You must apply to the scheme before 30th June 2021 and you must be:

- living in the United Kingdom before 31st December 2020, or,
- a close family member, joining someone who was living in the United Kingdom before 31st December 2020.

You get:

- Indefinite leave known as *settled status*, if you can show that you:
 - have lived in the UK for at least six months of each year for five continuous years; or,
 - qualify for an EEA right of permanent residence – which might be after a shorter period than five years.
- Limited leave for five years, known as *pre-settled status*, if you can show that you have lived in the UK for less than five years.

At the time of writing, benefits law says that you cannot pass the right to reside test with pre-settled status, but test cases are going through the courts to challenge this.

Check the News & Advice page of www.mikebolton.co.uk for updates.

Some breaks are allowed in counting how long you have been living in the United Kingdom.

Any time that you have been living in the United Kingdom counts, even if you did not have an EEA right of residence at that time.

If you get pre-settled status you must apply for settled status before your pre-settled status expires.

If you are a non-EEA national; or if you have a criminal conviction; or if you have been subject to a deportation or removal decision, you should get advice before applying to the scheme.

You do not usually get a document to show your status. Instead the Home Office will email the decision to you and will provide you with a *share code* to allow benefits staff to check your status.

If you disagree with the decision you can apply for an administrative review at a cost of £80 or you can appeal. Get advice before doing either of these.

EEA Rights of Residence

Following Brexit, EEA rights of residence remain in place until 30 June 2021.

You have an EEA right of residence if:

- You are an EEA worker
- You are an EEA retained worker
- You are an EEA Jobseeker
- You are an EEA student
- You have a permanent right of residence
- You have a derivative right of residence
- You are a family member of someone with a right of residence
- You are an EEA self-sufficient person
- You have an initial right of residence

For a full description of the rules for these rights of residence download the 2020/21 edition of these notes from the Resources page of www.mikebolton.co.uk

Habitual Residence

You get an automatic pass on the Habitual Residence test if you are:

- An EEA worker
- An EEA retained worker
- An EEA national with a permanent right of residence as a ‘worker who has ceased activity’
- An EEA national with a permanent right of residence, in your own right, as a family member of a worker who has died.
- Someone who Refugee Status, Humanitarian Protection or Temporary Protection
- Someone who has Exceptional Leave, Discretionary Leave or Leave outside the Rules.
- Someone who has leave under the *Destitute Domestic Violence Concession*
- Someone who has been deported, expelled or compulsorily removed from another country to the UK – unless you are also a Person Subject to Immigration Control

If you do not get an automatic pass you will have to show that you are Habitually Resident in the Common Travel Area to claim:

- Carer’s Allowance
- Disability Living Allowance, Personal Independence Payments or Attendance Allowance
- Pension Credit
- Income Related Employment and Support Allowance
- Income Support
- Income Based Jobseeker’s Allowance
- Housing Benefit
- Universal Credit
- Local CT Reduction

What *Habitual Residence* Means

The law of Jobseeker's Allowance says that you cannot pass the Habitual Residence Test until you have been living in the Common Travel Area for three months. Some short breaks in this three month period may be allowed.

If your only right of residence comes from being an EEA jobseeker (not including Irish Citizens) you are automatically treated as not habitually resident for Housing Benefit.

Apart from this, the term habitually resident is not defined in the benefit regulations but it has been the subject of a lot of case law.

You must have a 'settled intention' to reside in the UK, making your home here for a temporary or permanent period. There is no absolute list of factors that should be examined in deciding whether you are Habitually Resident. Some factors commonly arise:

- How did you manage your move to the UK?
- Did you travel on a one-way ticket?
- Did you sell or surrender your home in your former country?
- Did you secure accommodation in the UK before your arrival?
- Did you bring some or all of your possessions?
- Are you accompanied by your family?
- Do you have a Right of Abode in the UK?
- Do you have family, social or other ties with the UK?
- Have you severed your links with your former country?

Case law suggests that, unless you are resuming your habitual residence after a time abroad, you must live in the UK for an 'appreciable period of time' before you can pass the test.

What counts as an 'appreciable period of time' depends on the fact of your case. It could be as little as two weeks although in case number CIS 4474/2003 a commissioner held that it would normally be between one and three months, and that cogent reasons would be needed to support a requirement for a significantly longer period.

Resuming Your Habitual Residence – Returning To The UK

If you go abroad temporarily and you keep ties and contacts at home while you are away, you may continue to be habitually resident – even though you are staying elsewhere. This means that so long as you intend to resettle at home you can pass the Habitual Residence Test from the day of your return.

The length of your stay abroad will be taken into account. If you were absent for longer than you intended because of unexpected circumstances or factors beyond your control you must make this clear.

In benefits jargon, if you fail the Habitual Residence test, you are said to be a *Person from Abroad*.

Present and Ordinarily Resident

Many benefits have rules to restrict entitlement to those who are present and ordinarily resident in Great Britain or the United Kingdom.

Often the rules allow periods of temporary absence.

You are usually resident in the country where you have your home, and ordinarily resident if there is a degree of continuity about your circumstances so that you could be described as settled.

Many benefits that require you to be ordinarily resident have rules that treat you as though you are living in Great Britain when you are not. Different benefits have exceptions for diplomats, members of the armed forces, ship's crew, offshore oil-rig workers, and people who are abroad to receive medical treatment.

European Union law may allow you, or members of your family, to be treated as though you are present or ordinarily resident in your home country while you are living in another country,

You may be treated as though you are living in Great Britain if you are resident in a country that has a Reciprocal Agreement with Great Britain.

DLA, PIP, AA and Carer's Allowance

You must be present in Great Britain and have been present in Great Britain for:

- 13 weeks for a baby under six months
- 26 weeks out of the last 156 weeks for a child aged 6 – 36 months
- 26 weeks out of the last 52 weeks for a child aged 3 -16
- 104 weeks out of the last 156 weeks for an adult

unless:

- You are terminally ill
- You have refugee status or humanitarian protection

If you are absent from Great Britain and you are likely to return within 52 weeks you count as present for:

- The first 26 weeks of your absence if you are abroad for medical treatment.
- The first 13 weeks of your absence in any other case.

Child Benefit and Child Tax Credit

You must be present in the United Kingdom for three months to claim Child Benefit and Child Tax Credit unless you:

- Are an EEA worker or self-employed person or someone who retains worker status.
- Are the family member of an EEA worker, self-employed worker or someone with retained worker status.
- Are not an EEA national but would come under the first two bullet points if you were a national of an EEA state.
- Have returned to the UK after an absence of less than 52 weeks, so long as you had been living in the United Kingdom for at least three months before you left.
- Are a refugee.
- Have leave outside the rules.
- Have been granted temporary protection.
- Have been granted leave under the domestic violence concession.
- Have been granted humanitarian protection.
- Are a Crown Servant (or their partner) returning from a posting abroad.
- Have returned to the UK after being deported or expelled by another country.

Key Ideas 11 – The Benefit Cap

The Benefit Cap limits the total amount of social security benefits that can be paid in:

- Child Benefit
- Employment and Support Allowance
- Jobseeker’s Allowance
- Maternity Allowance
- Universal Credit
- Widowed Parent’s Allowance
- Widow’s Pension
- Child Tax Credit
- Housing Benefit
- Incapacity Benefit
- Income Support
- Severe Disablement Allowance

If the cap applies to you, and your total entitlement exceeds the cap figure, your Housing Benefit or Universal Credit is reduced accordingly. Your Housing Benefit cannot be reduced to less than £0.50 per week.

		Week	Month	Year
London	Couple or Lone Parent	£442.31	£1,916.67	£23,000
	Single	£296.35	£1,284.17	£15,410
Elsewhere	Couple or Lone Parent	£384.62	£1,666.67	£20,000
	Single	£257.69	£1,116.67	£13,400

If you are claiming Universal Credit while you are living in *Specified Accommodation or Temporary Homelessness Accommodation* the Housing Benefit that you get to pay your rent is not counted in working out whether your Universal Credit should be capped.

Specified Accommodation and Temporary Homelessness Accommodation is detailed in the section about Universal Credit Housing Costs Element.

The benefit cap does not apply to you if:

- You are over Pension Age
- You and/or your partner are claiming Universal Credit while you are in work and you earn at least £617pcm
- You are entitled to claim Working Tax Credit because you are a full-time worker (at least 16 hours of work per week) who is:
 - A lone parent.
 - A member of a couple with a child or QYP ^{K1-2}. You and your partner must jointly work for at least 24 hours each week. It does not matter whether one or both of you work so long one of you is a full-time worker and the total comes to at least 24 hours.
 - A disabled worker.
 - Aged 60 or more.
 - Aged 25 or over and work at least 30 hours pw.
- You or your partner get ESA with a Support Component.
- You or your partner get Universal Credit with a Limited Capability for Work Related Activity Element.
- You or your partner get an Industrial Injuries Benefit or War Pension.
- You or your partner get Attendance Allowance.
- You, your partner, your child or Qualifying Young Person get Disability Living Allowance, Personal Independence Payment or Armed forces Independence Payment.
- You, your partner, or your Qualifying Young Person get Carer's Allowance or a Universal Credit Carer Element
- You, your partner, or your Qualifying Young Person get Guardian's Allowance

For Housing Benefit, the benefit cap cannot apply to a period of 39 weeks after stopping work if you or your partner have spent at least 50 out of the last 52 weeks in paid work; and while you were working you were not entitled to Income Support, JSA or ESA. Periods of maternity, paternity, parental or adoption leave; or periods where you were getting Statutory Sick Pay, count as time in work.

For Universal Credit, the benefit cap cannot apply to for a period of nine months after stopping work if you and/or your partner have been earning at least £617pcm for the last 12 months and your pay has now dropped below this level.

Key Ideas 12 – Capital, Tariff Income and Benefits

Savings and capital do not affect your non-means-tested benefits, but may affect your means-tested benefits

If you are under Pension Age,

- You cannot claim UC, iESA, IS, iJSA, or HB if you have savings of more than £16,000.
- Savings between £6,000 and £16,000 give you a *tariff income* of £1 per week or £4.35 per month for each extra £250.
- Your savings are always rounded up to the next £250.

If you are over Pension Age,

- Pension Credit has no savings limit.
- You cannot claim Housing Benefit if you have savings of more than £16,000 unless you get also Guarantee Credit from Pension Credit.
- Savings over £10,000 are assumed to give you a *tariff income* of £1pw for each £500. Your savings are always rounded up to the next £500.

Your capital might be money, property or other savings or investments but it does not include the value of your personal property.

For couples the limits apply jointly.

If you jointly own capital with someone other than your partner you are treated as owning an equal share with the other person(s) unless there is evidence to show that is not the case.

If you have money in a discretionary trust fund, where you can only access it with the permission of your trustees, this does not count as part of your capital.

If you have a non-discretionary trust, where you have access to the money, this will be taken into account, unless it's money from a personal injury compensation payment.

If you *deprive yourself* of capital to get benefit you will be treated as though you still have it. This is known as *notional capital*.

The law of Universal Credit says that this should not apply if:

- You use your capital to reduce or pay your debts, or,
- You buy goods or services if the spending is 'reasonable in the circumstances'

Other benefits have less clear cut rules about spending your savings.

Disregarded Capital

In assessing your capital some things are 'disregarded'. Different benefits have different rules but the effects are generally similar.

The examples below are taken from the law of Universal Credit. All means-tested benefits have similar rules to disregard the value of:

- Capital over £16,000 for one year, if you have moved to Universal Credit under *managed migration*.
- Your home.
- The home of a close relative who is over Pension Age or who has Limited Capability for Work.
- A property that you intend to live in:
 - That you have bought within the last six months, or,
 - Where you have taken legal advice or begun proceedings *to obtain possession* of the property within the last six months, or,
 - You are carrying out essential repairs to make the property fit for occupation that began within the last six months
- A property that you used to live in with your ex-partner where your ex-partner who is a lone parent still lives in it.
- A property that you used to live in with your ex-partner that you have left within the last six months.
- A property that you are taking *reasonable steps to dispose of*, where you began those steps in the last six months.
- Proceeds of the sale of a property within the last six months, that you intend to use to buy another property.
- An insurance payout received in the last six months for loss or damage to your home or possessions.
- A backdated payment of some social security benefits made within the last 12 months.
- Payments that you get because you are the holder of a Victoria Cross.
- A personal injury compensation payment that is held in trust, or administered by the court, or that can only be *disposed of by direction of the court*.
- Any other personal injury compensation payment made within the last 12 months – unless it has been used to buy an annuity

Where these rules include a time limit, this can often be extended where it is *reasonable*.

Key Ideas 13 – Council Tax

Council Tax is a tax charged by local councils on the *dwellings* in their area.

All dwellings are given a notional value and put into one of eight bands from A to H.

Each year, the council sets a charge level for band D and the charge for each other band is set as a proportion of this.

There are several ways of reducing the amount of Council Tax that you must pay including:

- Property exemption
- Disability reduction
- Single person discounts
- Council Tax reduction
- Second adult rebate

Exemption

The council tax bill for an exempt property is zero. These include:

- Properties where all the occupiers have a *severe mental impairment* .
- Properties where all the occupiers are students or school or college leavers.
- Properties where all the occupiers are aged under 18.
- Some unoccupied properties where the usual resident is in care, hospital, prison, or away from home providing care.

Disability Reduction

The bill is reduced by one band, or the equivalent for band A properties, if your home has:

- Enough floor space to use a wheelchair.
- A room, not including the only kitchen bathroom or lavatory, especially for a person with a disability.
- An additional bathroom or kitchen for a person with a disability.

Single Person Discount

Council Tax assumes that two adults live in each property. If only one adult lives in the dwelling, a 25% discount is allowed. In counting the number of adults some people are *invisible* including if:

- You are a student.
- You have a *severe mental impairment*.
- You are an apprentice.

Council Tax Reduction

Formerly known as Council Tax Benefit, Council Tax Reduction is a local scheme in which different councils make up their own rules. All schemes must meet minimum standards in which:

- The reduction is means-tested. The amount of help you get depends on your income.
- There will be a savings limit.
- You must make a claim to get the reduction.
- If you get Guarantee Credit or Pension Credit the reduction will cover the full bill.

Second Adult Rebate

You do not get a single person discount if a second adult lives in your home.

If that person either gets means-tested benefit, or is on a low income, you may be able to claim a second adult rebate of upto 25% of the bill.

Not all councils provide second adult rebate

Severe Mental Impairment

A severe mental impairment is an impairment of intelligence and social functioning that appears to be permanent.

You must have a *certificate of confirmation* that is provided free of charge by your doctor.

You must be eligible for one of a range of benefits including PIP Daily Living, DLA Care Component and Attendance Allowance; or Universal Credit with a LCW or LCWRA element.

Key Ideas 14 - Challenging Benefit Decisions

In assessing your claim the DWP, HMRC or council makes legally binding decisions. You must be notified of all decisions in writing.

If a decision is not fully explained you can ask for a *written statement of reasons* for it.

Once a decision has been made, this decision will stand until another legal decision is made to change it. There are three ways that a decision can be changed:

- A revision – sometimes called a mandatory reconsideration
- A supersession
- An appeal – where an independent tribunal makes a new decision.

Written Statements of Reasons - This is a full explanation of what information and law was used to make the decision. You must ask for a written statement of reasons within one month of getting the decision. It should normally be sent to you within fourteen days. If you are still unhappy with the decision once it has been explained, you can either ask for a revision or you can appeal against the decision.

Revisions, aka Mandatory Reconsiderations - a revision changes a decision from the date it was originally made – in effect this says that the original decision was wrong and should be replaced.

For most DWP and HMRC decisions you must ask for a revision before you can appeal to a tribunal. This is why DWP calls them *mandatory reconsiderations* – mandatory means compulsory.

ESA Work Capability Assessment decisions are an exception to this general rule.

If your ESA Work Capability Assessment has been completed and it had been decided that you are fit for work you can appeal directly to a tribunal without going through the revision stage.

If you failed your Work Capability Assessment because you did not return the form or did not participate in a medical you must go through the mandatory reconsideration stage before appealing to a tribunal.

If you are getting ESA when you are found to be fit for work your benefit will usually be stopped, but it can be reinstated if you provide doctor's statements and appeal to the tribunal. You will be able to stay on ESA until the tribunal makes a decision.

If you want the DWP or council to look at a decision again you must normally ask them to do so within one month of the date that you were notified of the decision.

If you asked for a written statement of reasons, the time limit is extended. For Housing Benefit decisions the days between your request and the council sending the statement are not counted. For other benefits the time limit is extended by 14 days.

If you miss the one month deadline for a revision you may still be able to get the decision re-examined if:

- *Special circumstances* caused the delay - maximum 13 months.
- There was an *official error* in the original decision.
- There was a *mistake about, or ignorance of the facts* in the original decision.
- You have been awarded a *qualifying benefit* since the original decision.
- You already have an outstanding appeal against the decision.

If you ask for a revision, you must explain why you think the decision is wrong, rather than just saying that you believe it is incorrect.

If you ask for a revision and are unhappy with the revised decision you can then appeal against this within one month of the revised decision.

Supersessions – A supersession changes a decision from some later date – in effect this says that the original decision was correct at the time but it no longer applies because of a change in your circumstances

You must usually notify the DWP or Council about a change in your circumstances. For some benefits you must do this in writing for other benefits a change can be reported by phone. It is always best to report a change in your circumstances in writing.

For legacy benefits if you do this within one month of the change happening, the supersession will usually take effect from the date of the change.

For Universal Credit you must report a change within the assessment period in which it happens.

If you wait longer than the time limit you may lose out.

A supersession following a change that decreases your benefit will take effect from the time the change happened.

Generally supersession that increases your benefit will only take effect from the date that you notify the DWP or council unless a late-notification rule applies.

For more details of the effective dates of Universal Credit supersessions search for the word *supersessions* on the *News&Advice* page of www.mikebolton.co.uk

If your decision is superseded following a change in your circumstances, you can then ask for a revision or appeal of the new decision.

Appeals - If you are unhappy with a Housing Benefit decision you can ask for a revision or you can appeal to an independent tribunal.

For most DWP or HMRC decisions you must apply for a revision and provide a copy of the revision decision before you can lodge an appeal.

Use form SSCS1 to register your appeal.

The time limits for appeals are similar to those for revisions.

PIP, DLA, AA & WCA Decisions - If you challenge your PIP, DLA, AA or Work Capability decision, your award will be reassessed from scratch and your benefit could be reduced rather than increased.

Non Means Tested Benefits

Non-means-tested benefits are paid at flat rates laid down in the law. Your income does not usually affect your entitlement to these benefits.

Non-means-tested benefits are paid to individuals so it does not matter whether you are single or have a partner.

Some non-means-tested benefits are contributory – depending on your National Insurance record. Others are non-contributory where your National Insurance is irrelevant.

Some of the non-means-tested benefits are paid instead of a wage. Except Bereavement Support Payment, if you meet the rules for more than one of these, only the one which is best will be paid.

Non-Means-Tested Benefits

Care Needs	Under 16	DLA Care Component	61	
	16 – 64	PIP Daily Living Component	61	
	65+	Attendance Allowance	61	
Mobility Needs	Under 16	DLA Mobility Component.	61	
	16 – 64	PIP Mobility Component	61	
	65+	None		
Instead of a Wage	Illness or Disability	Statutory Sick Pay	85	
		<i>cESA old style and new style</i>	86	
	Carer	Carer's Allowance	88	
		Statutory Maternity Pay	89	
	Pregnant / New Child	Statutory Paternity Pay	89	
		Statutory Adoption Pay	89	
		Statutory Shared Parental Pay	89	
		Maternity Allowance	91	
		Bereaved	Bereavement Support Payment	92
		Widowed Parent's Allowance	92	
	Looking for Work ^{KI-8}	Stat Parental Bereavement Pay	93	
		cJSA aka nsJSA	94	
State Pension		95		
Child or Young Person ^{KI-2&3}	Child Benefit	97		
	Guardian's Allowance	98		
Disability Caused by Work	Industrial Injuries Benefits	99		
	War Pensions & MOD Payments	100		
Council Tax	Discounts and Exemptions	KI-13		

Disability Living Allowance

Personal Independence Payment

Attendance Allowance

If your disability causes care needs you may get:

- DLA Care Component if you claim/ed before the age of 16.
- PIP Daily Living Component if you claim/ed before Pension Age.
- Attendance Allowance if you claim/ed after Pension Age.

If your disability causes mobility difficulties you may get:

- DLA Mobility Component if you claim/ed before the age of 16.
- PIP Mobility Component if you claim/ed before Pension Age.

Before PIP was introduced on 10 June 2013 DLA could be claimed by adults under the age of 65. If you are an adult who got DLA before this you may still get it, but will be *migrated* to PIP, unless you were aged 65 or over on 8^h April 2013.

In many ways DLA, PIP and AA are similar:

- The rates are equivalent.
- All three benefits use 'most days' assessments to look at how your disability usually affects you, rather than looking at a bad day.
- Getting a care needs benefit usually allows your carer to claim Carer's Allowance.
- Special Rules apply if you have a terminal illness.
- Each benefit has past and future period rules about how long your disability lasts.
- You might not get payments while you are in hospital, residential care or prison.
- They are all non-taxable benefits.
- They are not 'instead of a wage benefits' and so they can be paid alongside any other entitlements.
- You may not get these benefits if you get equivalents from the Industrial Injuries or Armed Forces schemes.

The main difference is in the way that your needs are assessed.

Non-Means-Tested Benefits – Care and Mobility Needs

Claim Age	Care Needs	Mobility Needs
0-15	DLA Care Component	DLA Mobility Component
Or under 65 if you claimed before June 2013 and your claim has not been migrated	<p>£23.70 if you need limited attention</p> <p>£60.00 if you need attention or supervision during day or night</p> <p>£89.60 if you need attention or supervision during day and night</p>	<p>£23.70 if you are aged five or over and need guidance or supervision on an unfamiliar route</p> <p>£62.55 if you are aged three or over and:</p> <p>You are unable to walk</p> <p>You are virtually unable to walk</p> <p>You have a severe visual Impairment</p> <p>You have a severe mental impairment</p> <p>You have no feet</p> <p>The effort of walking endangers your health</p>
16 - Pension Age	PIP Daily Living Component	PIP Mobility Component
	<p>£60.00 if you score 8-11 points from the Daily Living Assessment</p> <p>£89.60 if you score 12+ points from the Daily Living Assessment</p>	<p>£23.70 if you score 8-11 points from the Mobility Assessment</p> <p>£62.55 if you score 12+ points from the Mobility Assessment</p>
Over Pension Age	Attendance Allowance	
	<p>£60.00 if you need attention or supervision during day or night</p> <p>£89.60 if you need attention or supervision during day and night</p>	

DLA Care and Attendance Allowance - Care Needs - Attention

You qualify for DLA Care Component or Attendance Allowance if *because of your disability; you need attention from another person in connection with your bodily functions.*

The amount of DLA or Attendance Allowance that you get depends on whether you need:

- Limited attention: Help for about an hour a day.
- Day-time attention: Frequent help throughout the day.
- Night-time attention: Prolonged (20 minutes) or repeated help at night.

Attention means help. It is *a service of a close and intimate nature... involving personal contact carried out in the presence of the disabled person.* Attention is “active and interventory”.

A child claiming DLA must need more attention than a non-disabled person of the same age.

The assessment only counts attention that is connected to a *bodily function*. In a test case these were defined as:

Breathing, hearing, seeing, eating, drinking, walking, sitting, sleeping, getting in and out of bed, dressing, undressing, eliminating waste products and the like, all of which an ordinary person who is not suffering from a disability does for himself. But they do not include cooking, shopping... [or any household or domestic tasks]”

Since this case, playing, thinking, communication and dealing with medication have been accepted as bodily functions.

You must need attention from another person. Help in other ways; by aids or adaptations or by a guide dog, will not help you to qualify.

The Decision Maker should assess the attention that you need - not the attention that you get. They must consider the help you need to live “as normal a life as possible” including any that help you need to do social, recreational and cultural activities.

If you can manage to do things to look after yourself, but this causes you pain or takes a lot longer than it would take without your disability, the Decision Maker will accept that you need help with that task.

Although you may feel that you need help with something, the Decision Maker may say that you do not, if there are other ways of meeting the need. For example, if you find it difficult to manage stairs you may feel that you need help to get to your lavatory. The Decision Maker may say that you do

not need this help since you could get round the problem by having a commode in an accessible place (if one is available). If the Decision Maker says that there are other ways of meeting your need, the suggestions must be reasonable.

DLA Care and Attendance Allowance - Care Needs - Supervision

You qualify for DLA Care Component or Attendance Allowance if *because of your disability you need supervision from another person to avoid a substantial danger to yourself or others*.

A child claiming DLA must need more supervision than a non-disabled child of the same age.

The amount that you get depends on whether you need:

- Daytime supervision: Continual supervision throughout the day.
- Night time supervision: Supervision for a prolonged period (20 minutes) or at frequent intervals during the night.

Supervision is “passive, precautionary or anticipatory”.

There must be a *substantial danger*; such as the risk of harm from falls. You must weigh-up the likelihood of the danger occurring with its potential consequences. The Decision Maker should accept that a danger is substantial if it is ‘reasonable to guard against it’.

Your award is based on the supervision that you need, not that you get. The decision maker will look at the amount of supervision you need most days, to live as normal a life as possible. They will take account of aids and adaptations that could help instead of having supervision.

DLA Mobility - Guidance or Supervision on an Unfamiliar Route

You qualify for the low rate of DLA Mobility Component if you are aged 5-15 and you have a physical or mental disability that means that, most days, you need guidance or supervision from another person when you are walking on an unfamiliar route. You must need more guidance or supervision than a non-disabled child of the same age.

Guidance is active and involves intervening. It can be physical or verbal.

Supervision is passive monitoring. It could include watching for signs of distress, or checking the environment for situations that could be upsetting or cause difficulties.

Guidance and supervision involve helping you to make your journey – not simply keeping you company.

DLA Mobility - Virtually Unable to Walk

You qualify for high rate DLA Mobility Component if you are aged 3 -15 and most days you are *unable to walk or virtually unable to walk*.

Your ability to walk outside on flat ground is assessed, using any artificial aid that you normally use or that you could use. The law does not specify any distances for this test. The Decision Maker should look at:

- How far you can walk.
- The speed of your walking.
- The length of time that you take - including rests and recovery time.
- The way that you walk.

Your need for rest and the later effects of walking will be taken into account. The decision maker should only consider your ability to walk before the onset of *severe discomfort or pain*.

DLA Mobility - Severely Mentally Impaired and Severe Behavioural Problems

You qualify for high rate DLA Mobility Component if you are aged 3 -15 and you are severely mentally impaired with severe behavioural problems. A severe mental impairment is defined as *an arrested or incomplete physical development of the brain which results in severe impairment of intelligence and social functioning*.

Your behaviour must be *extreme*, regularly needing *another person to intervene and physically restrain you* to avoid injury to yourself or other or damage to property. You must need *watching whenever you are awake*.

DLA Mobility - Severe Visual Impairment

You qualify for high rate DLA Mobility Component if you are aged 3 -15 and you have:

- Visual acuity, with appropriate corrective lenses, of less than 3/60.
- Visual acuity of 3/60 or more, but less than 6/60, with appropriate corrective lenses, a complete loss of peripheral visual field and a central visual field of no more than 10° in total.
- Been certified as severely sight impaired or blind by a consultant ophthalmologist.

DLA PIP and AA - Shared Rules

Age Limits

If you get DLA when you are under 16 at some time around your 16th birthday you will be invited to make a claim for PIP. Your DLA award will be maintained until your PIP claim has been finalised.

If you claim PIP before pension age your award can carry on afterwards. It can be renewed when necessary; sometimes even after a break.

Past and Future Period Rules

To claim care or mobility benefits your disability must be expected to last for a period of several months.

	Past Period	Future Period
DLA	3 Months	6 Months
PIP	3 Months	9 Months
AA	6 Months	None

Although you may make an advance claim you cannot have an award until the end of the 'past period'.

DLA and AA assessments are based on your condition at the date at the start of your award. PIP assessments look at your condition throughout the whole of the 'required period'

If you re-claim after a break you may not have to meet the past period rule.

Terminal Illness

You are terminally ill if your death can *reasonably be expected within six months* because of a *progressive disease*.

If you claim because of a terminal illness:

- You do not have to meet the past period and future period rules.
- You do not have to meet the present in GB for 104/156 weeks rule.
- You are automatically entitled to the high rate of the care needs benefit for a person of your age.
- You may get the Mobility Component if you meet the assessment.

If you have a terminal illness you should obtain a form DS1500 from your GP, Macmillan nurse or Social Worker then make your claim. Your claim should be fast-tracked.

Hospitals and Residential Care

Hospital

If you are aged under 18 when you go into hospital your DLA or PIP can continue, no matter how long you stay.

If you were not getting DLA or PIP when you went into hospital, you can claim while you are a patient and get the payments straight away.

If you are aged 18 or over when you go into an NHS hospital your care and mobility needs benefit will be suspended after 28 days.

Your benefit is reinstated when you leave hospital.

If you were not getting PIP or AA when you went into hospital, you can make a new claim while you are in hospital, but you will not be paid until you leave.

DLA, PIP and AA are usually awarded for fixed periods. If your award ends while you are in hospital you must reclaim.

You can reclaim while you are still in hospital, but you won't be paid until you leave

Your benefit is not suspended in a hospice if you are terminally ill.

Residential Care

If you go into residential care that is paid for by public money, you can keep your DLA Mobility Component or PIP Mobility Component, but your care needs benefit will be suspended after 28 days.

If you are paying for your residential care placement you keep your care needs benefit.

If you claim care and mobility benefits while you are in residential care, the mobility benefit can start straight away but the care needs benefit will not be paid until you leave.

When is Residential Care not Residential Care?

Sometimes, residential care will count as hospital if the NHS provides nursing services in the care home, or if your nursing needs are more than 'merely incidental or ancillary'. In this situation you might expect to get your mobility component, but find that it cannot be paid because you still count as a hospital patient.

This might apply if you are covered by section 117 aftercare.

Linking Rules

Periods in hospital and residential care that are separated by less than 28 days are often linked together. You can be paid by the day for the time when you are not in hospital or residential care.

Other Information

Renal Dialysis: If you undergo renal dialysis special rules may help you to claim Disability Living Allowance or Attendance Allowance

Motability – If you get high rate mobility component of DLA or PIP you can use it to buy or lease a car or scooter through the motability scheme. Low cost or free driving lessons may also be available through the motability scheme. See www.motability.co.uk for details.

Blue Badges - If you get high rate mobility component of DLA or PIP you can get a *Blue Badge* from the local council. This provides parking concessions for drivers or passengers (aged 2 or over) with disabilities.

Road Tax Exemption - If you get high rate mobility component of DLA or PIP you can be exempt from road tax. If you do not drive, or do not have a car, you can nominate another vehicle however it must be used *by or for the purposes of the disabled person*.

DLA and Attendance Allowance Claims

Although you can download the claim forms for DLA and Attendance Allowance it is better to call the helpline and ask for a form.

This will be date-marked.

So long as you return your date-marked form within six weeks your award will start from the date you asked for the form.

Apart from this, your claim cannot be backdated.

For DLA call 0800 121 4600

For Attendance Allowance call 0800 731 0122

A full and detailed claim form may give the decision maker all the information needed to deal with your claim.

If they need more information the decision maker may call you, or may get reports from your doctor or from other health professionals mentioned on your form.

Some people are asked to attend medical examinations, which may take place at your home.

PIP Claims

Your PIP entitlement depends on how your *physical or mental condition* affects your ability to carry out ten *Daily Living Activities* and two *Mobility Activities*. A scoring system is used to assess this.

You must make a claim which is usually managed in a three stage process:

- The DWP registers your claim, takes basic details and sends you a form to complete and return.
- A Health Professional working for a private sector contractor assesses you and writes a report for a DWP Decision Maker.
- The DWP Decision Maker decides on your entitlement and notifies you of the result.

Registering The PIP Claim

Call 0800 917 2222. This call can be made by a support worker or other third party. DWP information says that a third party must “be with the claimant when they call and the claimant will need to pass a quick identity check”.

During this call you will be asked to provide personal and contact details, residency details; details of recent admissions to hospital and care; and bank account information.

If you do not meet the basic conditions the DWP will issue a “disallowance letter” to you.

It is legally possible for the DWP to award PIP on the basis of the information given to them during the phone call, but in practice this does not happen.

You will usually be asked to complete a form called *How Your Disability Affects You*.

You must return your form within one month and provide any extra information or evidence needed to decide your claim within one month of being asked for it. These deadlines can be extended for a reasonable period if it is reasonable to do so.

The Health Professional’s Assessment

Your form and claim information are passed to a Health Professional who works for one of two private sector contractors Capita or Atos

Occasionally the phone call and form will have provided all the information that the health professional needs to write a report on your claim; but you will usually be asked to take part in a *consultation*. This can be done by phone or face-to-face.

Arranging the Face-to Face Assessment

You must be given seven days' written notice) of the consultation, although you can agree, verbally or in writing, to a shorter notice period.

You can ask for this to take place at your home if, for example, you have difficulty travelling.

You may be told by Capita or Atos that a home assessment is not possible; or that you must attend a consultation a long distance from your home; or that it is only possible to rearrange an appointment once.

The law does not say anything useful about the practicalities of arranging consultations but Capita and Atos must use their discretion to make reasonable arrangements.

If Capita or Atos are unhelpful or uncooperative, make use of their complaints procedure and involve your MP if necessary.

The law says that if you *fail without good reason to attend for or participate in a consultation* your claim must be turned down.

If you miss your appointment and you are told that it is not possible to rearrange it, make a complaint to Capita or Atos and contact the DWP immediately to explain the *good reason* why you could not attend.

If your PIP claim is refused because you miss your assessment, ask for a Mandatory Reconsideration KI-13 explaining your *good reason* for missing it. You can also re-claim PIP at the same time as asking for the reconsideration.

During The Assessment

You must explain how your condition affects you most days, and you will have the opportunity to hand over evidence and information. You may also be asked to undergo a short physical examination.

You may have someone with you during consultation. The DWP's *PIP Assessment Guide* says:

Claimants have a right to be accompanied to a face-to-face consultation if they so wish. Claimants should be encouraged to bring another person with them to consultations where they would find this helpful – for example, to reassure them or to help them during the consultation. The person chosen is at the discretion of the claimant and might be, but is not limited to, a parent, family member, friend, carer or advocate.

Consultations should predominantly be between the HP and the claimant. However, the companions may play an active role in helping claimants answer questions where the claimant or HP wishes them to do so. HPs should allow a companion to contribute and should record any evidence they provide.

This may be particularly important where the claimant has a mental, cognitive or intellectual impairment. In such cases the claimant may not be able to give an accurate account of their health condition or impairment, through a lack of insight or unrealistic expectations of their own ability.

In such cases it will be essential to get an accurate account from the companion.

However, the involvement of companions should be handled appropriately by the HP. It is essential that the HP's advice considers the details given by the claimant and the companion and whether one or both are understating or overstating the needs. If the presence of a companion becomes disruptive to the consultation, the HP may ask them to leave. However, this should be avoided wherever possible.

PIP Assessment Guide September 2020 Paragraph 1.6.51 -1.6.54

The Decision

After the consultation, the health professional sends a report to the DWP where a Decision Maker decides whether you are entitled to PIP.

You will be notified of the decision in writing.

If you disagree with the decision on your PIP claim you can ask for a revision and then appeal. KI-13.

Once you have been assessed you can be reassessed at any time, for any reason.

Awards and Payments

A PIP award is usually for a fixed period but an *ongoing award* may be made in a minority of cases. All awards will be periodically reviewed, regardless of their length.

PIP is paid every four weeks in arrears – unless you are terminally ill. In this case it is paid weekly, in advance.

After an award you must notify the DWP of any relevant change in your circumstances.

The PIP Assessment

PIP is assessed by scoring your abilities in ten *daily living activities* and the two *mobility activities*.

The system assesses whether you can do these things *to an acceptable standard*, whenever you need to do them.

It helps to use a three stage process for thinking about this.

1 - To do the PIP activity, do you, or would you, need *aids*? This is any *device that improves, provides or replaces an impaired physical or mental function*. This means any piece of kit that you need to do the activity, that a person who does not have your condition would not need.

2- Assuming that you have your aids in place (or that you have a good reason for not using aids), to do the PIP activities, do you need:

- Prompting, reminding, encouraging or having things explained to you.
- Physical help from another person
- Someone with you all the time you are doing the PIP activity to keep you safe

3 - If you have help described above (or you have a good reason for not taking that sort of help), can you do the activities:

- Safely - in a way that is unlikely to cause harm to anyone.
- In no more than twice the length of time taken by someone without a disability.

This section of the Benefit Notes brings these stages together, activity-by-activity.

To use this, you should work through each activity and identify all the criteria that apply to you.

For each activity you get the points from the highest scoring criterion that applies to you **most days**.

In your form, or your mandatory reconsideration letter, or your appeal it is helpful to briefly state every rule that applies to you and then briefly explain how. For example you might say:

I always need to use aids to have a shower. (This is the statement)

I use grab-rails, a slip mat and a shower stool. (This is the explanation)

Even with aids, most days I need physical help to get in and out of the shower. (This is the statement)

Because my balance is poor and I am unsteady on me feet, I need someone to hold me when I step over the rim of the shower tray. (This is the explanation)

The letters next to each criterion refer to the legal rules which can be found on the resources page of www.mikebolton.co.uk or at www.legislation.gov.uk/ukxi/2013/377

There is an example of a PIP reconsideration letter on the resources page of www.mikebolton.co.uk

Daily Living Component 1 - Preparing Food		
<p>This is about your ability to prepare and cook <i>a cooked one-course meal for one person using fresh ingredients.</i></p> <p>It might be that that you never actually cook or have never learned to cook, but this is not relevant. What matters is how your health problems or disability would affect you, if you tried to prepare and cook a simple meal.</p> <p>Preparing food means peeling, chopping, mixing, etc. DWP guidance says it includes opening packaging.</p> <p>Cooking means heating food on a hob or in a microwave but does not include using an oven that is below waist height.</p> <p>DWP guidance says <i>carrying items around the kitchen or carrying food to where it will be eaten is not relevant</i>, but moving things from work surface to sink to hob should be counted.</p> <p>The assessment should look at whether you can prepare and cook food whenever you need to. DWP guidance says <i>you would normally expect to prepare food 3 times a day, but to heat food only once a day.</i></p> <p>The assessment should look at whether you can make a simple meal to an acceptable standard. The meal must be edible and safe, but presentation is not counted.</p>		
b	<p>You need to use an aid or appliance to make a simple meal.</p> <p>This is any device that helps you overcome your health problem or disability.</p> <p>It could be any piece of equipment that you use that someone who does not have your condition would not need to use.</p>	2
c	<p>You cannot use a conventional hob, but you could use a microwave to cook things when you are making a simple meal made from fresh ingredients.</p>	2
d	<p>You need someone to prompt you, remind you, encourage you or explain things to you to make a simple meal.</p>	2
e	<p>You need physical help to make a simple meal.</p>	4
e	<p>To make simple meal you would need to have someone with you all the time you were doing it, to keep you safe.</p>	4
Reg 4-(a)	<p>Even if you have/had someone with you all the time that you were making a simple meal, there would still be a likely risk of harm to you or to someone else.</p>	8
Reg 4-(d)	<p>If you have the help described above you can make simple meal, but doing so takes more than twice as long as it would take someone who does not have your condition.</p>	8
f	<p>Cannot prepare and cook food.</p>	8

Daily Living Component 2 – Eating		
<p>This activity looks only at your ability to cut food into pieces, move it to your mouth and chew and swallow it.</p> <p>It may be that you do not eat well or that you have a very restricted or unhealthy diet, but that is not relevant.</p>		
b(i)	<p>You need to use an aid or appliance to eat.</p> <p>This is any device that helps you overcome your health problem or disability, that someone who does not have your condition would not need to use.</p>	2
b(ii)	You need someone with you all the time that you are eating, to keep you safe.	2
b(iii)	You need physical help to be able to cut up food.	2
d	You need someone to prompt you, remind you, encourage you or explain things to you to be able to eat.	4
f	You cannot move food and drink to your mouth and you need another person to do so.	10
Reg 4-(d)	If you have the help described above you can eat, but doing so takes more than twice as long as it would take someone who does not have your condition.	10
Reg 4-(a)	Even if you have someone with you all the time that you are eating, there is still be likely risk of harm to you or to someone else.	10

Daily Living Component 2 – Using a Therapeutic Source to Take Nutrition		
<p>A <i>therapeutic source</i> means parenteral or enteral tube feeding, using a rate-limiting device such as a delivery system or feed pump;</p>		
c	You need a <i>therapeutic source</i> to be able to take nutrition	2
e	You need physical help to manage your therapeutic source	6

Daily Living Component 3 - Managing Medication or Therapy or Monitoring a Health Condition.

This is about:

Managing medication at home which is prescribed or recommended by a.... doctor, nurse or pharmacist where a failure to take it is likely to result in a deterioration in your health.

Monitoring a health condition which means detecting significant changes... which are likely to lead to deterioration in your health; and taking action advised by a ... doctor ... nurse or health professional... without which your health is likely to deteriorate.

Managing therapy which means therapy to be undertaken at home which is prescribed or recommended by a ... doctor, nurse, pharmacist or health professional ... where a failure to do so is likely to result in a deterioration in your health.

<p>b(i) b(ii) b(iii)</p>	<p>To manage your medication you need:</p> <ul style="list-style-type: none"> ○ To use an aid or appliance. This is any device that helps you overcome your health problem or disability, that someone who does not have your condition would not need. ○ Physical help. ○ Someone prompt you, remind you, encourage you or explain things to you. ○ Someone with you all the time to keep you safe. 	<p>1</p>
<p>b(ii) b(iii)</p>	<p>To monitor your health condition, you need:</p> <ul style="list-style-type: none"> ○ Physical help. ○ Someone prompt you, remind you, encourage you or explain things to you. ○ Someone with you all the time to keep you safe. 	<p>1</p>
<p>c d e f</p>	<p>To manage your home therapy, you need:</p> <ul style="list-style-type: none"> ○ Physical help ○ Someone prompt you, remind you, encourage you or explain things to you ○ Someone with you all the time to keep you safe <p>For:</p> <ul style="list-style-type: none"> c no more than 3.5 hours a week. d more than 3.5 but no more than 7 hours a week. e more than 7 but no more than 14 hours a week. f more than 14 hours a week. 	<p>2 4 6 8</p>

Daily Living Component 4 - Washing and bathing.		
<p>This is about getting yourself clean to a standard that is <i>good enough</i>. DWP guidance says that this means washing your whole body to remove dirt and sweat.</p> <p>It does not include undressing before your bath or shower, or dressing yourself afterwards. If you have problems with these, they will be assessed under activity 6.</p> <p>If you have difficulties drying yourself after a bath or shower, these should be taken into account.</p> <p>The assessment should look at whether you can wash and bathe whenever you need to. If you have a health problem that means that you need to wash and bathe more often than most people, this should be taken into account.</p>		
b	You need to use an aid or appliance to be able to wash or bathe. This is any device that helps you overcome your health problem or disability, that someone who does not have your condition would not need.	2
c	You need someone to prompt you, remind you, encourage you or explain things to you to be able to wash or bathe	2
c	To wash or bathe, you need to have someone with you all the time you are doing it to keep you safe.	2
d	You need physical help to wash your hair or your body below the waist.	2
e	You would need physical help be able to get in or out of an un-adapted bath.	3
e	You would need physical help be able to get in or out of an un-adapted shower.	3
f	You need physical help to wash your hair or to wash your body between the shoulders and waist.	4
Reg 4-(d)	If you have the help described above you can wash or bathe, but doing so takes more than twice as long as it would take someone who does not have your condition.	8
Reg 4-(a)	Even if you had someone with you all the time that you were washing or bathing there would still be a likely risk of harm to you or someone else.	8
g	You cannot wash and bathe at all and need another person to wash your entire body.	8

Daily Living Component 5 - Managing toilet needs or incontinence.		
<p>This is about getting <i>on and off an unadapted toilet; evacuating your bladder and bowel; and cleaning yourself afterwards.</i></p> <p>Problems that you have getting to and from your toilet are not taken into account.</p> <p>Dealing with clothes is not taken into account – problems with this are assessed under activity 6.</p> <p><i>Manage incontinence means managing involuntary evacuation of the bowel or bladder, including use of a collecting device or self-catheterisation, and cleaning yourself afterwards.</i></p>		
b	You need to use an aid or appliance to be able to manage toilet needs or incontinence. This is any device that helps you overcome your health problem or disability, that someone who does not have your condition would not need.	2
c	You need someone to prompt you, remind you, encourage you or explain things to you to manage your toilet needs.	2
c	You need someone with you all the time that you are dealing with your toilet needs, to keep you safe.	2
d	You need physical help to be able to manage your toilet needs.	4
e	You need physical help to be able to manage incontinence of either the bladder or the bowel.	6
f	You need physical help to be able to manage incontinence of both the bladder and the bowel.	8
Reg 4-(d)	If you have the help described above you can manage your toilet needs but doing so takes more than twice as long as it would take someone who does not have your condition.	8
Reg 4-(a)	Even if you had someone with you all the time that you were managing your toilet needs there would still be a likely risk of harm to you or someone else.	8

Daily Living Component 6 - Dressing and undressing.		
<p>This is about your ability to choose, and to put on and take off appropriate, un-adapted clothes that are suitable for the situation.</p> <p>It should assess dressing when you get up, undressing before bed and any times during the day when you need to put on or take off clothes, such as:</p> <ul style="list-style-type: none"> ○ Dealing with your clothes when you use the toilet ○ Dealing with changes that you need because of incontinence or food spills. ○ Adding or removing layers for a trip outside 		
b	You need to use an aid or appliance to be able to dress or undress. This is any device that helps you overcome your health problem or disability, that someone who does not have your condition would not need.	2
c(i)	To able to dress or undress, you need someone to prompt you, remind you, encourage you or explain things to you.	2
C(i)	To make sure that you don't take your clothes off when it's not appropriate, you need someone to prompt you, remind you, encourage you or explain things to you.	2
c(ii)	To select appropriate clothing, you need someone to prompt you, remind you, encourage you or explain things to you.	2
c(ii)	You need physical help to able to select appropriate clothing.	2
d	You need physical help to be able to dress or undress your lower body.	2
e	You need physical help to be able to dress or undress your upper body.	4
Reg 4-(d)	If you have the help described above you can dress or undress, but doing so takes more than twice as long as it would take someone who does not have your condition.	8
f	Cannot dress or undress at all.	8

Daily Living Component 7 - Communicating verbally.

This is about:

- Hearing and understanding what someone else says – so that you can convert the sounds that come from them into ideas in your mind.
- Expressing yourself – so that you can convert ideas in your mind into sounds that someone else can understand.

The assessment looks at how you manage information in your first language.

Communication support means support from a person trained or experienced in communicating with people with specific communication needs, including interpreting verbal information into a non-verbal form and vice versa.

The *trained or experienced* person might be a worker or a professional but DWP guidance says that this could also include support from someone directly experienced in supporting you such as a family member.

b	You need to use an aid or appliance to be able to speak or hear. This is any device that helps you overcome your health problem or disability, that someone who does not have your condition would not need.	2
c	You need communication support to be able to express or understand complex verbal information. This means information in more than one sentence or one complicated sentence.	4
d	You need communication support to be able to express or understand basic verbal information. This means information in a simple sentence.	8
Reg 4-(d)	You can express or understand verbal information, but even with aids, appliances or communication support, doing so takes more than twice as long as it would take someone who does not have your condition.	12
e	You cannot express or understand verbal information at all, even with communication support.	12

Daily Living Component 8 - Reading and understanding signs, symbols and words.

This is about:

- Being able to see text, signs and symbols
- Being able to convert the information in the text, sign or symbol into an idea in your mind.

Reading does not include reading Braille.

The assessment assumes that you will wear your usual glasses or contact lenses so these do not count as an aid.

DWP guidance says that *the ability to remember and retain information is not* relevant; but you should only count as able to read information if you are also able to understand it.

The assessment looks at how you manage information in your first language.

The rules refer to *written or printed text of a standard size* but unhelpfully they do not specify what this means. It is probably a good idea assess how you manage reading letters from the DWP or from councils or utilities.

If you have not learned to read this will not, count unless that is the result of a sensory or cognitive difficulty.

If your ability to see and read information varies, the assessment should look at how you manage reading whenever you need to do so.

b	You need to use an aid or appliance, other than spectacles or contact lenses, to be able to read or understand any written information.	2
c	You need someone to prompt you, remind you, encourage you or explain things to you to be able to read or understand more than one sentence of written information.	2
d	You need someone to prompt you, remind you, encourage you or explain things to you to be able to read or understand signs, symbols and dates.	4
Reg 4-(d)	If you have the help described above you can read and understand written information, but doing so takes more than twice as long as it would take someone who does not have your condition.	8
e	Cannot read or understand signs, symbols or words at all.	8

Daily Living Component 9 - Engaging with other people face to face.		
<p>This is about:</p> <ul style="list-style-type: none"> ○ interacting with other people in a contextually and socially appropriate manner, ○ understanding body language, and ○ establishing relationships. 		
b	You need someone to prompt you, remind you, encourage you or explain things to you to be able to engage with other people.	2
c	<p>You need <i>social support</i>, from someone who is trained or experienced in helping people engage in social situations.</p> <p><i>Social support</i> must be more than the prompting, reminding, encouraging and explaining mentioned in the descriptor above.</p> <p>The trained or experienced person might be a worker or a professional but DWP guidance says that this could also include support from <i>someone directly experienced in supporting you such as a family member</i>.</p>	4
d(i)	<p>You cannot engage with other people because it causes you to experience <i>overwhelming psychological distress</i>.</p> <p>Your distress must be connected to an enduring mental health condition or an intellectual or cognitive impairment.</p>	8
d(ii)	You cannot engage with other people because it makes you behave in a way that would cause a substantial risk of harm to you or someone else	8

Daily Living Component 10 - Making budgeting decisions.

This activity is about managing your money.

To score points you must have a health problem or disability that affects your decision making.

Other factors are not taken into account. For example if you have a sight impairment, this may make it difficult for you to read prices or bills These problems would be assessed under activity seven – reading and understanding – and would not be counted in this part of the assessment.

Lack of experience in managing money is not relevant.

A budgeting decision only counts if you can do it whenever you need to, and if you can do it *to an acceptable standard*.

b	You need someone to prompt you, remind you, encourage you or explain things to you to make complex budgeting decisions. This means decisions involving calculating household and personal budgets; managing and paying bills; and planning future purchases.	2
b	You need physical help to be able to make complex budgeting decisions. This means decisions involving calculating household and personal budgets; managing and paying bills; and planning future purchases.	2
c	You need someone to prompt you, remind you, encourage you or explain things to you to make simple budgeting decisions. This means adding up the costs of your shopping and checking your change.	4
c	You need physical help to make simple budgeting decisions. This means adding up the costs of your shopping and checking your change.	4
Reg 4-(d)	You can make budgeting decisions if you have the help described above, but doing so takes more than twice as long as it would take someone who does not have your condition.	6
d	Cannot make any budgeting decisions at all.	6

Mobility Component 1 - Planning and following journeys.		
<p>This is about your ability to:</p> <ul style="list-style-type: none"> ○ plan the route of a journey in advance, ○ leave the home and embark on a journey, and ○ follow the intended route once you leave the home. <p>Guidance says that <i>a journey is a local trip. You should only be considered as able to follow an unfamiliar journey if you are capable of using public transport.</i></p>		
b	<p>You need prompting to be able to undertake any journey to avoid overwhelming psychological distress.</p> <p>Psychological distress means <i>distress related to an enduring mental health condition or an intellectual or cognitive impairment.</i></p> <p>This can apply if you need prompting to leave home, even if you can manage the trip outside on your own</p>	4
c	<p>You cannot plan the route of a journey</p>	8
d	<p>You cannot follow the route of an unfamiliar journey without another person, assistance dog or orientation aid.</p> <p><i>An assistance dog means a dog trained to guide or assist a person with a sensory impairment.</i></p> <p><i>An orientation aid means a specialist aid designed to assist disabled people to follow a route safely.</i></p>	10
e	<p>You cannot undertake any journey because it would cause you overwhelming psychological distress.</p> <p>Psychological distress means <i>distress related to an enduring mental health condition or an intellectual or cognitive impairment.</i></p>	10
f	<p>You cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid.</p> <p><i>An assistance dog means a dog trained to guide or assist a person with a sensory impairment.</i></p> <p><i>An orientation aid means a specialist aid designed to assist disabled people to follow a route safely.</i></p>	12

Mobility Component 2 - Moving around.

Stand means stand upright with at least one biological foot on the ground.

Aided means with the use of an aid or appliance; or with supervision, prompting or assistance.

The PIP Assessment Guide says this activity considers your physical ability to move around without severe discomfort such as breathlessness, pain or fatigue.

It should be judged in relation to a type of surface normally expected out of doors such as pavements on the flat and includes the consideration of kerbs.

You can only stand and then move, if you can stand and then move independently while remaining standing.

b	You can stand and then move more than 50 metres but no more than 200 metres, either aided or unaided.	4
c	You can stand and then move unaided more than 20 metres but no more than 50 metres.	8
d	You can stand and then move using an aid or appliance more than 20 metres but no more than 50 metres.	10
e	You can stand and then move more than 1 metre but no more than 20 metres, either aided or unaided.	12
f(i)	You cannot stand, either aided or unaided.	12
f(ii)	You cannot move more than 1 metre, either aided or unaided.	12

Statutory Sick Pay

Statutory Sick Pay is a taxable, non-contributory benefit of £96.35pw paid by employers to employees who are *Incapable of Work* ^{K1-7}

It is paid for upto 28 weeks to people who normally earn at least £120pw

Statutory Sick Pay is the legal minimum amount that your employer must pay you during your sick leave. You may get more than this, depending upon your contract with your employer.

Exclusions - You cannot qualify if your contract is for three months or less, if you are on strike or if you are in prison. There are restrictions on some claims by pregnant women.

Waiting Days and Linking Rules – You do not usually get SSP until your fourth day of illness. If you recover after a period of illness but then become ill again within 56 days, your illnesses are seen as being a single period of sickness and your SSP starts on the first day of your second illness.

Claims and Disputes - For the first seven days of your illness you must complete a self-certificate form. After this you must prove that you are unable to work by providing a Doctor's Statement from your GP.

If your employer believes that you are not entitled to SSP s/he should provide you with a form SSP1 explaining why. If you send the completed form to the Department for Work and Pensions they will ask HMRC to check the Statutory Sick Pay decision. This form is also a claim for Employment and Support Allowance if the SSP decision is correct.

If you are still ill towards the end of your 28 weeks' Statutory Sick Pay period your employer should notify you that your SSP will end and provide a form SSP1 for you to claim Employment and Support Allowance from the Department for Work and Pensions.

Covid-19 and SSP – Special rules have been introduced to allow SSP from the first day of sickness. SSP also covers periods of self-isolation and periods where you are caring for another person because of coronavirus. Employers have been told to use their discretion not to require Doctor's Statements. Where an employer requires evidence you can get an isolation note from NHS111 online.

Contribution Based Employment and Support Allowance

Contribution Based Employment and Support Allowance is a non-means-tested benefit paid to some people with a recent National Insurance record who have *Limited Capability for Work* ^{K1-7}.

If you claimed cESA since Universal Credit was introduced in your area the DWP calls it *new-style ESA*. This can be paid in combination with Universal Credit.

If you claimed cESA before Universal Credit was introduced in your area the DWP calls it *old-style ESA*. This can be paid in combination with income-related ESA. Income-Related ESA is also referred to as old-style ESA.

The time when you first claim ESA is known as your assessment phase. You must provide a Doctor's Statement from your GP to be treated as having Limited Capability for Work until you pass a *Work Capability Assessment*.

The Work Capability Assessment is used to assess whether you have:

- Limited Capability for Work, and
- Limited Capability for Work Related Activity.

If you have Limited Capability for Work but can manage Work Related Activity you are said to be in the *Work Related Activity Group*.

If you have both Limited Capability for Work and Limited Capability for Work Related Activity you are said to be in the *Support Group* or the *No Work Related Activity Group*.

During the assessment phase you get:

- £59.20 Aged 16 – 24
- £74.70 Aged 25+

From week 14 of your claim you get:

- £74.70 Work Related Activity Group - LCW but not LCWRA
 Maximum 365 days cESA
- £114.10 Support Group - Non-Work-Related-Activity-Group - LCW & LCWRA
 Indefinite award

You get the £114.10 rate at any time if you are terminally ill.

If your Work Capability Assessment takes longer than 13 weeks, the higher rate will be backpaid to week 14

You may get the higher rate from an earlier date if your current claim is linked to an earlier claim in which your assessment phase had ended. KI-7

If you have private or occupational pensions of more than £85pw your cESA will usually be reduced by half of the excess.

National Insurance Rule

You must have a record of NI contributions or credits KI-6 in both of the last two full tax years (beginning on 6th April) before the calendar year in which you made your claim.

You must have been employed or self-employed and paid National Insurance for at least 26 weeks in one of these years.

For an ESA claim in 2021 the relevant tax years are 2018/19 and 2019/20.

For an ESA claim in 2022 the relevant tax years are 2019/20 and 2020/21

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Other Information

You may also get cESA if:

- You claimed before 30 April 2012 and you were ill or disabled before you were aged 25, or,
- You were *migrated* from Incapacity Benefit (pre-2008) or Severe Disablement Allowance (pre-2001).

To claim cESA you must be aged 16 - Pension Age KI-9

ESA is not paid until the eighth day of your illness unless:

- You become entitled to ESA within 12 weeks of a claim for Income Support, Pension Credit, Jobseekers' Allowance, Carer's Allowance, Maternity Allowance or Statutory Sick Pay ending.
- You are terminally ill.
- You have been discharged from the armed forces and had been off duty through sickness for at least seven days immediately before your discharge.

Your claim is linked to an earlier one KI-7

Contribution Based Employment and Support Allowance is taxable.

Carer's Allowance

Carer's Allowance is a taxable, non-contributory benefit of £67.60pw.

You can claim if you are aged 16 or over and you spend at least 35 hours each week caring for someone who gets:

- DLA Care Component at the middle or higher rates, or
- PIP Daily Living Component, or
- Attendance Allowance.

Exclusions – You cannot claim Carer's Allowance if you attend school or college for 21 or more hours per week; or do a course that is described by your college as full-time; or if you earn more than £128 pw.

35 Hours Per Week - You must spend at least 35 hours each week caring for the person who has a disability. You do not meet this rule if your average is more than 35 hours; with more in some weeks and less in others.

Breaks from Caring - Once your Carer's Allowance has been awarded you can have breaks from caring for upto four weeks in any period of six months. A 12 week break is allowed if you are admitted to hospital.

Hospital and Residential Care - If an adult that you care for goes into hospital or residential care, their DLA/PIP/AA will usually be suspended after four weeks. Your Carer's Allowance claim will be ended and you must re-claim when they come home.

Claiming Carer's Allowance – Claim online or on form DS700. You can claim at any time from the date when the person you are looking after made their claim for a DLA/PIP/AA. If you claim within three months of their award, your Carer's Allowance is paid from the same date that their benefit starts.

Other Information

A claim for Carer's Allowance can affect the benefit of the person being cared for. Get more advice if you want to claim Carer's Allowance for looking after a person who lives alone.

If the person that you look after dies you remain entitled to Carer's Allowance for eight further weeks.

Statutory Maternity Pay

Statutory Paternity Pay

Statutory Shared Parental Pay

Statutory Adoption Pay

Statutory Pay

Statutory Pay is a non-contributory benefit paid by employers.

If you have been employed for 26 weeks or more and you normally earn at least £120 you can get Statutory Pay during periods of maternity, paternity or adoption leave.

If you do not qualify for Statutory Maternity Pay you may be able to get Maternity Allowance. This is a non-contributory benefit paid by the DWP

It does not matter to any of these benefits whether you intend to resume work after your period of leave

Amount – your Statutory Pay is the lower figure of 90% of your normal wage or £151.97; except the first six weeks of SMP when you get the higher rate.

The Statutory Pay benefits are the legal minimum amount that your employer must pay you during your time off. You may get more depending upon your contract with your employer.

26 Week Work Record - You must have worked for 26 weeks ending:

- In the 15th week before the week that you are due - SMP
- On the date on which you were notified that you had been matched with a child for adoption - SAP
- On either the 15th week before the birth of your child is due or the date on which you were notified that you had been matched with a child for adoption - SPP

You must then continue to work from that date through to the date that your leave starts, but breaks in your employment due to sickness or time off due to your pregnancy should not affect this.

Start Dates and Periods

SMP is paid for 39 weeks that can start once you are within 11 weeks of your *expected week of childbirth*. If your baby is born early SMP can start in any week after the 24th week of pregnancy, even if s/he is stillborn.

SAP is payable for up to 39 weeks that can start once you are within two weeks of the date that you expect the child to be placed with you.

SPP is normally paid for either one or two full weeks.

SSPP can be paid for a maximum of 37 weeks. If you qualify for SMP, SAP or Maternity Allowance you can choose to end this benefit and instead, your partner or your child's father or your co-adopter can either take this paid leave or share it with you.

Employment Rules - You count as an employee if you are doing paid work for another person or organisation. You will not count as an employee if you are self-employed or you are on a training scheme.

Average Earnings of £120pw –Your earnings; wages, bonuses and overtime payments are averaged over a defined period of at least eight weeks.

Leave – You must be on your maternity, paternity or adoption leave to claim Statutory Pay. In some limited circumstances you may do some work during your period of leave without affecting your Statutory Pay.

Maternity Allowance

Maternity Allowance is a non-taxable, benefit paid by the DWP to some women who do not get SMP. It is usually paid for 39 weeks. You usually get the lower figure of 90% of your average earnings or £151.97pw.

To claim Maternity Allowance you must have a work record in the 66 weeks immediately before your due date.

- You must have been an employee or self-employed for 26 weeks.
- You must have earned at least £30pw for 13 weeks.
- If you are self-employed you must have paid class-2 National Insurance contributions for 13 weeks to get full rate. You can make voluntary contributions to complete your record. HMRC should tell you if this would help you. If you do not meet this rule you only get £27pw
- If you do not have this work record but you do unpaid work to support your spouse's self-employed business you may get Maternity Allowance of £27pw for 14 weeks.

If you are not currently in work, Maternity Allowance starts 11 weeks before your due date. If you are working it can start at any time from 11 weeks before your due date, up to the birth.

Bereavement Benefits

Bereavement Support Payment and Widowed Parent's Allowance are taxable benefits for people whose husband, wife or civil partner has died. Your late spouse must have paid National Insurance or have died as a result of an industrial accident or disease.

Statutory Parental Bereavement Pay is paid by employers during the two weeks parental bereavement leave.

Bereavement Support Payment

You can claim Bereavement Support Payment if you are under Pension Age when your spouse dies.

You get monthly payments for the period of 18 months after their death.

If you delay claiming, the claim will be backdated for upto three months.

If you claim within 12 months of the death:

- If you have children or are pregnant when you are widowed you get a first payment of £3,850 then monthly payments of £350.
- Other claimants get a first payment of £2,600 then monthly payments of £100.

If you claim more than 12 months after the death you do not get the higher first payment. You only get the lower monthly rate

Bereavement Support Payment is unaffected if you remarry or live with another partner.

Although Bereavement Support Payment can be thought of as an *Instead of a Wage* benefit it does not follow the usual rule that you can only have one of these. It can be paid in addition to any other non-means-tested benefit.

Widowed Parent's Allowance

Widowed Parent's Allowance of £122.55 pw is paid to people with children, or pregnant women whose spouse died before 6 April 2017.

Widowed Parents Allowance stops if you remarry. You cannot re-claim if you later divorce. It is suspended if you live with another partner but can be reinstated if you stop cohabiting.

You may get an extra payment if your late spouse contributed to the Additional State Pension scheme. If your spouse had insufficient National Insurance, you may get a reduced rate.

Statutory Parental Bereavement Pay

Statutory Parental Bereavement Pay is a non-contributory benefit of £151.97 pw paid by employers during the two weeks' parental bereavement leave allowed from April 2020

You qualify if you are a bereaved parent, or the partner of a bereaved parent, and you have worked for your employer for a continuous period of 26 weeks, earning at least £120 per week.

Bereaved means:

- a child under 18 has died, or,
- a child is stillborn after 24 weeks of pregnancy.

A parent means:

- All legal parents, including adoptive parents.
- Biological parents whose child had been adopted where the adopter was required to allow contact.
- Intended parents who have applied for or who intended to apply for a parental order under a surrogacy arrangement.

You may also count as a parent if you had day to day responsibility for a child who had been living in your home for at least four weeks when they died.

The SPBP can only be paid within 56 weeks of the death.

Contribution-Based Jobseeker's Allowance

Contribution-based Jobseeker's Allowance is a non-means-tested benefit paid to people who are not in full-time work who meet the Jobseeking Conditions K1-8. It is paid for up to 26 weeks. You get:

- £59.20pw if you are aged 16 - 24
- £74.70pw if you are aged 25 or over.

cJSA may be referred to as *new-style JSA*. It can be paid in combination with Universal Credit

National Insurance – You must have a record of NI contributions or credits K1-6 in both of the last two tax years (beginning on 6th April) before the calendar year in which you made your claim.

- For a JSA claim in 2021 the relevant tax years are 2018/19 and 2019/20.
- For a JSA claim in 2022 the relevant tax years are 2019/20 and 2020/21

You must have been employed and paid National Insurance for at least 26 weeks in one of these years.

If you claim cJSA after a period when you were too sick or disabled for full-time work, the National Insurance rules are applied as though you had claimed cJSA on the first day of your illness.

Voluntary contributions and Class 2 contributions paid by self-employed people do not count for Contribution-based JSA.

Exclusions – You cannot claim cJSA if you are a Student K13 or Qualifying Young Person K12 or if you are over Pension Age K1-9

Part Time Work - The amount of any part time earnings over £5pw will be deducted from your Contribution Based Jobseekers' Allowance.

Private Pensions - The amount of any private pensions over £50pw will be deducted from your Contribution Based Jobseekers' Allowance

Tax - Contribution Based Jobseekers' Allowance is taxable.

State Pension

State Pension is a taxable, National Insurance benefit paid to people who are over *Pension Age* ^{KI-9}

Although it is described in these Notes as an *Instead of a Wage* benefit you do not have to retire at Pension Age. You can carry on working and claim your State Pension; or you can defer claiming your State Pension and get a higher rate once you do claim.

Your entitlement to State Pension depends upon the number of years in which you have paid or been credited with National Insurance contributions.

In some circumstances, if you do not have enough National Insurance to qualify for State Pension you can make voluntary contributions to boost your entitlement.

Pension Age Before 6 April 2016

Category A Pension - £137.60 pw Full rate is paid if you have a 30 year NI record. If you do not have a full contribution record it can be paid on the basis of your late or ex spouse's contributions or a reduced rate may be paid. If you have deferred your state pension you can either get a lump sum with interest of Bank of England base rate plus 2%; or you can have an ongoing increase of 10% for each year of deferral.

Category B Pension - Spouse/Civil Partner £82.45pw Widow/er 137.60pw if you do not get a Category A Pension of more than £77.45pw you may get a Category B Pension based on your spouse or civil partner's contribution record if they are getting Category A Pension

Or, you may get the widow/er rate if your spouse died after you reached Pension Age; or your spouse died before you reached Pension Age but you got bereavement benefits immediately before you reached Pension Age

If you are a married man, civil partner or widower you do not get category B pension if your wife/civil partner was born before April 1950

Graduated Retirement Benefit - An extra allowance paid to people who made NI contributions between 1961 and 1975. The amount depends on the contributions paid. Part of this can be paid to your widow/er if s/he gets Category B pension. This is often called Second State Pension (2SP)

Additional State Pension - This extra pension is paid to some people who are not in a personal pension scheme and who are not 'contracted out'. This can be paid to your widow/er if s/he gets Category B pension. This is often called 2SP (Second State Pension) and used to be called SERPS (State Earnings Related Pension Scheme),

Christmas Bonus - £10pa

Over 80 Addition - £0.25pw.

Category D Pension - £82.45 pw - Paid to some people over the age of 80 who do not qualify for Category A or B pension.

Dependant Allowances – Although non-means-tested-benefits are almost always individual entitlements, in some circumstances extra elements of State Pension might have been allowed for adult or child dependants. These may still be in payment.

Pension Age After 6 April 2016

New State Pension was introduced on 6th April 2016.

The amount that you get depends upon your number of *qualifying years* of National Insurance after April 2016

If you have a 35 qualifying years you get the full rate of £179.60 per week.

If you have a shorter National Insurance record (minimum 10 years) you get a pro-rata amount of £5.13 per week for each qualifying year

If you delay claiming your pension for at least 9 weeks you get an extra $\frac{1}{9}$ th of 1% for each week you defer. ($\approx 5.94\%$ pa)

If you have claimed your pension you can suspend your claim to get more money later

Claims – Claim State Pension on 0800 731 7898, textphone 0800 731 7339 or online.

You can claim upto four months in advance and your claim can be backdated for upto 12 months.

Any time where you do not claim counts as a deferral and increases your weekly pension.

Child Benefit

Child Benefit is a non-means-tested benefit paid by HMRC to people who are *responsible for* a child or a Qualifying Young Person (KI-2)

Eldest child: £21.15 pw

Other children: £14.00 pw

Responsible – You are responsible for a child or QYP who:

- lives with you, or
- does not live with you; so long as you pay at least the amount that you get in Child Benefit towards the “costs of providing” for them.

If more than one person can be seen as being responsible for a child or young person, the law contains a list to say whose claim gets priority. An existing claim always has priority over a new claim for three weeks after the new claim is made. After this priority goes to the person who has the child living with them.

Excluded Young Persons - You cannot claim Child Benefit for a Qualifying Young Person who is:

- Your partner
- Cohabiting with their partner – unless the partner is also in education or training.
- Getting Universal Credit, Income Support, Employment and Support Allowance or Tax Credit
- Working for 24 hours or more each week after they have stopped education or training
- In care or custody and has been so for more than eight weeks.

Claims – Use form CH2. Your claim can be backdated for upto three months.

Child Benefit and Universal Credit – You do not have to get Child Benefit for a child or QYP to get Universal Credit for them.

Child Benefit and Income Support - You must be getting Child Benefit for a child to count as a lone parent and so claim Income Support. If your child benefit stops you may have to migrate to Universal Credit.

Child Benefit and Child Tax Credit - You do not have to get Child Benefit to get Child Tax Credit.

Child Benefit and Housing Benefit. Housing Benefit law treats you as responsible for a child who normally lives with you. If a child normally lives with more than one person, Housing Benefit law says that the person who gets Child Benefit is responsible for that child.

If a child leaves your household, they continue to be treated as living with you for up to eight weeks and Child Benefit can continue throughout this time – unless someone else makes a higher priority claim.

If a child dies Child Benefit continues for eight weeks.

Child Benefit and high earners - Child Benefit is withdrawn through an income tax charge that applies to households where someone has an income over £50,000. For households where someone has an income between £50,000 and £60,000 the charge applies gradually (1 per cent of Child Benefit for every extra £100 earned over £50,000). In households where someone has an income in excess of £60,000 Child Benefit entitlement is fully taxed. You may wish to avoid the tax charge by stopping your Child Benefit claim.

A child can claim Child Benefit for another child

Guardian's Allowance

Guardian's Allowance is a non-taxable benefit of £18.00pw per child. It is paid by HMRC. You can claim if you get Child Benefit because you look after an eligible child or qualifying young person. You do not have to be a legal guardian to qualify.

Eligible Child - A child or qualifying young person is *eligible* if:

- Both of her/his parents have died.
- One of her/his parents has died and the other is in prison, serving a sentence of two years or more; or has been detained in hospital.
- One of her/his parents has died and the whereabouts of the other are not known - you will be expected to have tried to trace the missing parent.

Claims - Use form BG1. Your claim can be backdated for upto three months if you can show that you met the rules throughout that time.

If the child dies - Guardian's Allowance continues for eight weeks.

Industrial Injuries Benefits

Industrial Injuries Benefits are non-taxable benefits paid to people who become disabled as a result of an accident or disease caused by work.

You will be assessed to establish the 'percentage of disablement' that your illness or accident has caused.

Disablement Benefit - Industrial Injuries Disablement Benefit be paid from 90 days after your accident or the onset of your disease. The amount depends on a percentage assessment of your 'disablement' and varies from £36.58 to £182.90pw.

Lower rates are paid to some people aged under 18.

You may also qualify for disablement benefit under special schemes for coal miners, for people who have work related hearing impairments and for people with work related asthma.

Reduced Earnings Allowance - If your accident or disease occurred before 1 October 1990 you may be able to claim Reduced Earnings Allowance. You must have at least a 1% disablement and your accident/illness must mean that you cannot do the work that you used to do before the onset of your disability. The amount paid depends on your loss of earnings - upto a maximum of £73.16pw.

Retirement Allowance - Retirement Allowance is a reduced rate of Reduced Earnings Allowance for people over Pension Age who have given up work. The most you can get is £18.29pw

Constant Attendance Allowance – Allowed if your disability has been assessed at 100% and you need *constant attendance*. This means the same as *attention and supervision* in DLA and Attendance Allowance.

The four rates are £36.60, £73.20, £109.80 and £146.40 per week.

Constant Attendance Allowance can affect your claim for PIP, DLA or AA.

Exceptionally Severe Disablement Allowance - £73.20pw allowed to people who have a permanent condition who get Constant Attendance Allowance of £109.80 or £146.40 per week

War Pensions and Armed Forces Payments

The Ministry of Defence makes a range of payments to people with a disability caused or made worse by working at any time in the armed forces.

Before 6th April 2005

Your disability is assessed on a scale from 1-100%.

War Disability Pension - If your disability is 20% or more you receive a pension.

Constant Attendance Allowance – Allowed if your disability is at least 80% and you need *constant attendance*. This means the same as *attention and supervision* in DLA and Attendance Allowance.

The four rates are £36.60, £73.20, £109.80 and £146.40 per week.

Constant Attendance Allowance can affect your claim for PIP, DLA or AA.

Exceptionally Severe Disablement Allowance - £73.20pw allowed to people who have a permanent condition who get Constant Attendance Allowance of £109.80 or £146.40 per week

Mobility Supplement - £68.85pw allowed if your disability is 40% or more and you have severe problems walking

From 6th April 2005

Your disability is assessed at one of 15 *tariff* levels

Lump-Sum Payments – From £1,236 to £650,000

Guaranteed Income Payments - Allowed if your disability is tariff 11 or higher. These are set at 30%, 50%, 75% and 100% of your last forces' pay.

Armed Forces Independence Payment – £152.15 if your Guaranteed Income Payment is at the 50% level or higher. You cannot claim PIP while getting this

Means Tested Benefits

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Which Means-Tested Benefits?

Means-Tested Benefits are individually worked out for each claim, taking into account your family circumstances, your health and disabilities, and your income and savings. If you have a partner, your claim covers both of you and includes a joint assessment of your joint circumstances.

The Legacy Benefits

Before Universal Credit there were five means-tested benefits for adults,

- Working Tax Credit – for full-time workers
- Pension Credit - for older people
- iESA – for people with *Limited Capability for Work*.
- Income Support for people with a good reason for not jobseeking.
- iJSA for people who are fit and well, and looking for work.

Also:

- Child Tax Credit for people with children
- Housing Benefit to help with rent
- Council Tax Reduction

Different households claimed different combinations of these benefits according to their circumstances

For people under Pension Age these benefits, that the DWP calls *legacy benefits*, are now mostly closed for new claims.

Many people who claimed before Universal Credit was introduced still get them.

Universal Credit

Universal Credit is a new means-tested benefit for people under Pension Age. It will eventually replace all the legacy benefits except Council Tax Reduction for working-age people.

If you need to make a new claim for a means-tested benefit you must claim Universal Credit unless:

- You, and your partner if you are a member of a couple, are over Pension Age – in which case you can claim make new claims for Pension Credit and Housing Benefit.
- You live in supported accommodation - If you live in *Specified Accommodation or Temporary Homelessness Accommodation* you can make a new claim for Housing Benefit to cover your rent, alongside your legacy benefit or Universal Credit claim.
- You are a frontier worker who works in the UK but lives elsewhere. This mainly applies to people who live in the Republic of Ireland and work in Northern Ireland.

If you have an existing award of some of the legacy benefits you can still add an extra part into it. If:

- You already get Working Tax Credit and you now want to add Child Tax Credit to your claim.
- You already get Child Tax Credit and you now want to add Working Tax Credit to your claim.
- You already get old-style contribution-based ESA and you want to get a top-up of income-related ESA

In these circumstances you should check whether you would be better off by getting this extra legacy benefit or by making a new claim for Universal Credit instead.

Moving to a New Home

If you are getting Housing Benefit and you move directly to a new address within the same council's area this counts as a change-of-circumstances for your existing Housing Benefit claim; not a new Housing Benefit claim. You do not need to claim Universal Credit.

If you move to a new council area you cannot make a new claim for Housing Benefit, unless you come into any of the exceptions listed above. You must claim help with your rent through Universal Credit.

Universal Credit Migration and Transitional Protection

Migration means moving from the legacy benefits to Universal Credit.

If your circumstances stay the same you do not have to move onto Universal Credit, until DWP instructs you to do so, although you can claim UC if you want to.

Once you claim Universal Credit, you stay on Universal Credit. You cannot go back to the legacy benefits.

Natural Migration

If you are getting legacy benefits and something changes in a way that means you need to make a new claim for a means-tested benefit you must claim Universal Credit. Your legacy benefit claims will all be closed and incorporated in the new UC claim.

The DWP calls this *natural migration*.

Income Support, iJSA, iESA and Housing Benefit can run on for two weeks after the start of your Universal Credit claim, so long as you continue to meet the normal rules for these benefits.

For some people, mostly workers, Universal Credit pays more than the legacy benefits.

For many people, Universal Credit is less than they got from the old benefits.

If your legacy benefits included a Severe Disability Premium you may get a *Transitional SDP Element* to delay this benefit cut

Natural Migration and the Transitional SDP Element

For people with disabilities, the standard rates of Universal Credit are often much lower than the amounts allowed by the old legacy benefits

The Transitional SDP Element is an extra amount allowed if you naturally migrate from the legacy benefits to Universal Credit, to delay the benefit cut.

If you claim Universal Credit within one month of getting Income Support, Income-related ESA or Income-based JSA that included a Severe Disability Premium, your new Universal Credit award will include a Transitional SDP Element – so long as you continue to meet the conditions for the SDP up to the date of the UC award.

The Transitional SDP Element will not make up for the full loss of legacy benefits.

In the first assessment period you will get:

- Single - No LCWRA in Universal Credit - £285
- Single – LCWRA in Universal Credit - £120
- Couple – Both qualified for SDP - £405
- Couple- One qualified for SDP – No LCWRA in Universal Credit – £285
- Couple – One qualified for SDP - LCWRA in Universal Credit - £120

The Transitional SDP Element is not a permanent allowance it will be reduced as your standard rate of Universal Credit increases.

You may lose your transitional SDP Element if your UC award ends, even temporarily, or if there is a change in your circumstances.

You do not get a transitional SDP Element if your claim for UC comes about because you are moving in as a partner with someone who is already on UC

Managed Migration and Transitional Elements

The Department for Work and Pensions plans to begin a process of *managed migration*, making legacy benefit claimants move to Universal Credit.

Pilots of managed migration began in 2019, but have been suspended because of the Covid-19 outbreak.

If you are instructed to move onto Universal Credit, your old DWP benefits will run on for two weeks after you claim Universal Credit. Your Housing Benefit will run on for four weeks.

Under managed migration you can get *transitional protection* if your Universal Credit is less than your old benefits.

A *Transitional Element* included in your award will delay this benefit cut.

The Transitional Element is worked out by comparing the total amount of your legacy benefits, converted to a monthly figure, with your standard rate of Universal Credit.

If your *total legacy amount* comes to more than the *indicative UC amount* the transitional element is the difference between the two.

The Transitional Element is not a permanent allowance it will be reduced as your standard rate of Universal Credit increases.

You may lose your Transitional Element if your UC award ends, even temporarily, or if there is a change in your circumstances.

Universal Credit

Universal Credit is a means-tested benefit for people under Pension Age.

It is worked out by comparing a hypothetical figure to represent your monthly income with a hypothetical figure called your Maximum Amount, to represent your monthly needs.

If you have a partner your entitlement is worked out by comparing your joint income and your joint Maximum Amount.

Your Maximum Amount includes allowances for any children or Qualifying Young Persons [KI-2] that you are responsible for.

Your Maximum Amount includes an element to cover your rent or some other housing costs.

Universal Credit is paid at the end of each *assessment period* of one calendar month. Most households receive a single payment.

You cannot claim Universal Credit if you have more than £16,000 in capital.

Some people claim Universal Credit and do not have to do anything in return for the money. Many people have to meet *Work Related Requirements* that are detailed in a *Claimant Commitment*. If you fail to meet your Work Related Requirements and you do not have a good reason for this, your claim will be sanctioned.

Universal Credit – Families and Carers

Responsible for a Child or Qualifying Young Person

To claim for a child or Qualifying Young Person you must be “responsible” for them. You count as responsible for a child or Qualifying Young Person if they “normally live” with you, unless you are living together as a couple.

If a child or young person normally lives with more than one person the person who has “main responsibility” is treated as responsible for them.

You and the child’s other carer(s) must agree who has main responsibility or the Secretary of State will decide.

If you and the child’s other carer(s) decide who has main responsibility, but the Secretary of State believes that your decision does not “reflect the arrangements between” you s/he may override your decision.

No-one is seen as being responsible for a child or young person while s/he is a prisoner or being looked after by the local authority.

If a child or young person is temporarily absent from your household, you can still count as responsible for them for upto six months depending on where they are.

Couples

If your partner is absent from your household, or likely to be absent from your household for more than six months Universal Credit treats you as a single person.

If your partner is:

- Aged 16 or 17 and not covered by an exception.
- Not in Great Britain and not covered by an exception.
- A prisoner, or serving a prison sentence in hospital.
- A member of a religious order who is fully maintained by the order.
- A Person Subject to Immigration Control [KI-10]
- Someone who has 'failed' the Habitual Residence or Right to Reside tests [KI-10]

Your entitlement is worked out by comparing your joint income with your single person's Maximum Amount. Your partner does not have to accept a Claimant Commitment.

Carers

Universal Credit law frequently refers to a person who has "regular and substantial caring responsibilities for a severely disabled person".

To count as a carer you must spend at least 35 hours each week caring for someone who gets Attendance Allowance, PIP Daily Living Component, or DLA Care Component at the middle or higher rates.

You must not attend school or college for 21 or more hours per week; or do a course that is described by your college as full-time.

Universal Credit – Exclusions

You cannot claim Universal Credit if you are:

- A member of a religious order who is fully maintained by the order.
- A prisoner, including where you are serving your sentence in a hospital, unless you were getting Universal Credit Housing Costs before you were imprisoned you have been a prisoner for less than six months and you have not been "sentenced to a term in custody that would extend beyond six months". In this case you only get Housing Costs Element

Universal Credit – The Basic Conditions

To claim Universal Credit:

- You must be in Great Britain – but some exceptions apply.
- You must be aged 18 or over – but some exceptions apply.
- You must not be receiving education – but some exceptions apply.
- You must be under Pension Age - but your partner can claim for you if they meet the basic conditions
- You, and your partner if you have one, must have each accepted a *Claimant Commitment* agreeing to your *work related requirements*.

Basic Conditions – In Great Britain

To claim Universal Credit you must be in Great Britain; and you must:

- Be Habitually Resident in the Common Travel Area KI-10.
- Have a Right to Reside in the Common Travel Area KI-10.
- Not be a Person Subject to Immigration Control KI-10.

Temporary Absences

You can continue a claim Universal Credit during a temporary absence from Great Britain not expected to exceed:

- One month – so long as you have not been absent more than twice in the 52 weeks before you left.
- Two months if your absence is connected with the death of a close relative– so long as you have not been absent more than twice in the 52 weeks before you left and the Secretary of State believes that it would be unreasonable to expect you to return within the first month
- Six months - if the absence is because you, your partner, your child or Qualifying Young Person are undergoing treatment or convalescence for an illness or disability.

Basic Conditions – Aged 18 or Over

You can claim Universal Credit while you are aged 16 or 17 if:

- You are Without Parental Support.
- You have been assessed as having Limited Capability for Work.
- You have provided a Doctor's Statement from your doctor while you are waiting for a Work Capability Assessment.
- You are a Carer
- You are pregnant, within 11 weeks of your due date.
- Your pregnancy ended in the last 15 weeks.
- You are responsible for a child or Qualifying Young Person.
- You are a member of a couple who are responsible for a child or Qualifying Young Person – so long as your partner meets all of the basic conditions.

if you get Universal Credit (or ESA or JSA) you no longer count as a Qualifying Young Person and cannot also be included in your parent/carer's Universal Credit claim.

Without Parental Support

This means:

- You have no parent.
- You cannot live with your parents because:
 - you are estranged from them, or
 - there is a serious risk to your physical or mental health, or
 - there is a serious risk that you would suffer significant harm.
- You live away from your parents because:
 - they have a long term physical or mental impairment, or
 - they are detained in custody, or
 - they are prohibited from (re)entering Great Britain.

In this rule a parent includes someone acting in the place of a parent, such as a foster carer, a local authority or a voluntary organisation, where you have been legally placed with them.

Basic Conditions – Not Receiving Education

You cannot claim Universal Credit if:

- You are a Qualifying Young Person [KI-2]
- You are doing a full-time advanced course [KI-3].
- You are doing a full-time course for which a maintenance loan or grant is provided.
- You are doing a course that is “not compatible with your expected hours of work or any work related requirement imposed upon you”.

Unless you are:

- Without Parental Support, and
 - on a non-advanced course, and
 - under 21, or
 - 21 years old and became 21 while doing the course.
- Entitled to Disability Living Allowance or a Personal Independence Payment and you have a decision that you have Limited Capability for Work before you:
 - start the course, or
 - claim UC, if you are already doing the course when you claim.

If you have got PIP or DLA, but have not yet had a Work Capability Assessment you can make a *credits-only claim* for ESA so that you can have a Work Capability Assessment, before claiming UC.

- Responsible for a child or Qualifying Young Person.
- A member of a couple who are both receiving education, if you or your partner are responsible for a child or Qualifying Young Person.
- A single foster parent.
- A Qualifying Young Person doing a *traineeship* of less than six months funded under the Education act 2002 or *Skills Funding*.
- Over Pension Age making a joint claim for Universal Credit with a partner who is younger than this.

If you are receiving education your partner can claim for you if they meet the basic conditions; so long as you meet the work related requirements.

Regulations detail the start and end dates for the period when you are treated as receiving education.

Basic Conditions – Accepted A Claimant Commitment - The Work Related Requirements

To claim Universal Credit you and your partner must meet Work Related Requirements that are recorded in Claimant Commitments. Different combinations of requirement apply to different categories of people.

There are four work related requirements:

- The Work Focussed Interview Requirement
- The Work Preparation Requirement
- The Work Search Requirement
- The Work Availability Requirement

If you have children, this may affect the requirements that apply to you. If you are a member of a couple you must jointly say which one of you is the Responsible Carer for the child(ren). You can only change your nomination once every twelve months unless there has been a relevant change in your circumstances.

If you do not meet the Work Related Requirements attached to your claim you may face a sanction.

The Claimant Commitment

The Claimant Commitment is a document to be prepared by the Secretary of State to record your “responsibilities in relation to an award”, including:

- The Work Related Requirements that apply to your claim.
- The amount and length of a sanction if you fail to comply with the requirements of your Claimant Commitment.
- Notice of your right to appeal against a sanction.

It is to be reviewed and updated “as the Secretary of State thinks fit”.

You must accept the Claimant Commitment electronically, by phone or in writing unless you lack the capacity to do so or there are exceptional circumstances that would make a Claimant Commitment unreasonable.

You must usually accept your Claimant Commitment within a period specified by the Secretary of State So long as you do this you count as though you had been covered by the commitment back to your date of claim.

If you ask the Secretary of State to review the conditions included in your Claimant Commitment the period for accepting it can be extended.

The Work Focussed Interview Requirement

If you are subject to the Work Focussed Interview requirement you must take part in “one or more” interviews to make it more likely that you will “obtain work, or more work, or better paid work”.

The Work Preparation Requirement

If you are subject to the Work Preparation Requirement you must undertake activities specified by the Secretary of State making it more likely that you will obtain work, or more work, or better paid work.

The Secretary of State may specify how much time you should commit to undertaking these activities.

Actions that you may be required to undertake include:

- Attending a skills assessment.
- Improving your personal presentation.
- Participating in training.
- Participating in an employment programme.
- Undertaking work experience or a work placement.
- Developing a business plan.

The Work Search Requirement and Work Availability Requirement

If you are subject to the Work Search Requirement you must take “all reasonable action”, and any particular action specified by the Secretary of State, for the purpose of obtaining paid work, or more paid work, or better-paid work up to your Expected Hours of Work.

If you are subject to the Work Availability Requirement you must usually be able and willing to immediately take up paid work or more paid work or better-paid work up to your Expected Hours of Work.

You must be willing to take any work unless:

- The one-way journey to/from the job takes more than 90 minutes
- You have previously worked in a particular job or for a particular rate of pay. In this case the Secretary of State must limit your work-search to that sort of work for reasonable period of upto three months, so long as you have reasonable prospects of getting that sort of work
- Your physical or mental condition means that you cannot do some types of work.

You must Work-Search for at least your Expected Hours of Work minus time agreed by the Secretary of State for you to:

- Do paid work
- Do voluntary work - The Secretary of State will not agree to more than half of your expected hours of work
- Do Work Preparation – whether this is specified by the Secretary of State in a requirement or voluntary
- Deal with temporary childcare responsibilities
- Make funeral arrangements
- Deal with “other temporary circumstances”

A lower work-search hours limit may be set where the Secretary of State is satisfied that you have taken “all reasonable action” despite the fact that this is lower than your Expected Hours of Work.

If you are told to apply for a particular vacancy and you fail to take part in job interviews for that vacancy, you fail the work search requirement.

You must be able and willing to attend an interview and take up work immediately unless:

- You have childcare responsibilities - even if you are not the main carer. You must be able and willing to attend an interview within 48 hours and take up a job within one month
- You have caring responsibilities for a person who has a disability - though if you are the main carer or have a high level of responsibilities will not usually be subject to the work related requirements. You must be able and willing to attend an interview within 48 hours and take up a job within one month
- You are doing voluntary work. You must be able and willing to attend an interview within 48 hours and take up a job within one week.
- You are doing paid work where you have to give notice to your employer. You must be willing to attend an interview within 48 hours and take up a better job once your notice period has expired

Expected Hours of Work - Your Expected Hours of Work are:

- A number compatible with school hours plus your child's school travel time - if you are the Responsible Carer of a child under 13 - a Responsible Carer is a lone parent or a nominated member of a couple
- A reasonable number of hours set by the Secretary of State – If you are a carer for a person with a disability or a carer for a child.
- A reasonable number of hours set by the Secretary of State - if you have a “physical or mental impairment”
- 35 hours per week - in any other case

Individual Threshold - Your individual threshold is the monthly amount that you, and your partner if you are a member of a couple, would earn at the Minimum Wage for your age group [K1-5] if you (both) worked for:

- 16 hours per week - if you are in one of the groups of people who are only subject to the Work Focused Interview Requirement and Work Preparation Requirement.
- Your Expected Hours of Work in any other case.

The monthly amount is worked out by multiplying the weekly figure by 52 and then dividing the result by 12.

Which Work Related Requirements Apply?

No Work Related Requirements

You are not subject to any Work Related Requirements if:

- You have Limited Capability for Work Related Activity K1-7 – you are in the Support Group
- You are a carer for at least 35 hours each week for a person who gets Attendance Allowance, PIP Daily Living Component or middle or high rate of DLA Care Component.
- You are the Responsible Carer for a child aged under one – a Responsible Carer is a lone parent or a nominated member of a couple
- You are the Responsible Foster Parent of a child aged under 1 – a Responsible Foster Parent is a lone foster parent or a nominated member of a couple
- You are over Pension Age
- You are pregnant, within 11 weeks of your due date or
- Your pregnancy ended in the last 15 weeks

- You have adopted a child within the last 12 months – including a 14 day leeway before a child is placed with you, if you ask for this
- You are aged under 21, enrolled on or accepted for a non-advanced course, and Without Parental Support
- You are someone who is allowed to claim Universal Credit while you are receiving education and you have Student Income taken into account in calculating your award.
- You are single and you have weekly earnings of more than your “individual threshold”
- You are a member of a couple and you have joint weekly earnings of more than the sum of your individual thresholds.
- You are a member of a couple allowed to claim as a single person and you have weekly earnings of more than the sum of your individual threshold plus 35 times National Minimum Wage.
- You are self-employed and even though your weekly earned income is below your individual threshold you are treated as having this level of income because of the Minimum Income Floor rule
- You are an apprentice with weekly earnings of at least the amount you would take home if you worked for 30 hours at Minimum Wage. This figure is reduced if your Excepted Hours of Work are below 30
- You have recently been a victim of domestic violence.

Work Focussed Interview Requirement Only

You are subject to only the Work Focussed Interview Requirement if:

- You are the Responsible Carer for a child aged one– a Responsible Carer is a lone parent or a nominated member of a couple
- You are the Responsible Foster Parent of a child aged from one to 15
- You or your partner are the Responsible Foster Parent of a Qualifying Young Person who has care needs that would make it unreasonable for you to have to comply with a Work Search Requirement or Work Availability Requirement.
- You are a foster parent who does not have a child placed with you at the moment, you intend to foster again and you came into one of the foster parent rules above in the last eight weeks

- You are the Responsible Carer of a child but you are not the parent or step-parent. You are looking after the child because their parents are unable to do so; or it is likely that without your care the child would have to be looked after by the local authority. This rule lasts for 12 months from when you begin to care for the child.

Work Preparation Requirement and Work Focussed Interview Requirement

You are subject to only the Work Preparation Requirement and the Work Focussed Interview Requirement:

- Have Limited Capability for Work but not Limited Capability for Work Related Activity – You are in the Work Related Activity Group.
- Are the Responsible Carer of a child aged two. A Responsible Carer is a lone parent or a nominated member of a couple

All Work Related Requirements

If you do not come into the categories listed above you are subject to all of the Work Related Requirements.

Work Related Requirements and Domestic Violence

If you have “recently been a victim of domestic violence” all work related requirements are suspended for a period of three months.

Domestic violence means any incident, or pattern of incidents, of controlling behaviour, coercive behaviour, violence or abuse, including but not limited to: psychological abuse; physical abuse; sexual abuse; emotional abuse.

This rule only applies only if:

- The abuse was inflicted or threatened in the last six months.
- The abuse was inflicted or threatened by a partner, former partner or family member
- You have notified the Secretary of State about the domestic violence.
- This rule has not applied to you in the 12 months before you notify the Secretary of State.
- On the date of the notification you are not living at the same address as the person who inflicted or threatened the domestic violence.
- As soon as possible, within one month of the notification, you provide evidence from “a person acting in an official capacity” to support your account.

Work Availability Requirements

Even if you would normally have to meet all of the Work Related Requirements your work search and work availability can be delayed or suspended while:

- You are attending a court or tribunal as a party to the proceedings or as a witness.
- You are temporarily outside Great Britain because you are:
 - Receiving medical treatment or medically approved convalescence
 - Taking your partner or child for medical treatment or medically approved convalescence
- You are a prisoner.
- Your partner, child or Qualifying Young Person has died within the last six months.
- You are “receiving and participating in a structured recovery oriented course of drug or alcohol addiction treatment” for upto six months.
- You are under police protection for upto three months
- You are carrying out a public duty
- You are “unfit for work” for a maximum of 14 consecutive days on no more than two occasions in any 12 month period. You must sign a declaration that you are ill for the first seven days and provide a Doctor’s Statement after this if this is requested by the DWP.
- The Secretary of State believes it would be unreasonable to impose a Requirement on you because:
 - You are unfit for work for longer than the rule detailed above allows, so long as you provide medical evidence when this is requested
 - You are carrying out a Work Preparation Requirement
 - You have temporary childcare responsibilities
 - You are dealing with a domestic emergency
 - You are dealing with funeral arrangements
 - Of other temporary circumstances
- You are an employed worker with monthly earnings of £345 (single) or £552 (couple). This rule does not apply if you have been notified in writing that you have been selected (at random) for the In-Work Pilot Scheme.

Sanctions

If you fail to meet your work related requirements your Universal Credit claim will be 'sanctioned'. The payments will be reduced, sometimes to zero as a punishment for the failure. Where your Universal Credit is reduced under a sanction you may be able to get Hardship Payments

If you are claiming contribution based JSA or contribution based ESA with your Universal Credit the sanction will affect this benefit as well.

You may also be subject to sanctions for Benefit Offenses or for some reasons other than the work related requirements. If you have a Benefit Offenses sanction it can affect the way that Work Related Requirement Sanctions are applied to your claim.

Higher Level Sanction

Your Universal Credit will be reduced under a Higher Level sanction if you are someone who has to meet all the work related requirements and, without a good reason, you:

- Fail to participate in a Mandatory Work Activity placement
- Fail to meet a Work Search Requirement to apply for a particular vacancy
- Fail to meet a Work Availability Requirement by not taking up an offer of paid work
- Cease paid work or lose pay voluntarily – even before you make your Universal Credit claim
- Cease paid work or lose pay through misconduct – even before you make your Universal Credit claim

If you are aged 18 or over the higher level sanction applies for:

- 91 days; or,
- 182 days if you have already had a 91 day sanction for a different 'failure' that happened in the 365 days before the current failure.

If you are aged 16 or 17 the higher level sanction applies for

- 14 days; or,
- 28 days if you have had any sanction for a different failure that happened in the 365 days before the current failure.

Once a sanction period has been set, it continues to run regardless of whether you are claiming Universal Credit or not.

If you get more than one sanction the total period outstanding cannot come to more than 1,095 days.

If you spend more than 26 weeks in working and earning more than your individual threshold the sanction period is ended.

If you are sanctioned for something that you did in a permanent job before you claimed Universal Credit the number of days between the failure and the Universal Credit claim will be knocked off your sanction period.

If you are sanctioned for something that you did in a temporary job before you claimed Universal Credit, the number of days between the failure and the date the temporary work would have ended will be knocked off your sanction period.

Exceptions

You should not be sanctioned if

- You take voluntary redundancy
- You have limited Expected Hours of Work and you end or reduce your work during a 'trial period'
- You lose work or pay because of a trade dispute
- You do not apply for a job that is vacant because of a trade dispute
- You have been laid off or kept on short time by your employer for at least four weeks, or six out of the last 13 weeks, and you have applied for redundancy pay
- You lose work or pay from the regular or reserve armed forces

Medium Level Sanctions

Your Universal Credit will be reduced under a Medium Level sanction if you:

- Fail to comply with a Work Search Requirement to take all reasonable action to find work
- Fail to meet a Work Availability Requirement

If you are aged 18 or over the medium level sanction applies for:

- 28 days; or,
- 91 days if you have already had a 28 day or 91 day medium level sanction for a different 'failure' that happened in the 365 days before the current failure.

If you are aged 16 or 17 the medium level sanction applies for

- Seven days; or,
- 14 days if you have had a medium level sanction for a different failure that happened in the 365 days before the current failure.

Low Level Sanctions

Your Universal Credit will be reduced under a Low Level sanction if you:

- Fail to meet a Work Focused Interview Requirement
- Fail to take part in an interview about your Work Related Requirements
- Fail to meet a Work Preparation Requirement
- Fail to comply with a Work Search Requirement to take a specified action to get (more) work.

The sanction applies until you comply with the requirement and then continues for a fixed period.

If you are aged 18 or over the fixed period is:

- Seven days; or,
- 14 days if you have had a seven day low level sanction for a different 'failure' that happened in the 365 days before the current failure.

If you are aged 16 or 17 the fixed period is:

- No days; or,
- Seven days if you have had a low level sanction for a different failure that happened in the 365 days before the current failure.

Lowest Level Sanctions

Your Universal Credit will be reduced under a Lowest Level Sanction if you are someone who only has to meet the Work Focussed Interview Requirement and you fail to take part in the interview.

Sanction Reductions

At the end of each assessment period different daily reductions are applied:

	High Rate	Low Rate
Single <25	£11.30	£4.50
Single 25+	£13.50	£5.40
Couple Both <25	£8.40	£3.30
Couple Either 25+	£9.80	£3.90

These amounts are set by as a proportion of your standard allowance (100% or 40%). The standard allowance is due to be reduced in October 2021 with the end of the covid-bonus. As a result these sanction deductions will also be reduced. Check the News&Advice page of www.mikebolton.co.uk for updates.

- A nil rate reduction applies if you are in the Support Group at the end of the assessment period
- The low rate reduction applies if, at the end of the assessment period, you
 - Are the responsible carer of a child under one
 - Are the responsible foster parent of a child under one
 - Are pregnant within 11 weeks of your due date
 - Had a baby within the last 15 weeks
 - Are aged 16 or 17
 - Only have to meet the Work Focussed Interview Requirement
- The high rate reduction applies to all other sanctions

If you are a member of a couple and only one of you has been sanctioned the reduction is the rate shown above. If you have both been sanction two reductions apply.

Hardship Payments

If you are aged 18 or over and your Universal Credit has been reduced because of a sanction you may be able to get hardship payments.

To qualify you must make an application in each assessment period and you must comply with all the Work Related Requirements attached to your claim.

A hardship payment will only be allowed if you do not have enough money to meet the costs of accommodation, food, heating and hygiene.

For every day after you have applied for a hardship payment you will get 60% of the average daily sanction reduction in the previous assessment period.

Hardship payments are recoverable, in the same way as overpayments, however:

- A hardship payment will not be recovered in any assessment period in which you are earning more than your individual threshold.
- A hardship payment debt is wiped out if you spend at least 26 weeks earning more than your individual threshold.

Universal Credit – The Housing Costs Element

Universal Credit can include an element to help with your:

- Rent Payments – Unless you live in *Specified Accommodation or Temporary Homelessness Accommodation* or are a Care Leaver [KI-4]
- Owner Occupier Payments – Unless you have earnings.
- Service Charge Payments.

To qualify for this element you must:

- Be liable to make payments for your accommodation, and
- occupy the accommodation as your home.

This section deals with

- What counts *Specified Accommodation and Temporary Homelessness Accommodation*
- Which payments can be covered and which are excluded.
- Who counts as liable to make payments.
- Who counts as occupying accommodation, and when there are exceptions and exemptions

The amount of your Housing Costs Element is detailed in the following section on the Universal Credit Financial Conditions.

Specified Accommodation and Temporary Homelessness Accommodation

You cannot get a Universal Credit Housing Costs Element to cover rent in:

- Refuge accommodation provided because of domestic violence
- Supported accommodation provided by a county council, a housing association, a registered charity, or a voluntary organisation. The body providing the accommodation, or someone acting on its behalf, must provide you with care, support or supervision.
- Homelessness hostels provided by a local council or a housing association
- Local authority hostels, providing care, support or supervision
- A resettlement place funded under the Jobseekers Act 1995

Instead you claim Housing Benefit from your local authority alongside your Universal Credit claim.

What Housing Costs Can Be Covered?

Your Universal Credit can include an amount to help with your:

- Rent Payments – Unless you live in *Specified Accommodation or Temporary Homelessness Accommodation*
- Owner Occupier Payments – Unless you have earnings
- Service Charge Payments

Rent Payments

Rent Payments are:

- Rent
- Licence fees
- Mooring charges for a houseboat
- Almshouse charges

Rent Payments do not include:

- Ground rent
- Payments for a tent or the site for a tent
- Payments for Bail Hostels – officially known as Approved Premises under s13 of the Offender Management Act 2007
- Payments for a Care Home - as defined by s3 of the Care Standards Act 2007 or Sch 12(2) of the Public Services Reform(Scotland) Act 2010
- Owner Occupier Payments or Service Charge Payments

Owner Occupier Payments

Owner Occupier Payments are:

- Interest payments on a loan which is secured against the accommodation that you occupy as your home.
- Alternative finance payments, such as a sharia mortgage, that were made under an arrangement that allowed you to “acquire an interest in“ (i.e. buy) the accommodation that you occupy as your home.

The element allowed to cover mortgage interest is a loan that will be recovered when the ownership of the property is transferred.

Service Charge Payments

A service charge payment must be a payment towards “the costs of a service or facility for the use or benefit of the persons occupying the accommodation” or be “fairly attributable to the costs of... services or facilities” that are available to you

Service charges do not include any costs related to approved premises, care homes, exempt accommodation or tents.

It does not matter whether the service charge is part of your rent or a separate charge. It does not matter whether your contract or tenancy agreement spells out these costs separately or not.

Extra Service Charge rules for Social Renters and Owner Occupiers

If you are a social renter (except temporary homelessness accommodation where you pay rent to the local authority or Housing Association) or owner occupier your Housing Costs Element can only include service charges that are paid as a “condition on which the right to occupy the accommodation depends” – optional extras cannot be covered.

For Owner Occupiers and Social Renters Service Charge Payments are:

- Window cleaning charges for the upper floors of a multi-story building
- Payments for the general upkeep of communal areas
- Payments for basic communal services such as refuse collection, communal lifts or secure building access.
- Charges for essential items such as furniture or domestic appliances that are included in your accommodation.
- For Owner Occupiers and Shared Ownership Occupiers only - Maintenance and repair charges that are ‘separately identifiable’.

For Owner occupiers and Social Renters Service Charge payments do not include;

- Payments that help you buy something – such as a domestic appliances charge where you will eventually own the appliance.
- Payments for food, medical services or personal services, including personal care, of any description.

Liable to Make Payments

You or your partner, or your child or qualifying young person, must have a legally binding commercial agreement to pay your housing costs to get a Housing Costs Element in your Universal Credit.

Usually you will have a tenancy agreement or other contract, but it does not matter if you do not have anything written down. You are still liable to make your payments even if you have only a verbal contract.

Commercial Agreements

Your liability to pay rent must be on a commercial basis. The law of Universal Credit does not spell out what this means but the government's *Advice to Decision Makers* says: "Charging a low rent does not on its own make an agreement non-commercial. Many charities, voluntary bodies and some individuals, choose to let properties at below market rents or do not want to make a profit from letting, but their tenancies may still be commercial arrangements if that is what the parties to the agreement intend. The DM must decide whether the liability to make payments is on a commercial or non-commercial basis as a question of fact based on all the evidence."

Treated As Though You Are Liable

Even if you do not have a legally binding agreement with your landlord you can still be treated as liable to make housing payments if:

- **The person who is liable is not paying** – This applies if you have to make the housing payments to stay in the home because the person who is legally liable is not doing so. It must be "unreasonable to expect you to make other arrangements", and it must be reasonable to treat you as liable to make the payments. If you are making Owner Occupier Payments the Decision Maker can take into account the fact that someone else might gain from your Universal Credit claim.
- **Your liability has been waived in return for repairs** – This applies if your landlord has let you off a 'reasonable' amount of rent because you have done repairs or redecorations that would "otherwise have been carried out or been required to be carried out"
- **You are in a rent free period** – For example you might rent from a council or social landlord which allows rent free periods in the Christmas and Easter holidays to reduce the workload on their staff. In these cases your monthly Housing Costs Element is averaged out over the year.

Treated As Though You Are Not Liable

Even if you have a legally binding agreement, Universal Credit will treat you as though you are not liable if:

- **You make payments to a close relative that you live with** – A close relative is your parent or child, step parent or child, parent or child in law, or your brother or sister. The same rule applies if you live with and rent from your partner, child or Qualifying Young Person's close relative.
- **You make payments to a company that you own** – You are treated as not liable to make rent payments if you rent from a company owned by you, your partner, your Qualifying Young Person or a close relative
- **You make payments to a trust that you are involved with**
- **You make owner occupier payments to a member of your household**
- **Your payments are to cover arrears** – for example where you have 'capitalised' your mortgage arrears
- **You have contrived your liability to get Universal Credit** – This should only apply if your tenancy agreement abuses Universal Credit rather than simply using it.

Occupying the Accommodation as Your Home

You can claim Universal Credit Housing Costs Element for the accommodation that you normally occupy as your home. If you have more than one home the Decision Maker will usually have to decide which property you normally occupy.

There are some situations where exceptional rules apply and you might be treated as occupying a property that you do not really live in or you might be treated as occupying more than one property at a time. These exceptions deal with:

- Temporary absences
- Living in 'Other Accommodation' Because of 'Reasonable Fear of Violence'
- People with Disabilities Waiting for Adaptations
- Accommodation Following a Stay in Hospital or a Care Home
- Temporary Accommodation During Essential Repairs
- Big families Housed in Two Homes
- Croft land

Temporary Absences

If you are temporarily absent from your home you are treated as though you are still occupying it unless your absence exceeds, or is expected to exceed six months. Different rules [below] cover fear of violence and absences due to repairs.

Living in ‘Other Accommodation’ Because of Reasonable Fear of Violence

If you have to live in temporary accommodation where you are liable to make housing payments because:

- You reasonably fear violence in your normal home or violence from a former partner, and
- The violence would affect you or your child or your Qualifying Young Person, and
- It is unreasonable to expect you to return to your normal home, and
- You intend to return to your normal home

You can be treated as occupying both your normal home and the temporary accommodation and so get Housing Costs Element for both, for upto 12 months.

If you are only liable for payments on one property you can be treated as occupying that property for upto 12 months so long as it is reasonable to do so.

Temporary Accommodation during Essential Repairs

If you have to move into temporary accommodation while ‘essential repairs are carried out on your normal home you will only be treated as occupying one of these properties. There are rules to decide which property is counted.

People with Disabilities Waiting for Adaptations

If you, your partner, your child, or your Qualifying Young Person:

- Get DLA Care Component at the middle or higher rate or Attendance Allowance or Daily Living Component of PIP; and,
- You have to pay rent on a property before you move in to it; and,
- The delay in moving in was necessary in order to adapt the property to meet disablement needs.

You can be treated as living in the property for upto one month before you move in.

If you are also paying rent on the old home in this time you can be treated as occupying both properties for upto one month. This rule is applied retrospectively, after you have moved into the new home.

Accommodation Following a Stay in Hospital or a Care Home

If you:

- You have to pay rent on a property before you move in to it; and,
- The delay in moving in was a period where you (and your partner if you have one) were in hospital or a care home

You can be treated as living in the property for upto one month before you move in. This rule is applied retrospectively, after you have moved into the new home.

Big families Housed in Two Homes

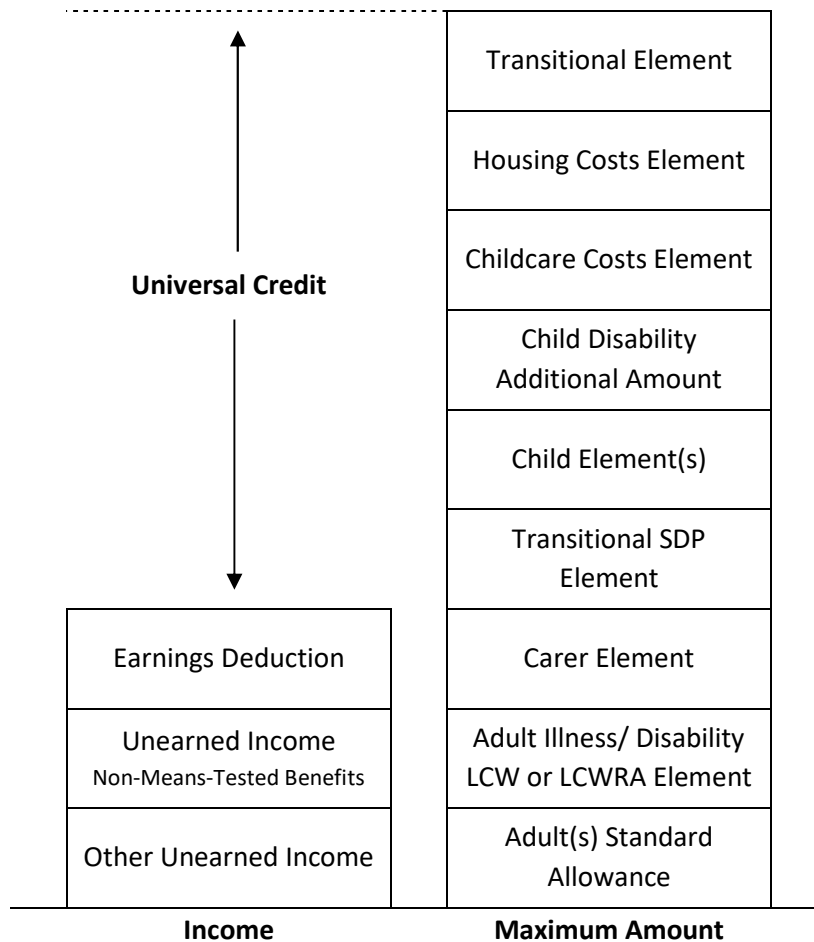
If a social landlord houses you in two properties because your family is too big to fit in a single home you are treated as occupying both properties.

Croft land

Schedule 3 paragraph 2: croft land used for the purposes of the accommodation is to be treated as included in the accommodation. Croft means a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993

Universal Credit – The Financial Conditions

The Universal Credit Means Test



Your Universal Credit is worked out in “assessment periods” of one calendar month, starting on the first day of your entitlement.

It is worked out by deducting your income from your Maximum Amount.

Different rules apply to Earned Income and Unearned Income

If you ‘deprive yourself’ of income to get extra Universal Credit you will be treated as though you have this money.

You cannot claim Universal Credit if you have savings of more than £16,000 unless you qualify for a *Transitional Capital Disregard* following your migration from Tax Credit to Universal Credit ^{KI-12}.

Earned Income

Your Earned Income is your Employed Earnings, and Self-employed Earnings.

Part of your Earned Income, called a Work Allowance, may be ignored in working out your Universal Credit.

Work Allowances	If you get a Housing Costs Element or Housing Benefit	If you do not get a Housing Costs Element or Housing Benefit
No Children. Fit and Well.	£0	£0
Have child or QYP	£293	£515
Have Limited Capability for Work	£293	£515

An *Earnings Deduction* of 63% of your earnings over the Work Allowance is deducted from your Maximum Amount in working out your entitlement.

The Earnings Deduction is calculated on your actual earnings in each assessment period.

If you re-claim Universal Credit after a period of higher pay, *Surplus Earnings* from this time can be taken into account.

Employed Earnings

Your Employed Earnings are your gross earnings less tax, class 1 National Insurance Contributions and pension contributions.

Your Employed Earnings include, Statutory Sick Pay, Statutory Maternity Pay, Ordinary and Additional Statutory Paternity Pay and Statutory Adoption Pay.

If you are on strike you are assumed to have your normal level of employed earnings.

If you are an employee you do not need to report your earnings. Instead HMRC's *real-time information* system will be used to tell DWP what you have earned in each assessment period.

If you think that DWP has used incorrect wage information, send in evidence of the correct figures and ask for a formal decision. You can then ask for a reconsideration of this decision.

Paydays and banking days

You may have problems if your wage payments and your Universal Credit assessment periods do not match. For example:

- You may get an early wage payment when your normal payday falls on a weekend or bank holiday. If you have a payday such as *27th of the month or the Friday before*, you may get two pay days in one assessment period and none in the next assessment period.
- If your employer makes an early payment at Christmas you may be seen as having two wage payments in one assessment period and none in the next assessment period.

An automatic system for spotting these double payments is now in operation but you may need to notify the DWP if the system does not work in your case.

Other Payday Problems

You may face problems if your paydays are not calendar monthly:

- If you are paid weekly in most months you will have four wage payments but in some assessment periods you will get five wage payments
- If you are paid fortnightly, in some assessment periods you have three paydays
- If you are paid four-weekly in one assessment period each year, you will have two paydays

In any of these situations the multiple-payday month can reduce the Universal Credit.

You may also face problems with the benefit cap and with your *work-related requirements* if the earned income figure used by Universal Credit does not match your actual earnings.

Check the News&Advice page of www.mikebolton.co.uk for updates.

Self-employed Earnings

Your Self-employed Earnings are worked out for each Assessment Period by taking your receipts and deducting business related costs; and losses from the last consecutive eleven months

You should report your earnings every month.

Minimum Income Floor

Universal Credit includes rules to prevent you from using the self-employment rules to prop up unviable businesses, to avoid being fully employed or to avoid the Work Related Requirements.

You are assumed to have a level of earned income called your *Minimum Income Floor*. If you are:

- mainly self-employed, and
- outside your start up period, and
- if you didn't work, you would have to meet the Work Search and Work Availability Requirements,

This is the amount you (and your partner) would take home if you (each) got minimum wage for your Expected Hours of Work

A Start-Up Period is a series of 12 assessment periods from:

- when you begin self-employment, or
- if you are already self-employed, when you claim Universal Credit.

You must be taking active steps to get your earnings over the Minimum Income Floor. You are only ever allowed one Start-Up Period for any one sort of business. If you change your line of work there must have been a five year gap since the beginning of your last Start-Up Period.

Surplus Earnings

If you re-claim Universal Credit within six months of an award ending because your earnings were too high, the money that you earned during the break in your claim may affect your new award. You are said to have Surplus Earnings for each month during the break when you earned over your *Relevant Threshold*. This is the amount that you have to earn to take you out of Universal Credit, plus £2,500. This rule does not apply if you have recently been 'a victim of domestic violence'.

Unearned Income

The monthly average of your Unearned Income is deducted from your Maximum Amount in working out your Universal Credit. This is:

Non-Means-Tested Benefits

- Contribution Based Jobseeker's Allowance
- Contribution Based Employment and Support Allowance
- Carer's Allowance
- Bereavement Allowance, Widowed Mother's Allowance, Widowed Parent's Allowance, Widows Pension
- Maternity Allowance
- Industrial injuries benefits except the care and mobility elements called Constant Attendance Allowance and Exceptionally Severe Disablement Allowance
- State Pension
- Foreign Benefits that are 'analogous' to those listed above

Other Unearned Income

- Spousal Maintenance
- Student Income (defined by Regulation 68)
- Training Allowances
- The maintenance element of a sports award
- Insurance payments for income lost through illness accident or redundancy. Insurance payments for mortgage protection for amounts that Universal Credit covers
- Income from an annuity or a trust unless this is the result of personal Injuries compensation
- Tariff Income from your capital - Savings between £6,000 and £16,000 give you a tariff income of £4.35 per month for each £250.
- Capital that is treated as income
- Retirement Income (defined by Regulation 67) including Occupational and Personal Pensions, Retirement Annuity income and Overseas Pensions
- Any other taxable income that comes under under *Part 5 of the Income Tax (Trading and Other Income) Act 2005 (miscellaneous income)* – for example, some copyright royalties.

Your Maximum Amount

Your Maximum Amount of Universal Credit may be made up of:

- A Standard Allowance for you and your partner.
- A 'Limited Capability for Work Element' or a 'Limited Capability for Related Activity Element' for adults who are ill or disabled.
- A Carer Element for Carers.
- A Transitional SDP Element for some people who *naturally migrate* to Universal Credit
- Child Elements for some children or Qualifying Young Persons.
- An Additional Amount for each disabled child or Qualifying Young Person – This is allowed at one of two levels.
- A Childcare Costs Element for workers who have to pay for childcare.
- A Housing Costs Element for rent, mortgage or service charges.
- A Transitional Element following *migration* from legacy benefits to UC

If your partner, child or someone that you care for dies, their elements and allowances stay in your award for the rest of the assessment period and for the next two assessment periods.

If you are a prisoner, only the housing costs element will be allowed.

Standard Allowances – Adults

The Covid-bonus: At the start of the pandemic the standard allowances of Universal Credit were increased by £20 per week – or £86.67 per month.

This increase was removed with effect from 6 October 2021

The standard allowances are now:

- Single claimants under 25 - £257.33 £340.00
- Single claimants aged 25 or over - £324.84 £411.51
- Joint claimants both under 25 - £403.93 £490.60
- Joint claimants where either is 25 or over - £509.91 £596.58

LCW Element or LCWRA Element – For Adults Who Are Ill or Disabled

A Work Capability Assessment [KI-7] decides whether you have:

- Limited Capability for Work (LCW); and
- Limited Capability for Work Related Activity (LCWRA).

Assessments for ESA carry through, if you move directly to Universal Credit.

Your Maximum Amount of Universal Credit includes a:

- LCWRA Element of £343.63 if your Work Capability Assessment decided that you have both LCW and LCWRA – Support Group / NWRAG
- LCW Element of £128.89 if, before 3rd April 2017, your Work Capability Assessment decided that you have LCW but not LCWRA - WRAG

If you and your partner are both ill and disabled, only one element is included. If one of you has LCWRA, this element will be used.

You cannot have a LCW or LCWRA Element if you also get a Carer Element, however you can qualify for a LCW or LCWRA Element while your partner qualifies for a Carer Element.

When Your LCW Element Starts

A new Universal Credit claim can only include a LCW element if you were assessed as having LCW before 3rd April 2017 and you move directly from ESA to UC. Your new claim should include the LCW element from the start.

When Your LCWRA Element Starts

Your LCWRA Element is included in your Maximum Amount immediately if you are terminally ill, or, you get Employment and Support Allowance that includes *support component*.

Otherwise, it is included in your Maximum Amount from the beginning of the assessment period following your *relevant period*. This is a period of three months from:

- If you are not working, or you earn less than £617.76pcm, the date you first provide the DWP with medical evidence to show you are ill or disabled. This applies even if the medical evidence was submitted for an earlier ESA or JSA claim.
- If you earn more than £617.76pcm, the start of your Universal Credit award, or, the date you first asked for the element to be included in your award.

If your income means that you only qualify for Universal Credit once the element has been included in your Maximum Amount, you can be treated as having a minimum award (a 1 penny award) so that you can clock-up time towards the end of your *relevant period*.

Linking rules for the LCW Element or LCWRA Element

If you reclaim Universal Credit:

- Because you have moved in with or split up from your partner, or,
- Within six months of a claim ending because your income was too high.

Your relevant period is linked to the one in the old award.

Carer Element

Your Maximum Amount will include a Carer Element of £163.73 if you spend at least 35 hours each week caring for someone who gets:

- DLA Care Component at the middle or higher rates; or
- PIP Daily Living Component; or
- Attendance Allowance;

unless you attend school or college for 21 or more hours per week; or do a course that is described by your college as full-time

If you get a carer element the person that you are looking after cannot get a Severe Disability Premium in their legacy benefits.

If you qualify for a Carer Element you cannot also qualify for a LCW Element.

If you qualify for a LCWRA Element, you cannot qualify for a Carer Element

Your partner can qualify for a LCW or LCWRA Element while you qualify for a Carer Element.

If you and your partners are both carers for different people, two Carer Elements can be included in your Maximum Amount.

If someone else who claims Universal Credit cares for the same disabled person as you, only one of you can get the Carer Element. You must choose between you or the Secretary of State will decide who to give it to.

You should tell DWP as soon as you begin to care for someone, even if they have not yet been awarded DLA-CC, PIP-DL or Attendance Allowance.

Transitional SDP Element

For people with disabilities the normal rate of Universal Credit is often much lower than the old legacy benefits allowed. If you naturally migrate to Universal Credit from legacy benefits that included a Severe Disability Premium (p165) a TSDP Element can be included in your Maximum Amount to delay the benefit cut. This is covered in more detail on page 104.

Child Elements

- £282.50 for a first child born before 6th April 2017
- £237.08 for a second or later child before 6th April 2017
- £237.08 for a first or second child born on or after 6th April 2017 - This two child limit and some exceptions to it are detailed in *Key Ideas 2*

Additional Amounts for Disabled Children or Qualifying Young Persons

- £402.41 - for each child or Qualifying Young Person who:
 - gets the high rate of DLA Care Component because they have both day-time and night-time care needs; or
 - gets the enhanced rate of the PIP Daily Living Component; or
 - is registered as blind.
- £128.89 - for each child or Qualifying Young Person who gets any other rate of DLA or a PIP.

Childcare Costs Element

If you are a worker 85% of your childcare costs upto a maximum of:

- £646.35 for one child (100% = £760.41)
- £1,108.04 for two or more children (100% = £1,303.57)

can be included in your maximum amount, unless the Secretary of State thinks that your charges are excessive for the amount of work that you do.

Worker

To qualify you must be in paid work, or have an offer of work that is due to start before the end of your next assessment period.

If you have a partner they must also be in paid work unless they cannot provide your childcare because:

- They have been assessed as having *Limited Capability for Work*.

- They are a carer who meets all the rules for Carer's Allowance, ignoring the Carer's Allowance earnings limit.
- They are temporarily absent from your household.

If you stop working you still count as a worker during the assessment period in which your job ends and the assessment period following that.

If you make a new claim within one month of the end of your work you will be treated as a worker for your first Universal Credit assessment period.

You count as a worker for any time when you are getting Statutory Sick Pay, Statutory Maternity Pay, Ordinary Statutory Paternity Pay, Additional Statutory Paternity, Statutory Adoption Pay or Maternity Allowance.

Childcare Costs

You can claim for *relevant childcare* for a child or for a Qualifying Young Person until 1st September following their 16th birthday.

Charges that are covered by your employer or by the government in relation to Work Related Activity cannot be included in your Maximum Amount.

Extensive rules define what counts as relevant childcare. Essentially this means childcare provided by a registered or accredited provider, but does not include "care provided... by a close relative... in the child's home".

Universal Credit is calculated by calendar-monthly assessment periods. You must report your childcare costs during an assessment period to get the Childcare Costs Element for that assessment period.

If you delay reporting your childcare costs until the following assessment period you will not receive a Childcare Costs Element unless 'special circumstances' caused the delay.

You only get a Childcare Costs Element in an assessment period in which

- The childcare was both paid for and provided; or
- The childcare was paid for, if it had been provided during any earlier assessment period; or
- The childcare was provided, if it was paid for in any of the two previous assessment periods.

You cannot get a Childcare Costs Element for charges paid more than two assessment periods in advance.

At the time of writing, a test case (Salvato) had found that the requirement that you must have already paid your childcare costs was unlawful. The government has not yet responded to this.

Check the News&Advice page of www.mikebolton.co.uk for updates

Housing Costs Element for Renters – The Amount Allowed

You cannot get Housing Costs in your Maximum Amount of Universal Credit if you live in *Specified Accommodation or Temporary Homelessness Accommodation*. Instead you claim Housing Benefit alongside your UC claim.

Working Out The Amount of the Housing Costs Element for Renters	
<p>Private Renters</p> <p>Step 1 Work out how many bedrooms you need. Maximum 4.</p> <p>Step 2 Take the lower figure of:</p> <ul style="list-style-type: none"> ○ Your actual rent, or, ○ The Local Housing Allowance for a property of the size that you need. If you need more than four bedrooms, use the four-bedroom LHA <p>Step 3 Deduct the Housing Costs Contribution of £75.53 for each non-dependant.</p>	<p>Social Renters</p> <p>Step 1 Take the total rent that you pay to your landlord and deduct any ineligible service charges. Adjust for <i>rent free weeks</i> and work out the monthly equivalent.</p> <p>Step 2 Work out how many bedrooms you need.</p> <p>Step 3 Bedroom Tax If you have one spare bedroom, work out 86% of the rent. [Rent x 0.86] If your home has two or more spare bedrooms, work out 75% of the rent. [Rent x 0.75]</p> <p>Step 4 Deduct the Housing Costs Contribution of £75.53 for each non-dependant.</p>

Accommodation Size – How Many Bedrooms?

Your accommodation size is worked out for you, your partner, any children or Qualifying Young Persons that you are responsible for, and your non-dependants. This is your *Extended Benefit Unit*.

Your foster children and your boarders and lodgers do not count.

Private Rented Shared Accommodation

If you are a single, childless private renter aged under 35, Universal Credit says that you only need shared accommodation, unless:

- You are aged 25, and were in care on your 16th birthday
- You have spent periods amounting to three months living in hostels for homeless people where you accepted support services to enable you to be *rehabilitated or resettled*.

This can include hotels and B&B's under the *Everyone In* scheme.

- You get PIP Daily Living Component or the DLA equivalent
- You are the subject of active multiagency management... under the *Criminal Justice Act 2003*.
- You have non-dependants living with you.

Bedroom Entitlements

If you are not restricted to shared accommodation, you are assumed to need a bedroom for each:

- Couple.
- Single person aged 16 or over.
- Two children of the same sex.
- Two children under 10.
- Child under 16.
- Adult child who usually lives with you as a non-dependant who is a member of the armed forces “deployed on operations”.

An extra bedroom is allowed if:

- Someone who would usually be expected to share a room has their own room, because their disability means that they cannot reasonably share. They must get PIP Daily Living Component, Armed Forces Independence Payment, middle or high rate DLA Care Component, or high rate Attendance Allowance. This can apply to more than one child.

- Someone who lives with you gets overnight care from someone(s) who does not normally live with you, who stays with you on a regular basis.
The person with care needs must get Attendance Allowance, PIP Daily Living Component, Armed Forces Independence Payment, or middle or high rate DLA Care Component.
- You are a foster carer who has been approved or had a child placed with you during the last 12 months.

Non-Dependant's Housing Costs Contribution

A non-dependant is someone who normally lives with you and your partner on a non-commercial basis. A non-dependant is assumed to contribute £75.53 per month to your housing costs unless you or your partner:

- Are blind; or,
- Get DLA Care Component at the middle or high rates; or,
- Get Attendance Allowance; or,
- Get Daily Living Component of Personal Independence Payment.

Non-dependants do not have to contribute to your housing costs if they:

- Are aged under 21.
- Get Pension Credit.
- Get DLA Care Component at the middle or high rates.
- Get Attendance Allowance.
- Get Daily Living Component of Personal Independence Payment.
- Get Carer's Allowance.
- Are a prisoner.
- Are responsible for a child aged under 5.
- Are your adult child who usually lives with you as a non-dependant who is a member of the armed forces "deployed on operations".

There are rules that treat a non-dependant as still living with you during a period of temporary absence.

For these rules, you count as getting DLA, Attendance Allowance or PIP if it has been suspended while you are in hospital.

The Amount Of The Housing Costs Element - Special Cases

Joint Renters – If you are a joint renter the total housing costs will be divided by the number of joint renters to arrive at your 'core rent'

Two Homes – if you have two lots of rent to pay and you are covered by the rules that treat you as occupying both homes then both rents will be covered. If you have a non-dependant only one housing costs contribution will be deducted.

Shared Ownership – If you are part of a shared ownership arrangement both the rent and the owner occupier costs can be covered.

The Amount of the Housing Costs Element for Owner Occupiers

If you are liable to make Owner Occupier Payments your maximum amount can include an amount to reflect these costs and some service charges linked to your home.

This element is a loan that is recovered when the property is sold or ownership is transferred.

If you are an owner occupier you cannot get this element if you have any earnings – regardless of the amount. Instead you get higher Work Allowance

The housing costs elements for owner occupiers is not detailed in these notes.

Transitional Elements

If you used to get legacy benefit and you moved over to Universal Credit through *managed migration* you may get a *Transitional Element* to delay any benefit cut.

These elements are described in more detail at the start of the section on means-tested benefits on page 105.

Universal Credit – Claims and Administration

Claims

You must usually claim online at www.gov.uk/universalcredit. If you cannot manage to claim online, the helpline 0800 328 5644 may complete the claim for you.

You must usually make an appointment for your new claim interview.

If you do not attend your interview and you do not have a good reason for this, your claim will be turned down.

If you cannot attend your interview contact the DWP as soon as possible.

If your claim is turned down you can ask for this decision to be reconsidered.

You and your partner must satisfy the National Insurance Number requirement and you must be able to provide proof of your identity and provide any other information relevant to your claim.

Your date of claim is usually the date that the Department for Work and pension got your online claim. If you ask the DWP for support in making a claim the date that you asked for help should be noted as your date of claim.

You can ask for your claim to be backdated for up to one month if:

- You were previously getting another benefit and you were not notified that it would stop.

In an upper tribunal case [2020] UKUT 309 (AAC) this rule allowed a Universal Credit claim to be backdated when the claimant wrongly claimed Housing Benefit, following a move to a new council area, and was later told that they must claim Universal Credit instead.

- You have a disability
- You have supplied Doctor's Statements to show that you were unwell and could not manage to claim
- You could not claim because the official computer system was not working and you claimed on the first day that it was working
- You have made a new claim as a single person after the end of a relationship if your earlier claim was refused or ended because your ex-partner did not meet the claimant commitment rule.

Benefit Advances

If you do not have enough money to meet your needs between your claim and your first payment you can ask for an advance. You should be allowed a loan of upto one month's Universal Credit. This will then be deducted from your future payments. You can be allowed upto 24 months to repay this.

Awards Without A Claim and *Treated as Making a Claim*

In most circumstances you, and your partner, must make a claim to get Universal Credit. In some situations you can be treated as making a claim or Universal Credit can be awarded without a claim, including if:

- Your partner has died and you now need an award as a single person.
- Your partner is unable to make the joint claim with you, you can claim on behalf of both of you.
- You were getting Universal Credit as a member of a couple and you are now single.
- You were getting Universal Credit as a single person and you are now a member of a couple.
- You were getting Universal credit as a member of a couple and you have now formed a new couple with someone else.

Reclaiming After a Period Without Universal Credit

If your universal credit stops because your earnings are too high, and then your income drops within six months, you can reclaim by logging onto your account and reactivating your claim.

Your old cycle of assessment periods will be reinstated, which means that your re-claim can cover a period before you reactivated your account.

If the reason for the re-claim is that you (and your partner) are no longer working you must reactivate your claim within seven days of your work ending to get paid for the whole assessment period.

If you do not meet this deadline, you will only be paid for the number of days between the end of your work and the end of the assessment period

Changes of Circumstances

If your circumstances change in a way that affects your entitlement you must report this. It is best to do so in writing.

Generally a change that reduces your benefit takes effect from the first day of the assessment period in which it occurred.

If a change increases your benefit it will only take effect in that assessment period if you report it in the same assessment period – unless 'special circumstances' cause a delay in reporting.

Universal Credit Payments, Deductions and Reductions

Payments

Universal Credit is paid into your bank within seven days of the end of each assessment period. If you have a partner you must usually nominate one of you to get the payment.

You may not get your full Universal Credit each month. Your payment may be lower because of:

- *Alternative Payment Arrangements.*
 - *Managed Payment* of your Housing Costs Element to your landlord.
 - More frequent than monthly payments.
 - *Split Payments* between you and your partner.
- Third Party Deductions for:
 - Rent arrears
 - Fuel arrears and ongoing costs
 - Council Tax Arrears
 - Fines
 - Water arrears and ongoing costs
 - Child support maintenance
 - Integration loans for refugees
 - Eligible loans from not-for profit companies such as credit unions
 - Owner occupier's housing costs
- DWP and Tax Credit Deductions
 - Social Fund loans
 - Hardship payments
 - Penalties instead of prosecution for benefit offences
 - Civil penalties
 - Benefit overpayments
 - Benefit Advances
 - Sanctions

You may have more than one deduction. If so there is a fixed order in which the different ones are made.

Alternative Payment Arrangements

The rules about Alternative Payment Arrangements are not legal ones.

Managed Payments of your Housing Costs

DWP policy says that managed payment can be made when:

- You owe two month's rent or more.
- You have continually underpaid your rent over more than 2 months, and accrued arrears equal to one month's rent or more.
- You are vulnerable and any of *APA factors* apply. Google *Alternative Payment Arrangements* to find the policy document that lists these factors.
- You used to get Housing Benefit and it was paid to your landlord, so long as an *APA factor* applies.

More Frequent Payments

DWP Policy says that:

In instances where it is identified that a claimant is finding it difficult to budget monthly, they can have their Universal Credit divided over the month to be paid more frequently

These can only commence from the end of their first assessment period and would, in the majority of circumstances, be half their Universal Credit award, with the remaining half paid 14 to 15 days later.

In exceptional cases they could be paid 4 times a month, for example a quarter of their Universal Credit payment after the end of the first assessment period and the rest paid at 7 to 8 day intervals.

In cases where their Universal Credit includes housing costs, this should be accompanied by a MPTL to safeguard their home.

Split Payments

DWP Policy says that:

In very exceptional circumstances payment of Universal Credit can be divided between two members of the household.

Split Payments are to prevent hardship to the claimant and their family and should only be considered in certain specific situations, such as domestic violence or where financial abuse occurs and one partner mismanages the Universal Credit payment.

Third Party Deduction

In some circumstances the DWP can deduct part of your Universal Credit and pay it to a third party for:

- Rent arrears
- Fuel arrears and ongoing costs
- Council Tax Arrears
- Fines
- Water arrears and ongoing costs
- Child support maintenance
- Integration loans for refugees
- Eligible loans from not-for profit companies such as credit unions
- Owner occupier's housing costs

The legal rules about deductions say that each deduction is 5% of your Standard Allowance of Universal Credit, except:

- Rent Arrears – 10% to 20% of your Standard Allowance.
- Fines – At least 5% of your standard allowance. Maximum £108.35. Current policy sets the deduction at 5%

The law currently allows up to 40% of your Standard Allowance to be taken in deductions, but current DWP policy sets a limit on deduction at:

- 25% of your standard allowance if you have earnings.
- 25% of your standard allowance for deductions for overpayments caused by fraud.
- 15% of your standard allowance in any other case.

This guidance is contained in the DWP's *Benefit overpayment recovery guide*, even though most deductions do not relate to benefit overpayments.

If you earn more than your work allowance you cannot start having deductions for rent arrears, fuel or water charges.

Deductions for rent arrears, fuel or water charges must stop if you earn more than your work allowance for three consecutive months.

Deductions must leave you at least one penny of Universal Credit.

Pension Credit

Pension Credit is a benefit for people over Pension Age, which is currently 66 years. [KI-9]

Pension Credit has two parts:

- *Guarantee Credit* works by comparing your income from pensions, investments, work and benefits with a hypothetical amount that you need each week.

If your income is less than your *Appropriate Minimum Guarantee* you get a top-up to bring you up to this level.

- *Savings Credit* is for people who have lost out on Guarantee Credit because of savings, investments or private pensions.

Since 5th April 2016 it has been closed for new claims unless you are a woman born before 6th April 1953, or a man born before 6th April 1951.

Mixed Age Couples

Until 15th May 2019 the older partner of a mixed-age couple could claim Pension Credit for both.

From 15th May 2019 the younger partner of a mixed age couple must usually claim Universal Credit for both.

For more information about these rules search for *mixed age couples* on the News&Advice page of www.mikebolton.co.uk

Children in Pension Credit Claims

Extra amounts for children and Qualifying Young Persons can be included in your Pension Credit claim, unless you are already getting Tax Credit.

The two child limit does not apply in Pension Credit.

Pension Credit has no upper savings limit but savings over £10,000 will be said to give you a *tariff income* and will reduce the amount that you get.

You can work while claiming Pension Credit but your wages affect the amount you get.

Claim Pension Credit online, on form PC1, or by calling 0800 99 1234.

Your claim can be backdated for up to three months if you ask for this

The DWP Legacy Benefits

Income Related Employment and Support Allowance

Income Support

Income Based Jobseeker's Allowance

These non-taxable benefits all work in the same way, by comparing your income with a hypothetical weekly needs-level. If your income is lower than your *Applicable Amount* you get a top-up to fill the gap.

All of the top-up benefits passport you to help with NHS costs, some one-off payments and maximum levels of Child Tax Credit and Housing Benefit.

Income Related Employment and Support Allowance

iESA is a means-tested benefit paid to some people who have a *Limited Capability for Work*.^{K1-7}

You can get both cESA and iESA at the same time.

iESA is mostly closed to new claims.

If you are getting old-style contribution-based ESA you can still ask for extra from income-related ESA. This is not counted as a new claim.

If you are a Student ^{K1-3} or a Qualifying Young Person ^{K1-2} you cannot get iESA unless you also get DLA or PIP.

You are allowed to do *Permitted Work* ^{K1-7} while claiming ESA. Wages from permitted work have no effect on your ESA or other benefits

Your partner must work for less than 24 hours each week. Their wages, over £20pw, will affect the amount of your iESA,

You cannot have iESA, if you have £16,000 or more. Savings between £6,000 and £16,000 will be said to give you a *tariff income* ^{K1-12} and will reduce the amount that you get.

Income Support

Income Support is paid to people who have a good reason for not jobseeking, including if:

- You are a lone parent who gets Child Benefit for a child under 5
- You are a Qualifying Young Person ^{KI-3} who cannot live with your parents because of danger, risk or estrangement.
- You are a QYP and you are ill or disabled.
- You are a student lone-parent.
- You are a carer for someone who has an illness or disability.

You cannot have Income Support if you have £16,000 or more. Savings between £6,000 and £16,000 will be said to give you a *tariff income* ^{KI-12} and will reduce the amount that you get.

Income Support is now closed to new claims.

Income-Based Jobseeker's Allowance

Income-based Jobseekers Allowance is a means-tested benefit paid to some people who are fit and well and looking for work.

It is now closed to new claims.

Housing Benefit

Housing Benefit is paid by Local Authorities to help meet the cost of rented accommodation if you or your partner:

- are be liable to pay rent on the property, and
- occupy the accommodation as your home.

Housing Benefit and Universal Credit

The introduction of Universal Credit means that you can only make a new claim for Housing Benefit if:

- You (and your partner from 15th May 2019) are over Pension Age, or,
- You pay rent for Specified Accommodation or Temporary Homelessness Accommodation including:
 - Supported Accommodation.
 - Refuges for people who have experienced domestic violence.
 - Hostels.

If you are getting Housing Benefit and you move directly to a new home in the same council's area this does not count as a new claim.

It is a change-of-circumstances for your existing claim, which can be transferred to the new address.

If you do not come under these rules and you want to make a new claim for help with your rent, you must claim Universal Credit.

Your legacy benefits will be closed down and you will *naturally migrate* to UC.

Liable For Rent

You or your partner must have a legal agreement to pay rent to your landlord. You may have a contract or rent book, or you may have agreed your arrangement verbally.

Couples who are jointly liable for the rent on a property make a joint claim for Housing Benefit. Single people who are jointly liable for rent each claim individually.

If you do not have a legal agreement to pay these charges you can still be treated as liable, if you have to make payments to stay in the home because the person who is liable is not making the payments, so long as the liable person is your former partner, or it is reasonable to treat you as liable.

In some circumstances you are automatically treated as not liable for rent. Mostly these rules are intended to prevent abuse of the scheme. For example you are not liable for rent, and you cannot get Housing Benefit if:

- Your rental agreement is not a *commercial arrangement*
- You have made a *contrived tenancy*.
- You live with and rent from a parent, parent-in-law, step-parent, son or daughter, step-son or daughter, son or daughter-in-law, sister or brother, half-sister or half-brother, or the partner of any of these people.
- You owned the home within the last five years, unless you can show that you could not have stayed there without giving up ownership.
- You are a monk or nun, fully maintained by your religious order.

Occupying The Accommodation As Your Home

Housing Benefit will usually only be paid on the accommodation that you occupy as your main home.

To claim from the start of a new tenancy you must move in to your new home in the first week of the tenancy unless:

- You are currently in hospital or residential care.
- Your move is delayed while the property is adapted to meet your 'disablement needs'.

Temporary Absences

If you are temporarily absent from your home and you have not rented it out you can still be treated as occupying it and so get Housing Benefit.

Always count the absence from the last time you were at home – even if this was just an overnight stay – unless you were on home leave from prison.

If you are paying rent for your temporary accommodation you can only be treated as living in both your usual home and your temporary place (and so get Housing Benefit for both) if you had to leave your usual home because of *“fear of violence in the home or by a former member of the family”*. You must intend to return to your home within 52 weeks and it must be likely that you will do so. It must be *reasonable* that Housing Benefit should continue. If you are not likely to return within 52 weeks no Housing Benefit will be paid.

If you are not paying rent for your temporary accommodation you can be treated as though you are still living in your empty home so long as you intend to return to it within 13 weeks. It must be reasonably likely that you will do so. If you are not likely to return within the limit no Housing Benefit will be paid at all.

A 52 week limit applies instead of 13 if:

- You are a remand prisoner held in custody or a bail hostel pending trial or sentencing.
- You are a hospital in-patient
- You or a dependent are undergoing medical treatment or medically approved convalescence
- You are providing or receiving 'medically approved' care
- You are caring for a child whose usual carer is receiving treatment.
- You are away from home on a government funded training course.
- You are in residential care - If you go into care on a trial basis your payments will be limited to 13 weeks for each care home you try out.
- You are absent from home through *“fear of violence in the home or by a former member of the family”*

Notice Periods – Run-Ons and Unavoidable Overlaps

If you have moved out of your home and you do not intend to return to it, you can be treated as though you are still living in it for a period of up to four benefit weeks. This only applies if you still have to pay rent on the property that you have left.

Housing Benefit Administration

Claims

There are several possible processes and claim forms for claiming Housing Benefit. You may be able to make your claim by phone, online or by completing a form.

You should contact your local council as soon as you think you may be entitled to Housing Benefit since the date of your first contact will often count as your 'date of claim' for working out when your benefit starts.

If you are over Pension Age your Housing Benefit starts from the first benefit week you became entitled to it, in the three months before your claim.

If you are under Pension Age Housing Benefit usually starts on the Monday following your claim, but can start before this if you live in a hostel, or have moved into a new home.

Payments to Other People

The council **must** make payments to your landlord if:

- Part of your PC/iESA IS/iJSA is being deducted to pay rent arrears
- You are more than 8 weeks in arrears with your rent - although this rule will not apply if the council believes that it is not in your interests to make payments direct to your landlord.

The council **may** make payments to your landlord if:

- You have requested or agreed to direct payments to a non-private landlord.
- You are likely to have difficulties managing your affairs.
- It is improbable that you will pay your rent.
- You previously had direct payments to your landlord under the rent arrears rules (above).

Suspending and Ending Claims

If the council believes that your entitlement has changed or that you are currently being overpaid they are entitled to suspend your benefit while they write to you to ask you for more information. You will usually have one month from when the council wrote to you to request the information, to provide any evidence that they reasonably need.

If you do not respond to the request for evidence or information the council can supersede or revise your award (K113) and *terminate* your claim.

Extended Payments of Housing Benefit

'Extended payments' of Housing Benefit is available to some people who are starting or returning to work. If you qualify, you get four weeks of extra Housing Benefit payments at the rate that you got before starting work, regardless of how much you will be earning.

Housing Benefit Overpayments

All overpayments are recoverable except where they are due to an official error and the claimant, his/her representative or the person who received the payment or notifications about it could not reasonably realise that they were being overpaid.

Local authorities have discretion as to whether or not to recover an overpayment. They must exercise this discretion and consider whether to recover in every individual case

The council should not begin to recover any money while an appeal is pending.

Calculating Housing Benefit

Housing Benefit can sometimes cover your full rent, but not if:

- **Your social housing rent includes *ineligible service charges***
- **Your home is too big or too expensive.** Different rules apply to social renters and private renters.
- **You have *Non-Dependants living with you*.** These adults may be expected to contribute to your rent, according to their level of income. The remaining rent figure after this contribution is known as your *Maximum Housing Benefit*
- **You have *Excess Income*:** If you get a DWP top-up benefit you get Maximum Housing Benefit. If you do not get a DWP top-up benefit the Maximum Housing Benefit may be reduced according to your income.
- **Your claim is affected by the Benefit Cap.** KI-11
- **You have previously been overpaid Housing Benefit:** Deductions can be made from your ongoing Housing Benefit to recover overpayments.

Service Charges

Housing Benefit for social renters can cover some *eligible service charges* including those for heating and lighting communal areas, laundry facilities, and children's play areas. Housing Benefit cannot cover *ineligible services charges*. You must pay any that are included in your rent.

Too Big or Too Expensive?

If your home is too big (social renters) or too expensive (private renters) for your household size you must make a contribution to your rent.

You must first work out the size of accommodation that the Housing Benefit rules say that you need. The system for doing this is almost identical to that used in Universal Credit, except:

- The exceptions to the private-rented room-in-shared rule are slightly different for people with disabilities
- Housing Benefit includes rooms for boarders and lodgers.
- If you are a private renter aged 35 or older in shared accommodation you are only seen as needing a room in shared accommodation; where UC would allow one-bedroom self-contained.
- If someone who normally lives with you dies, their room will continue to be included in your claim for twelve months.
- *A person who requires overnight care* does not need to get DLA/PIP/AA.

Social Renters - Bedroom Tax - Under Pension Age you must pay:

- 14% of the rent If you have one spare bedroom [Rent x 0.14]
- 25% of the rent If you have two or more spare bedrooms [Rent x 0.25]

The bedroom tax does not apply to social renters over Pension Age.

Private Renters – Local Housing Allowance

Local Housing Allowances are rent levels set for different sizes of accommodation upto a maximum of four bedrooms, in local patches.

If your rent is more than the Local Housing Allowance for the size of property that you need, you must pay the excess.

If you could afford the rent when you took the property on and you have not claimed Housing Benefit in the last year you do not have to make this contribution for the first 13 weeks of a new claim.

Non-Dependant’s Rent Contribution

A non-dependant is another person aged 18 or over who lives with you and your partner on a non-commercial basis. If you have a non-dependant living with you they may be expected to make a contribution to the rent

Non-dependant’s gross weekly wage	Contribution
£469.00 or more	£102.35
£377 – £468.99	£93.25
£283 - £376.99	£81.90
£217 - £282.99	£50.05
£149 - £216.99	£36.45
Less than £149	£15.85
Non-dependant not in full-time work	£15.85

Boarders and lodgers who live with you on a commercial basis are not non-dependants. Qualifying Young Persons are not non-dependants.

If you are blind or you get Attendance Allowance, PIP Daily Living, DLA Care or AFIP your non-dependant does not have to contribute to your rent.

A non-dependant aged 18 - 24 who get IS, iJSA, UC with no wages, or assessment phase iESA, does not have to contribute to your rent.

A non-dependant who gets Pension Credit, or is in prison, or is deployed on operations with the armed forces does not have to contribute to your rent.

Excess Income Based Rent Contribution

If you get Universal Credit, Income Support, Income Based Jobseekers' Allowance, Income Related Employment and Support Allowance or the Guarantee Credit of Pension Credit, you do not have to make a contribution to your rent, based on your income.

If you are not getting a top-up benefit, the council does its own version of the top up-means test comparing your income with your needs level.
(Applicable Amount)

If your income is below your Applicable Amount you do not have to make an income based contribution to your rent.

If your income is above your Applicable Amount you are said to have 'excess income'. You must contribute 65% of your excess income to your rent.
[Excess Income x 0.65]

Overpayment Recovery Contributions

If you have previously been overpaid housing benefit, deductions can be made from your ongoing entitlement to recover this amount. This means that you must contribute an equal amount to your rent.

- £18.75pw if you have agreed to pay a penalty, admitted fraud, or been found guilty of fraud.
- £11.25pw in any other case.

If you have earnings the deduction may be increased.

Discretionary Housing Payments

Each local Authority has a fixed budget to make Discretionary Housing Payments to claimants whose Housing Benefit or Universal Credit Housing Costs Element does not meet their full Housing Costs

DHPs can cover rent, rent in advance, deposits and removal expenses.

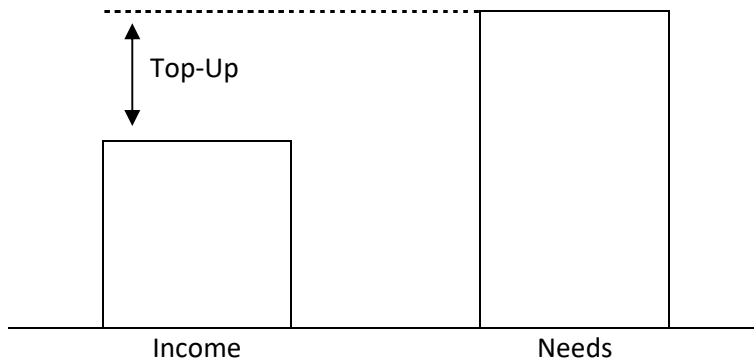
Each council sets its own policy to decide who gets DHPs.

Google "DHP Guidance Manual" for complete official information.

The Top-Up Means-Test

Income and Needs for PC, iESA, IS, iJSA & HB

The top-up means test works by balancing your existing income against a hypothetical figure to meet your weekly living costs.



There are two versions of the test. One version, used by the Department for Work and Pensions to work out Pension Credit, iESA, Income Support and iJSA only takes you and your partner into account. A different version, used by local councils to work out some Housing Benefit claims includes amounts for you, your partner and your children.

Income

✓ = Counts X = Disregarded.	
16-19 Bursary Fund Payments	X
Attendance Allowance	X
Bereavement Support Payment	X
Boarders and Lodgers	See p163
Carer's Allowance	✓
Charitable Payments	X
Child Benefit	X
Child Minding Income	See p163
Child Tax Credit – For DWP benefit calculations	X
Child Tax Credit – For HB calculations	✓
Children Act Payments under ss 17, 23 or 24	X

Means Tested Benefits - The Top-Up Means Test - Income

Direct Payments from Social Services	X
Disability Living Allowance	X
Earnings	See p162
ESA - Contribution Based	✓
Fostering Allowances	X
Guardian's Allowance	✓
Incapacity Benefit	✓
Independent Living Fund etc.	X
Industrial Injuries Benefits	✓
Interest on Savings and Capital	X
Jobseeker's Allowance - Contribution Based	✓
Maintenance – for children	X
Maintenance – for you – for DWP benefit calculations	✓
Maintenance – for you – for HB calculations	See p163
Maternity Allowance	✓
Mortgage/Payment Protection	X
Nazi Compensation Payments	-£10
Non-Dependant's Board	X
Payment in Kind	X
Pensions - Private And Work Related	✓
Personal Independence Payment	X
State Pension	✓
Severe Disablement Allowance	✓
Statutory Pay - for DWP benefit calculations	✓
Statutory Pay - for HB calculations	= Earnings
Tariff Income from Savings. KI-12	✓
Temporary Care Payments from Health or Social Services	X
Volunteer Expenses	X
War Pension	-£10
Widowed Parent's Allowance – for DWP benefit calculations	-£10
Widowed Parent's Allowance – for HB calculations	-£15
Working Tax Credit	✓
Anything Else - for iESA, IS, iJSA calculations	✓
Anything Else – for Pension Credit calculations	X

Earnings and Disregards

Your earnings are your income from work. The top-up means test uses your gross earnings less tax and NI, reasonable self-employment expenses and half of your pension contribution. The highest of the following weekly disregards is deducted from your net earnings:

- For iESA calculations and HB calculations for ESA claimants - All of your earnings from permitted work *K1-7* are disregarded
- For HB calculations – £25.00 is disregarded if you are a lone parent
- £20.00 is disregarded if
 - For DWP benefit calculations, you are a lone parent,
 - you get DLA, PIP or AA,
 - you are blind,
 - you meet the rules for Carer’s Allowance,
 - you are the partner of an iESA claimant,
 - For HB calculations - you get WTC with a disability element,
 - you are claiming Income Support and/or Housing Benefit under the pre-2008 rules because you are *Incapable of Work* *K1-7*,
- £10.00 is disregarded if you are a member of a couple, whether one or both of you are working
- £ 5.00 is disregarded if you are a single person

HB Full-time Worker’s Earnings Disregard - An extra £17.10 of your earnings is disregarded if:

- You get WTC with a 30 Hour Element or Disability Element.
- You are aged 25 or over and work for 30 or more hours per week
- You work for an average of 16 hours or more each week and
 - You have a child, or
 - your HB calculation includes a Disability Premium or a Support Component; or you are in the Work Related Activity Group

HB Childcare Earnings Disregard - If you pay for work related childcare for a child aged under 15 (16 if s/he has a disability) your costs are deducted from your earnings upto a maximum of £175pw for one child, or £300pw for two or more children.

The disregard is allowed for lone parents who work 16 or more hours per week; couples both working 16 or more hours; or, couples where one member is one working and the other:

- Is in prison
- Is in hospital
- Is incapable of work KI-7
- Has limited capacity for work KI-7

Other Income Disregards

Income from Boarders and Lodgers - If you receive income from a lodger £20.00 is disregarded. If you receive income from a boarder, £20.00 plus half the rest is disregarded. Some food must be provided to a boarder.

Child Minding Earnings - Two thirds of your earnings from childminding are disregarded. The remaining third, less tax, NI contributions and half of any contribution towards personal pension scheme, will count as net profit from self-employment and so you will also get earnings disregards listed above.

Spousal Maintenance Payments – For HB - If you are over Pension Age KI-9 and have a child or QYP, £15 of your spousal maintenance is disregarded.

Tariff Income and Savings KI-12

If you are under Pension Age you cannot get iESA, IS, iJSA, or HB if you have savings of more than £16,000.

Savings between £6,000 and £16,000 give you a 'tariff income' of £1 per week for each extra £250.

Your savings are always rounded up to the next £250.

Pension Credit has no savings limit.

If you are over Pension Age, you cannot claim Housing Benefit if you have savings of more than £16,000 unless you get also Guarantee Credit from Pension Credit.

Savings over £10,000 give you a 'tariff income' of £1 pw for each extra £500. Your savings are always rounded up to the next £500.

Needs

Your needs level is known as your applicable amount for IS, iJSA, iESA, or HB; or your appropriate minimum guarantee for PC.

It is individually worked out for you and your partner, and is made up of upto three parts:

- ◆ Personal Allowances, (known in Pension Credit as Standard Minimum Guarantees) are meant to match ordinary living costs.
- ◆ Premiums and Components are meant to meet the extra needs of carers and people who are ill or disabled.
- ◆ Housing Costs Loan for owner occupiers.

In Housing Benefit your needs level includes amounts for children.

Some Pension Credit claims can include amounts for children.

Personal Allowances

Single Claimants

Single aged 16 – 24 (For IS, iJSA & iESA assessment phase)	£59.20
Single aged 16 – 24 (For iESA after assessment phase)	£74.70
Single aged 25 – Pension Age	£74.70
Single aged over Pension Age	£177.10
For HB - Single - born before 31st March 1955	£191.15

Lone Parents

Lone parent under 18.	£59.20
Lone parent 18 – Pension Age	£74.70

Couples

Couples one or both aged 18 – Pension Age	£117.40
Couples both aged over Pension Age	£270.30
For HB – Couples – one/both born before 31 st March 1955	£286.05

Children and Qualifying Young Persons

For PC – Eldest child or QYP - Born before 6 th April 2017	£65.10
For PC – Standard rate	£54.60
For HB	£68.60

Premiums and Components

Work Related Activity Component - £29.70

Allowed in iESA claims made before 3rd April 2017 and you are in the ESA Work Related Activity Group.

Support Component - £39.40

Allowed in iESA claims if you are in the ESA Support Group.

Disability Premium - Single £35.10 Couple £50.05

Allowed in Income Support or Jobseeker's Allowance claims if you or your partner get DLA or PIP.

Severe Disability Premium - £67.30

Allowed if:

- ◆ You get PIP Daily Living Component, or Attendance Allowance or the middle or high rates of DLA Care Component, *and*
- ◆ No one gets Carer's Allowance or Universal Credit Carer Element for looking after you, *and*
- ◆ You have no *non-dependants* [KI-2] living with you. Non-dependants are ignored if they also get PIP, Attendance Allowance or DLA or if they are blind

If you have a partner they must also get PIP Daily Living Component, AA or the middle or high rates of DLA Care Component, or they must be registered blind. If you both meet all three rules, two Severe Disability Premiums are allowed.

Enhanced Disability Premium - Single £17.20, Couple £24.60 – Not Pension Credit

Allowed if you or your partner get high rate of DLA Care Component; or high rate of PIP Daily Living Component; or, for iESA, you are in the Support Group.

Carers Premium - £37.70

Allowed if you or your partner meet the rules for Carers Allowance. If you and your partner are both carers (for different people) two Carer's Premiums are allowed.

For Pension Credit – Disabled Child Addition – £29.66 or £92.54

Allowed at the high rate for each:

- Child who gets the high rate of DLA care component.
- Qualifying Young Person who gets the high rate of PIP Daily Living Component.
- Child or QYP who is certified as *severely sight impaired or blind*.

Allowed at the low rate for each child or Qualifying Young Person who gets any other rate of DLA or PIP.

For Housing Benefit - Family Premium - £17.65

Allowed if you claimed before 1 May 2016 and you have a child or Qualifying Young Person. Only one Family Premium is allowed, regardless of how many children you have. If you are a lone parent who has claimed continuously since 5 April 1998 a higher rate of £22.20 is used.

For Housing Benefit - Disabled Child Premium - £65.94

Allowed for each child or Qualifying Young Person who gets DLA or PIP; or who is blind.

For Housing Benefit - Enhanced Disability Premium (Child) - £26.67

Allowed for each child who gets the high rate of DLA care component, or each Qualifying Young Person who gets the high rate of PIP Daily Living Component.

For Housing Benefit - Disability Premium - Single £35.10 Couple £50.05

In addition to the rules for the Disability Premium shown above, in Housing Benefit it is allowed if you are also getting Working Tax Credit with a Disability Element.

Housing Costs Loan for Owner Occupiers

If you pay mortgage interest, part of the cost of these can be included in your applicable amount

The amount allowed is a loan which will be recovered from you when the property is sold or ownership is transferred.

Calculating Savings Credit

Savings Credit is worked out in three stages:

- Qualifying Income.
- Maximum Savings Credit.
- Actual Savings Credit

Qualifying Income

To work out your qualifying income, deduct any Working Tax Credit or maintenance payments from the income figure used in the Guarantee Credit calculation.

The Maximum Savings Credit - Single

If your Qualifying Income is more than £177.10, your Maximum Savings Credit is £ £14.04

If your Qualifying Income is lower than £177.10, subtract £153.70 from the Qualifying Income, then work out 60% of the answer.

The Maximum Savings Credit - Couple

If your Qualifying Income is more than £270.30, your Maximum Savings Credit is £15.71.

If your Qualifying Income is lower than £270.30, subtract £244.12 from the Qualifying Income, then work out 60% of the answer

Actual Savings Credit

If you get Guarantee Credit the Maximum Savings Credit is paid.

If you do not get Guarantee Credit because your income is higher than your Applicable Amount, the Maximum Savings Credit is reduced.

To work out the reduction, subtract your Applicable Amount from the income figure used in the Guarantee Credit calculation.

Then work out 40% of the answer.

Your Savings Credit is your Maximum Savings Credit minus the reduction.

Tax Credit

Tax Credit is administered by HMRC. It has two parts.

- Working Tax Credit boosts the wages of low paid workers.
- Child Tax Credit is for people who are responsible for a child or QYP.

Since the introduction of Universal Credit you cannot make a new claim for Tax Credit, but:

- If you were claiming during 2020/21 you can reclaim for 2021/22
- If you have been getting Child Tax Credit and you start work you can still get a new award of Working Tax Credit. This counts as a change-of-circumstances for your existing claim, not a new claim.
- If you have been getting Working Tax Credit and you become responsible for a child you can still get a new award of Child Tax Credit. This counts as a change-of-circumstances for your existing claim, not a new claim.

Child Tax Credit

You can get Child Tax Credit if you are aged 16 or over and you are *responsible for* a child or Qualifying Young Person who *normally lives* with you.

If your child normally lives with more than one person, the carer who has *main responsibility* should get the Tax Credit.

After the death of a child or young person, Child Tax Credit continues for eight weeks or until their 20th birthday – whichever is earlier.

You cannot claim Child Tax Credit for child or young person who works for 24 hours or more each week after the end of their education.

You cannot claim Child Tax Credit for a child or young person who gets Universal Credit, Income Support, Employment and Support Allowance, or Tax Credit.

Although Qualifying Young Person status continues after the end of your young person's course K1-2, you cannot claim Child Tax Credit for an 18 or 19 year old who has finished their education or training.

Working Tax Credit

To get Working Tax Credit you must be:

- A lone parent and work at least 16 hours pw.
- A member of a couple with a child or QYP and work at least 16 hours pw. Also, you and your partner must jointly work for at least 24 hours each week.
- A disabled worker and work at least 16 hours pw.
- Aged 60 or more and work at least 16 hours pw.
- Aged 25 or over and work at least 30 hours pw.

Working Tax Credit for Childcare Costs - Costs for a registered provider can be included in your claim until the end of August following your child's 15th birthday; or 16th birthday for a child who has a disability.

If you have a partner, you must both work for 16 or more hours each week; or one of you must work for 16 hours or more while the other cannot work.

Work - You must be employed or self-employed when claim, or have accepted an offer to start work within 7 days of the claim. You can count as working during some breaks, including:

- Maternity, paternity and adoption leave.
- The first 28 weeks after you stop work because of illness.
- The first four weeks following the end of your employment.
- Other breaks of up to seven days.

Disabled Worker - You must pass two separate tests:

You pass the *benefit test* if you currently get Disability Living Allowance, Personal Independence Payment or Attendance Allowance; or you were getting ESA or some other a benefits for illness or disability before you started work

You pass the *disability test* if you meet one of a list of criteria including:

- You have a mental illness for which you receive regular treatment under the supervision of a medically qualified person.
- You cannot normally sustain an 8 hour working day or a 5 day working week due to a medical condition or intermittent or continuous severe pain.

Tax Credit Administration

Tax Credits are calculated on an annual basis.

When you claim, a provisional assessment is done. This is based on your family and work circumstances at the time of the claim and on income details from the last complete tax year.

At the end of that tax year a final assessment is carried out, with the provisional assessment for the next tax year.

You do not have to report changes in your income until the final assessment at the end of the tax year, but it may cause problems if you do not do so.

If your income has increased since the last tax year you are likely to be overpaid.

If you start a new job after a time on benefits you may be overpaid. You should ensure that HMRC reassesses your provisional award to take account of your new wage.

Other changes in your circumstances must be reported within 30 days. If you do not report a change within 30 days you can be fined up to £300. Some changes will end your existing award and you must claim Universal Credit instead.

Payments are made into a bank or building society account.

Other Information

Help with NHS costs is available if you have an income of less than £15,276 a year and you get either Child Tax Credit or Working Tax Credit with a disability element.

If you get Child Tax Credit, but not Working Tax Credit, and have an income of less than **£16,480** per year your children will get **free school meals**.

You can claim **Sure Start Maternity Grants** and **Funeral Expenses Payments** if you get Child Tax Credit; or you get Working Tax Credit which includes a disability element.

Calculating Tax Credits

To work out your Tax Credit:

- Calculate your maximum entitlement - If you are not in full-time work and you get a DWP top-up benefit, the maximum rate of Child Tax Credit is paid.
- If you are not getting a DWP top-up benefit, add up your income for the last complete tax year.
- Compare last year's income with a specified threshold
 - If last year's income is less than the threshold, the maximum rate of tax credit is paid.
 - If last year's income is above the threshold you are said to have 'excess income' and you will not get the maximum rate of Tax Credit. Instead the maximum rate of Tax Credit will be reduced by a portion of your excess income known as your 'taper' (excess income x 41%)

Relevant Periods - The time from your claim through to the end of the financial year is known as a 'relevant period'. If your circumstances change either a new relevant period starts. HMRC works out your Tax Credit for each relevant period using daily equivalent amounts.

Maximum Child Tax Credit

Family Element - £545: Included if you have a child born before 6 April 2017.

Child Element - £2,845: Included for each child or Qualifying Young Person born before 6 April 2017, or for a first or second child born after this date. The two child limit is detailed in KI-2

Severely Disabled Child Element - £4,825: Included for each child or Qualifying Young Person gets DLA Care Component at the high rate or PIP Daily Living Component at the high rate.

Disabled Child Element - £3,435: Included for each child or Qualifying Young Person who does not get the Severely Disabled Child Element, who gets DLA, or PIP or is registered blind.

Maximum Working Tax Credit

Basic Element - £2,005: Included in every WTC calculation.

Couple Element - £2,060: Included if you have a partner.

Lone Parent Element - £2,060: Included if you are a lone parent of a child or Qualifying Young Person.

30 hours Element - £830: Included if:

- you or your partner work for 30 hours or more each week, or,
- you and your partner are responsible for a child or Qualifying Young Person and you jointly work for 30 hours or more each week.

If you and your partner both work for 30 hours or more each week only one 30 hours element is allowed.

Disability Element - £3,240: Included if you are a disabled worker. If you and your partner are both disabled workers, you get two Disability Elements.

Severe Disability Element - £1,400: Included if you or your partner get the high rate of DLA Care Component, the high rate of PIP Daily Living Component or the high rate of Attendance Allowance. If you and your partner both get the DLA /AA two Severe Disability Elements are included.

Childcare Element - 70% of eligible childcare costs: Included if you are a lone parent. If you have a partner, you must both work for 16 or more hours each week; or one of you must work for 16 hours or more while the other has Limited Capability for Work, or is in prison, or is entitled to Carer's Allowance.

The amount included is limited to:

- One child: maximum costs £175 pw, maximum Childcare Element £122.50 pw.
- Two or more children: maximum costs £300 pw, maximum Childcare Element £210 pw

If you pay for your childcare at a weekly or monthly fixed rate, this amount will be used to work out your Childcare Element. If your childcare costs vary, the average weekly amount paid in the last year is used. If you have not been working for a year "any reasonable method" of averaging your recent payments can be used. If necessary, an estimated amount can be used.

Mean Tested Benefits – Tax Credits - Calculation

Income

✓ = Counts. X = Disregarded. D = Disregard £300 from total amount.	
Attendance Allowance	X
Back to Work Bonus	X
Bereavement Allowance	✓
Bereavement Payment	X
Bereavement Support Payment	X
Boarders and Lodgers (upto £7,500pa)	X
Carer's Allowance	✓
Child Benefit	X
Christmas Bonus	X
Council Tax Reduction	X
Direct Payments from Social Services	X
Disability Living Allowance	X
Earnings from Employment (gross – pension contributions)	✓
Education Maintenance Allowance	X
ESA - Contribution Based	✓
ESA - Income Related	X
Foreign Income	D
Fostering Allowances	X
Guardian's Allowance	X
Housing Benefit and Discretionary Housing Payments	X
Incapacity Benefit	✓
Income Support	X
Industrial Injuries Disablement Benefit	X
Investment Income	D
Jobseeker's Allowance - Contribution Based	✓
Jobseeker's Allowance - Income Based	X
Maintenance – for children or yourself	X
Maternity Allowance	X
Mortgage or payment protection	X
Notional Income (income that you chose not to take)	D
Payment in Kind	X
Pension Credit (Guarantee Credit and Savings Credit)	X
Personal Independence Payment	X
Private And Work Pensions	D

Profit - Self-employment (a loss is offset from other income)	✓
Property Income	D
State Pension	D
Return to Work Credit	X
Severe Disablement Allowance	X
Social Fund Payments	X
Statutory Adoption Pay	✓ -£100pw
Statutory Maternity Pay	✓ -£100pw
Statutory Paternity Pay	✓ -£100pw
Statutory Shared Parental Pay	✓ -£100pw
Statutory Sick Pay	✓
Student Income (except adult dependant's grant)	X
Temporary Care Payments - from health or social services	X
Volunteer Expenses	X
Widowed Parent's Allowance	D
Anything Else – Non-Taxable	X
Anything Else - Taxable	✓

Income Threshold and 'Tapering'

The Income Thresholds are:

For Working and Child Tax Credit calculated together	£6,565
For Working Tax Credit only	£6,565
For Child Tax Credit only	£16,480

If last year's income is less than or equal to the threshold, the maximum Tax Credit is allowed

If last year's income is more than the threshold you are said to have 'excess income', your maximum Tax Credit is reduced by 41% of your excess income to arrive at your annual entitlement. The 41% figure is known as a 'taper'.

One-Off Benefits

One-Off Benefits

A range of one-off benefits are available, including:

- ◆ Budgeting Loans and Budgeting Advances
- ◆ Sure Start Maternity Grants
- ◆ Winter Fuel Payments
- ◆ Cold Weather Payments
- ◆ Funeral Expenses Payments

Budgeting Loans and Budgeting Advances

Budgeting Loans and Budgeting Advances are interest free loans from the DWP.

You can apply for a Budgeting Advance if you claim Universal Credit, or a Budgeting Loan if you claim the legacy benefits.

You must have been getting Income Support, Income Based Jobseekers' Allowance, Income Related Employment and Support Allowance, Pension Credit or Universal Credit for 26 weeks/six months – Although a Budgeting Advance can be made before this for expenses that are *necessarily related to employment*.

You must ask for at least £100.

The most that can be allowed is:

- £348 if you are single and childless.
- £464 if you have a partner and you are childless.
- £812 if you are responsible for a child.

Loans and advances are usually repaid by deductions from your benefit.

Budgeting Loans must normally be repaid within 104 weeks.. The deductions may not be more than 20% of the weekly total of your applicable amount, plus Child Benefit and Child Tax Credit. Repayments cannot be deducted from DLA, PIP or Child Benefit.

A Budgeting Advance must normally be repaid with 24 months, although this can be extended by up to six months in exceptional circumstances.

Sure Start Maternity Grant

You qualify for a Sure Start Maternity Grant of £500 for each baby if there are no other children under 16 years in your family, and you or your partner are pregnant and expecting a baby within 11 weeks, or have given birth within the last six months.

The grant is payable if your baby is stillborn after 24 week's pregnancy.

There are rules to allow the grant in other circumstances where you become responsible for a baby.

You or your partner must be getting Income Support, iJSA, iESA, Pension Credit, Universal Credit, Working Tax Credit including a disability element, or Child Tax Credit at the date of your claim.

You must get a health professional to countersign your application form to confirm that you have received advice on your child's health and welfare.

Winter Fuel Payment

You will get an annual Winter Fuel Payment if you are aged over Pension Age in the week beginning on the third Monday in September, unless:

- You have been in hospital over 52 weeks
- You are serving a sentence in custody
- You are not ordinarily resident in Great Britain
- You live in a care home and you get Income Related ESA, Income Support, Jobseekers Allowance or Pension Credit.

Most payments are made automatically, but you may need to make a claim if you have not had a WFP before and you are not getting a social security benefit. Queries about the Winter Fuel Payment are dealt with by the Winter Fuel Payment Helpline on 0800 731 0160

You get:

- £200 if you are Pension Age – 79
- £300 if you are aged 80 or over

Only one payment is made for each household according to the oldest resident's age. The payment will be split between the qualifying residents. If you are a self-funder in residential care you get half of the usual payment.

Cold Weather Payment

You may get a Cold Weather Payment of £25 during a *period of cold weather* if you are over Pension Age, you or your child have an illness or disability, or you have a child under five.

You must be getting a means-tested benefit

A *period of cold weather* means seven consecutive days where the average temperature is 0° Celsius or below.

The DWP should automatically send out payments. If you think that you are entitled to a CWP but do not get it you should contact the DWP.

You do not get a Cold Weather Payment if you live in a care home.

Funeral Expenses Payment

To get a funeral expenses payment you or your partner must be getting Income Support, iJSA, iESA, Pension Credit, Universal Credit, Working Tax Credit including a disability element, or Child Tax Credit at the date of your claim.

You must claim within six months of the funeral, which must usually take place in the UK

You or your partner must be "eligible to be treated by the DWP as responsible for the costs of the funeral". You may be eligible if you are the partner of the deceased, or a close relative or close friend.

You cannot claim if there is someone else "from whom the deceased was not estranged" who was closer or equally close to the deceased who does not get benefit.

Funeral payments are usually recovered from the deceased person's estate.

Non-Means-Tested Benefits	
Care & Mobility Needs	<p>Under 16: DLA Care Component DLA Mobility Component.</p> <p>16 – Pension Age PIP Daily Living Component PIP Mobility Component.</p> <p>Pension Age+ Attendance Allowance. No mobility benefit.</p>
<p>Instead of a Wage</p> <p>These are individual entitlements so, if you have a partner you can each make separate claims. Except for Bereavement Support Payment you can only claim one of these. If you meet the rules for more than one, you get the one that is best.</p>	<p>Statutory Sick Pay Contribution Based Employment & Support Allowance Carer’s Allowance Statutory Maternity Pay Maternity Allowance Statutory Paternity Pay Shared Parental Pay Statutory Adoption Pay Widowed Parent’s Allowance Bereavement Support Payment Statutory Parental Bereavement Pay State Pension Contribution Based Jobseeker’s Allowance</p>
Other	<p>Child Benefit Guardian’s Allowance War Pensions and Armed Forces Payments Industrial Injuries Benefits Council Tax Discounts and Exemptions</p>

Means-Tested Benefits			
	< Pension Age	Pension Age +	Legacy Benefits
Adults	Universal Credit Adult Elements	Pension Credit	Working Tax Credit Income Related ESA Income Support Income Based JSA
Children	UC Child Elements	CTC or PC	Child Tax Credit
Home	UC Housing Costs Element or SMI	Housing Benefit or SMI	Housing Benefit or SMI
Council Tax	CT Reduction	CT Reduction	CT Reduction

Training Courses from Mike Bolton

If you need training on the benefits system I can help.

You could have a traditional training-room day of information, discussion, puzzles and exercises.

Or a zoom/teams equivalent of this spread over two or three sessions.

Or you might prefer to have bitesize chunks of social-security-input in your zoom/teams staff meeting.

However it's delivered, I can provide exactly the right content at exactly the right level for you and your colleagues.

You'll find details of lots of course options at www.mikebolton.co.uk

If these don't quite meet your needs I'll be happy to work with you to devise a session especially for you.

Mike Bolton

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Mike Bolton - Benefits Training

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