

### What is MJ?

MJ ([UA-2023-000561-USTA, SSWP v MJ 2025 UKUT 035 \(AAC\)](#)) is a judgment of the Upper Tribunal which found that in the circumstance where a customer has a Transitional Element, and Carer Element, and later is awarded the LCWRA Element, they can be worse off financially and this is discriminatory.

Where a customer is awarded the LCWRA Element they lose the Carer Element automatically, so when the Transitional Element is eroded they can be worse off financially despite having had a deterioration in their health condition.

The Transitional Element should therefore be eroded only by the difference between the LCWRA Element and the Carer Element, rather than by the full amount of the LCWRA Element.

The date of that judgment was 29/01/25.

### Why is the decision not being applied in all cases right now?

At present the UC system cannot manage this automatically. The intention is to have the system updated and to change the Universal Credit (Transitional Provisions) Regulations 2014 so that operationally and legally everything aligns. Then, once aligned, to go back and attempt to deal with all the cases that would benefit from the MJ judgment (i.e. all cases where the effective date of the LCWRA Element is in an Assessment Period which contains 29/01/25, or begins after that date).

### What about cases being challenged?

Whilst waiting for these changes to be in place, we cannot ignore the situation where someone challenges their decision as they think MJ applies to them. From 29/01/25 it is the law and the Judges will apply it accordingly. Therefore, we ask that where there is an Mandatory Reconsideration (MR) or First-tier Tribunal (FtT) appeal of these cases that you apply the MJ decision, on an ad-hoc basis. However, it is not necessarily straightforward to do so.

### Which cases can have the MJ judgment applied to them by yourselves?

Where the effective date of the LCWRA Element and erosion decision falls in an Assessment Period

- which contains 29/01/25, **or**
- begins after 29/01/25, **and**

there is an MR request you can apply the MJ judgment and revise accordingly, or if at the FtT, lapse the appeal if appropriate.

Also, where an initial or MR decision would have been made **on or prior** to 29/01/25 but for a conscious decision by the Department to not make that decision (i.e. where we 'stockpiled' cases), you can apply the MJ judgment and revise accordingly, even though the effective date of the decision was in an Assessment Period ending **prior** to 29/01/25.

### Which cases can have the MJ judgment applied, but only by the FtT?

Where the effective date of the LCWRA Element and erosion decision falls in an Assessment Period

- which ends **prior** to 29/01/25

and there is an MR request, then you must **not** apply the MJ judgment, and refuse to revise the original decision.

However, if the decision that has not been revised on MR is appealed, the FtT can apply the MJ judgment from the effective date of the appealed decision. These cases should not be lapsed. Rather the FtT must be the one to make the decision to apply the MJ judgment, and the appeal writer should make the argument the FtT can do so. This also applies where MR was done before 29/01/25.

If there has been a submission to the FtT which is not consistent with the above please file a supplementary submission correcting that.

If there is an MR request which is outside the 13-month time limit for filing an 'any grounds' MR request please consult DMA Leeds about the merits.

If there are any FtT decisions that are inconsistent with this guidance please consider a referral to DMA for a potential appeal. If you have any questions about any of the above, or any individual cases, please contact DMA in the usual way.