



Beyond UC migration – current challenges and future changes seminar

Thursday 27 November 2025



Housekeeping

- Welcome!
- Slides will be added to the seminar resources web page after the event
- Other seminar materials online already
- Opportunities for questions and discussion after each session...



Programme

- 13.00 Introduction and housekeeping (Moira Escreet)
- 13.10 Issues at migration to UC (Mark Willis)
- 14.00 Issues after migration to UC (Angela Toal)
- 14.15 Break
- 14.35 Issues after migration to UC (Henri Krishna)
- 15.15 Welfare reform (Jon Shaw)
- 15.55 Final thoughts
- 16.00 Close



Beyond UC migration – current challenges and future changes

Issues at migration to UC

Mark Willis

Welfare Rights Worker, CPAG in Scotland

27 November 2025

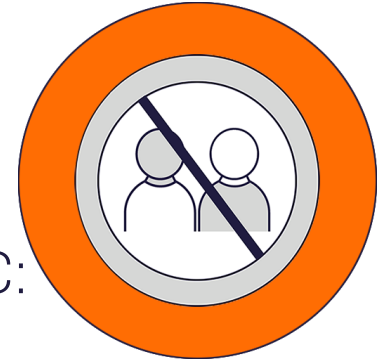


Missed final deadline?

- Claim UC as soon as possible
- Request backdating? Migration notice sent to wrong address? or disability/illness and *could not reasonably be expected to have claimed earlier*
- No transitional element – but if UC starts within one month of last day of two-week run-on, request transitional SDP element + additions
- Complain and request compensation for loss – why did the Enhanced Support Journey fail this client?
- Revision of decision to terminate ESA on grounds that DWP has power to extend deadline retrospectively?
- Judicial review?



UC claim 'closed'?



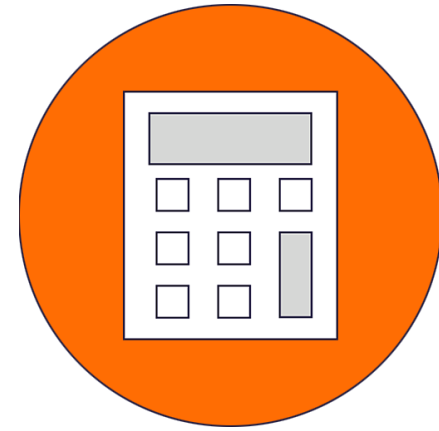
- This is a decision that claimant is not entitled to UC: request mandatory reconsideration/appeal
- Failure to attend interview or provide information is not in itself a reason for not being entitled to UC
- New UC claim?
- UC(TP) Reg 57 says if not entitled to UC on qualifying claim, no transitional element in subsequent claim
- DWP guidance says if a new claim received before final deadline, will be backdated to date of failed claim

LCWRA element missing?



- This is a decision on amount of UC: request mandatory reconsideration/appeal
- No work-related requirements from start of UC claim
- DWP expect all new UC claimants to attend interview/home visit
- Gap between ESA ending and UC starting? Claimant still has LCWRA and entitled to NI credits
- Evidence of change of circumstances relevant to physical/mental condition, new assessment and determination required to remove LCW/LCWRA

Transitional element too high?



- Request breakdown of how DWP calculated TE?
- Ensure claimant information accurate
- Request confirmation from DWP that TE is correct according to DWP interpretation of UC(TP) Regs
- UC(TP) Reg 62 only allows DWP to revise TE decision in future on grounds of claimant misrepresentation/failure to disclose or DWP official error – no grounds to revise?
- Argue overpayment should not be recovered: legitimate expectation

No SDP on migration day?

- Request ESA is changed to include SDP – no limit if official error or qualifying benefit
- Request UC decision in first assessment period is revised including re-calculation of TE to reflect loss of SDP
- UC(TP) Reg 62 says can revise TE if ESA request or notification made *before migration day*
- If ESA not notified before migration day, DWP has said it would revise in these cases – or argue claimant right to MR/appeal on any grounds not limited by Reg 62
- No SDP because in hospital over 28 days on migration day? Discriminatory?

Capital



- When claim UC, claimant reports capital over £16,000
- ESA/HB overpaid and not entitled to UC unless can be disregarded:
- £1,850 unspent cost-of-living payments 22/23 & 23/24
- Benefit arrears received within 52 weeks or indefinitely if over £5,000 and due to official error – continues in UC if award starts within 1 month
- Personal injury compensation 52 weeks or held in trust
- Infected blood, Windrush, Horizon, child abuse, etc compensation payments disregarded indefinitely

HB and housing costs element discrepancies?

- HB applied the bedroom tax for spare bedroom
- UC allow additional bedroom – no bedroom tax
- DHP ends
- Leaves client worse off
- Has there been a change in the first assessment period?
- Was HB award incorrect?



Example: Bedroom tax applied in HB but not in UC

Rent £120 pw = £520 pcm

ESA support + SDP + EDP = £244.65 pw x 52/12 = £1,060.15

HB £103.20 pw (bedroom tax 14% deduction) x 52/12 = £447.20

TOTAL LEGACY BENEFIT = £1,507.35

+ DHP £16.80 pw to mitigate bedroom tax (= £72.80 pcm)

UC +LCWRA element = £823.41 +HCE £520 (no bedroom tax)

INDICATIVE UC AMOUNT = £1,343.41

TE = £163.94

DHP stops - client worse off by £72.80 pcm

Example (continued): HB revised – no bedroom tax in HB or UC

Rent £120 pw = £520 pcm

ESA support + SDP + EDP = £244.65 pw x 52/12 = £1,060.15

HB £120 pw x 52/12 = £520

TOTAL LEGACY BENEFIT = £1,580.15

UC with LCWRA element = £823.41 + HCE £520
(no bedroom tax)

INDICATIVE UC AMOUNT = £1,343.41

TE = £236.74

Arrears of HB? = DHP overpaid







Beyond UC migration – current challenges and future changes

Issues after migration to UC

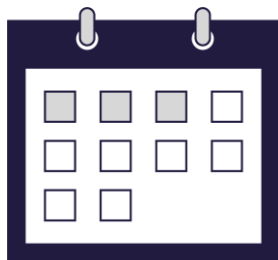
Angela Toal

Welfare Rights Worker, CPAG in Scotland
27 November 2025



Erosion of the transitional element

- Reg 55 provides for erosion of TE by the amount of 'any relevant increases' from 2nd assessment period onwards
- A 'relevant increase' means an increase in any elements that make up the UC maximum amount, with the exception of the childcare element
- Annual April uprating means TE is eroded
- If LCW element is replaced by the LCWRA element, TE eroded by difference between the elements (reg 55(5))
- Not eroded by increases in 1st assessment period, by increases in earnings, or by losing elements
- There have been some successful challenges to reg 55...

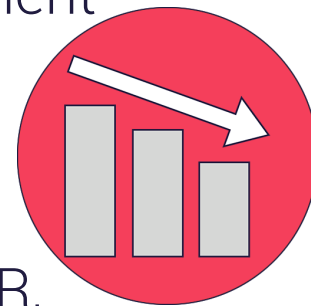


Erosion of the transitional element: moving from specified or temporary to mainstream accommodation

- A successful challenge in *SSWP v JA (UC)* [2024] UKUT 52 (AAC) meant new reg 55(5A) was inserted from 1/6/25
- Client moved from more expensive specified to cheaper mainstream tenancy, and lost out, whereas someone going from more expensive mainstream to cheaper mainstream tenancy would not have lost out
- Breach of human rights where such a move meant TE eroded and left worse off than on legacy benefits
- If getting HB for specified or temporary accommodation in month before AP in which UC housing costs element is added, there's no TE erosion

Erosion of the transitional element: carer gaining LCWRA element

- Following decision in *SSWP v MJ (UC)* [2025] UKUT 35 (AAC) that MJ, a carer with a carer element, had LCWRA, she was no longer entitled to any payment of the TE of UC
- Her TE was eroded by the full amount of the LCWRA element
- This meant MJ's monthly award of UC actually reduced, despite her needs increasing, because she was a carer before being assessed as having LCWRA
- She argued this breached her rights under Article 14 ECHR, because she was treated less favourably than other transitionally protected claimants, none of whom had a loss of benefit on a change of circumstances which increased their needs



Erosion of the transitional element: carer gaining LCWRA element

Outcome: transitional element is only eroded by difference between carer and LCWRA element

DWP have said:

- previous decisions are being revisited only on an 'ad-hoc' basis (ie, where there is a mandatory reconsideration or appeal)
- DWP will not go back to correct all decisions, wrong in the light of MJ, until 'everything aligns' operationally and legally, included with amended rules (ie, a change to reg 55 UC (TP) Regs)



Erosion of the transitional element: carer gaining LCWRA element

DWP recent guidance to decision makers sets out what should happen:

In cases 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 it is at the First-tier Tribunal, lapse the appeal if appropriate



Erosion of the transitional element: carer gaining LCWRA element

In cases where the effective date of the LCWRA element and erosion decision falls in an AP which ends **before** 29/01/25, & there is an MR request:

- You must not apply the MJ judgment, and refuse to revise the original decision
- However, the FtT can apply the MJ judgment from the effective date of the appealed decision. 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 you should file a supplementary submission correcting that

Erosion of the transitional element: future cases?

- What if you get LCW element and want to get carer element, and have a transitional element?
- Would a move from LCW to carer element mean the TE is reduced by the difference between the two? Or by the full amount of the carer element?
- If that happens, could request an MR and appeal, on the basis that the principle is similar to the MJ case, so the TE should only be reduced by the difference.



Erosion of the transitional element: increases from first assessment period

- DWP often do a supersession rather than a revision, or supersede using the wrong effective date
- When notified of mistakes in award eg, missing elements, DWP often add them in the AP in which they are notified, and don't consider whether they should be added from an earlier date
- This can cause erosion of TE – but won't if:
 - award changes from first assessment period; or
 - move from temporary / specified accommodation and the housing costs element for 'mainstream' accommodation is included in the UC award within the month following the end of the HB award
- Tactic is to clearly request a revision or supersession from xx date, with reasons for lateness if needed, and appeal if unsuccessful



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Issues after migration to UC (cont)

Henri Krishna

Welfare Rights Worker, CPAG in Scotland

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Changes that end transitional protection

Reg 51 UC(TP) Regs 2014, capital disregard ends:

- After 12 assessment periods
- If capital drops below £16,000

Reg 56 UC(TP) Regs 2014

- Sustained drop in earnings
- Cease to be or form couple

Reg 57 UC(TP) Regs 2014

- Initial UC award ends
- No initial UC award



Capital disregard

- Only applies to those migrated from tax credits (reg 51)
- Ends after 12 assessment periods (reg 51(4))
- Ends if capital below £16,000 in any assessment period (reg 51(3))
- Ends in other circumstances where transitional protection ends (reg 56 and 57)



Couples

- If a couple form/separate, existing UC award/s end and so does any transitional protection (reg 57(1))
- Reg 56(4) ensures no further transitional protection
- But if a single claimant with transitional protection is joined by ineligible partner (eg, fails HRT or is under 18), transitional protection continues (reg 56(4)(b))
- Being *treated as* making new joint/single UC claim does not help (reg 9 C&P Regs 2013)



Bereavement



- Death of partner means joint UC award ends
- As such, both reg 56 and 57 mean any transitional protection is not included in new single UC award
- But UC should be awarded based on same elements for assessment period in which partner dies, and next two (reg 37 UC Regs 2013)
- As such, the transitional element should continue during this 'run-on'
- MR if not
- Discrimination argument if no transitional element in new award?

Administrative earnings threshold (AET)

- If in first assessment period, earning at/above AET that applied (reg 56(2)) *and*
- Earnings drop below that AET for 3 consecutive APs (reg 56(2)) *then*
- Transitional protection ends, whichever conditionality group (reg 56(1))
- Cannot apply if earn below AET in first AP, even if earn above later
- Slightly different rules if migrated from tax credits to UC when pension aged (reg 56(3A))

When transitional protection can be included in new award

- If award including transitional protection ends or no initial award made as in reg 57(1); *and*
- That was due to earned income; *then*
- If a new UC award made within 3 months, treated as continuation of previous award /claim and transitional protection included (reg 57(2)-(3))
- Note: reg 32A C&P Regs 2013 should apply (treated as reclaiming where award ended due to income)



Council tax reduction

- Before 10 November, a transitional element counted as a 'relevant' UC payment and so unearned income (reg 57(2)(d) CTR(S) Regs 2021)
- Resulted in loss of CTR undermining aim of transitional protection
- From 10 November, CTR(S) Regs 2021 amended so transitional element now disregarded
- Only child elements now relevant UC payments for CTR (or actual UC award if less)





Beyond UC migration – current challenges and future changes

Welfare reform

Jon Shaw

Welfare Rights Worker, CPAG in Scotland

27 November 2025



Overview

This session will cover the following welfare reforms:

- Changes to UC from April 2026 (made by the Universal Credit Act 2025).
- Advising sick and disabled claimants on protecting their entitlement.
- An outline of other DWP plans relating to the work capability assessment (WCA).
- The planned Scottish two-child limit payment (and impact of the UK government budget on those plans).



The Universal Credit Act 2025



- Increases the UC standard allowance by above the rate of Consumer Price Index (CPI) inflation every year to 2029-30.
- Reduces the amount of the limited capability for work-related activity (LCWRA) element for most 'new' claimants.
- Freezes the LCWRA and LCW elements for existing claimants to 2030, with exceptions.
- Makes similar changes to income-related employment and support allowance (irESA), including disability premiums.
- Does precisely nothing to amend the personal independence payment rules.

UC standard allowances

(All figures monthly)	2025-26	2026-27
Single, under 25	£316.98	£336.59
Single, over 25	£400.14	£424.90
Couple, both under 25	£497.55	£528.34
Other couple	£628.10	£666.96

'Relevant uplift percentage' increases in future years to 2030, but amounts depend on future CPI rates

Note: income-related employment and support allowance (irESA) personal allowances also increased for any remaining claimants



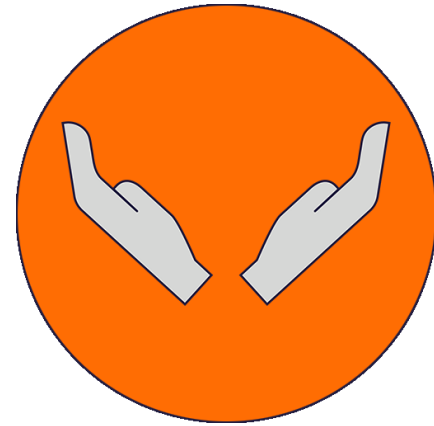
Changes to UC elements

- Reduced LCWRA element for 'new' claimants - **£217.26** a month if added from an assessment period (AP) starting **on or after 6 April 2026**
- For some claimants, UC LCW and LCWRA elements then frozen until 2030
- But 'protected LCWRA amount' for:
 - 'pre 2026 claimants'
 - 'severe conditions criteria claimants'
 - 'terminally ill' claimants (under DWP 'SR1'/12 month rule)



Protected LCWRA amounts

- For protected groups, **total of** standard allowance and LCWRA element must increase by at least CPI until 2030
- Any actual increase depends on CPI rates in future years
- For example, the **total of** the UC personal allowance and LCWRA element (single, over 25) must rise to at least £854.70 a month (from £823.41) in April
- Uprating will erode any transitional element
- All remaining irESA awards also uprated by at least CPI, including disability premiums in the calculation



Pre 2026 claimants



- Basic requirement is that an LCWRA element is added for an AP beginning **before 6/4/26**
- Most claimants must serve the 'relevant period' before LCWRA element added
- If both of a couple have LCWRA, only one must be a pre 2026 claimant to get the higher amount
- Gaps in UC of up to six months due to **income** being too high to get any UC do not end protection
- Those awaiting (re)assessment should get the higher rate if an LCWRA element is later added from an AP beginning **before 6/4/26**

Not a pre 2026 claimant – example

6/12-5/1

6/1-5/2

6/2-5/3

6/3-5/4

6/4-5/5

7/12/25 – accident and journal note reporting health condition

7 Dec onwards – eventually covered by fit notes

7/12-6/3

- 'relevant

period'

6/4/26 –
LCWRA
element
added
(£217.26)

- No prior health condition, getting UC
- Eventually assessed as having LCWRA.
- Due to timing, lower rate of LCWRA element awarded

Severe conditions criteria claimants

Claimant must satisfy **all of** the following.

- Meet an LCWRA descriptor (so **not** be 'treated as having' LCWRA);
- Meet the descriptor 'constantly'
– defined as every time activity attempted;
- 'Will' meet it for 'the rest of [their] life'; *and*
- Meet it due to a relevant condition (physical or mental) diagnosed 'by an appropriately qualified health care professional in the course of the provision of NHS services'.

Likely to be a focus of future caselaw.



Some LCWRA descriptors...

- 1(b) Cannot... repeatedly mobilise more than 50m within a reasonable timescale because of significant discomfort or exhaustion.
- 8(a) At least once a week experiences loss of control leading to extensive... voiding of the bladder...sufficient to require the individual to clean themselves and change clothing.
- 10(a) Reduced awareness of everyday hazards, due to cognitive impairment or mental disorder, leads to a significant risk of injury to self or others... such that the claimant requires supervision for the majority of the time to maintain safety.



Advising affected claimants



- Try to request a WCA in time for clients to become pre-2026 claimants
- Meet any evidence requirements, and keep records of that and requests for assessment
- **Remember:**
 - can claim UC and request a WCA whilst getting statutory sick pay ('1p rule' may apply)
 - new pension age disability payment claimants may have a relevant period
- Frame WCA evidence requests in terms of the severe conditions criteria – permanence and constancy, NHS diagnosis.
- Continue to warn claimants that an attempt to get a more favourable WCA outcome (eg severe condition) can result in a less favourable one (eg LCW).

Any other thoughts to add...?



Other planned DWP reforms



- Change to UC/ESA rules so that, for the purpose of repeat WCAs, 'being in paid work is not a "relevant change of circumstances"' (some time in 2026)
- Removal of LCWRA element for under 22s (April 2027, subject to consultation)
- Replacement of the WCA, with a 'gateway based on PIP daily living' (2028, subject to primary legislation), but...
- 'an additional 122,000 Work Capability Assessments for existing claimants by 2029-30' (Budget 2025)
- Possible increased conditionality for (some) claimants with LCWRA (for now, voluntary 'support conversation')
- JSA and ESA replaced by 'unemployment insurance' – ESA support group rate, time limited and most must seek work (some 'easements')
- For updates see cpag.org.uk/welfare-rights/whats-new/welfare-reform-health-and-disability-benefits

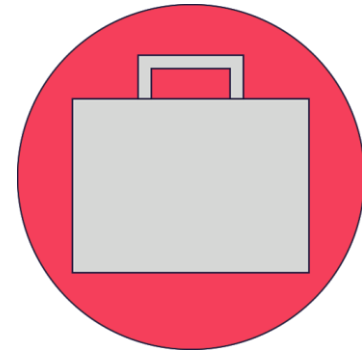
Scottish two-child limit payment

- Was due to be introduced from 2 March 2026
- Detailed policy scrutinised by Scottish Commission on Social Security, but regulations yet to be made
- Legally, uses the power to 'top up' reserved benefits
- Supplements the UC award of anyone affected by the two-child limit
- Scottish Ministers cannot 'top up' housing benefit awards (but discretionary housing payments may be available)



Budget 2025

- Announced the abolition of the two-child limit in UC (from April 2026)
- Could be achieved by regulations, if needed
- Scottish government reaction unclear at present
- Any Scottish budget savings if two-child limit payment proves unnecessary are 'to be used on measures to eradicate child poverty in Scotland'
- Lifting the UC two-child limit will increase the numbers affected by the benefit cap
- One option might be further investment in mitigation via discretionary housing payments
- Scottish budget due on 13 January 2026



Entitlement conditions and issues

- Must be entitled to UC and 'responsible for' a UC dependent, for whom a child element is **not** included
- No-one else can get the two-child limit payment for the child
- Must make a claim (no backdating possible, but can claim up to 14 days in advance)
- Can be recovered if a UC child element is later awarded in respect of the child
- If introduced, may be difficult questions about applying for two child limit vs asking for a UC exception, eg:
 - reducing UC transitional element/triggering benefit cap if ask for an extra child element
 - possible backdating of additional UC elements
 - trauma of requesting a UC exception





Thank you for attending

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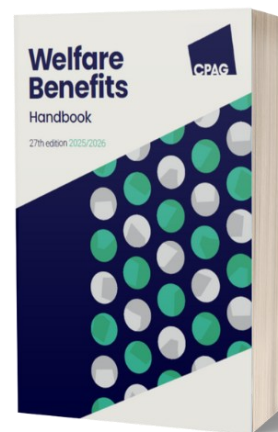
New Welfare Benefits Handbook

The structure of this edition reflects that, in 2025/26, income support, income-based jobseeker's allowance and tax credits are due to be fully replaced by universal credit. It covers transitional protection for people who get less money on universal credit and the special rules for pensioners who were getting tax credits.

Written by a team of over 20 experts, our flagship handbook is an essential guide to navigating the social security system. It equips you with the knowledge to maximise your clients' income, conduct thorough benefits checks, assist with claims, and confidently handle challenges when things go wrong.

We've also produced a wall chart (available in A2 and A4) which give quick and handy access to the benefit rates for 2025/26.

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