Welfare Rights Conference 2026

Changes to the LCWRA element

Will Hadwen
Freelance and CPAG in Scotland Welfare Rights Adviser

Henri Krishna
Welfare Rights Adviser, CPAG in Scotland

Overview

- Changes made to UC Regulations 2013 by UC Act 2025 & The UC and ESA (Rates of Allowances) (Amendment) Regs 2026, SI 2026/113
- From 6 April 2026, two rates of LCWRA element - 'protected' claimants get higher rate (**£429.80**), others get lower **(£217.26**)
- Protected claimants:
  - 'pre-2026 claimants'; *or*
  - Meet 'severe conditions criteria'; *or*
  - Terminal prognosis (ie DS1500/SR1)

A quiz: £429.80 or £217.26?

Which of these claimants do you think will get the higher rate LCWRA element of £429.80?

- A client who has been getting new style ESA with the support component since last year, and who is claiming UC for the first time?
- A client who got UC with LCWRA until it stopped due to an inheritance, which they've been living on for 4 years before reclaiming? They don't get ESA and are not terminally ill.
- A client who has been on UC submitting fit notes since January 2026. They have recently been found to have LCWRA.

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Who is a pre-2026 claimant?

Someone who is entitled to UC which includes the LCWRA element before 6 April 2026, and continues to be entitled to UC with the LCWRA element.

OR any of the following, who before 6 April 2026:

- was 'awaiting assessment';
- had LCW status & was awaiting reassessment;
- had LCWRA status & was in the 'relevant period';
- was getting ESA with the support component (whether new or old-style ESA).

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Awaiting assessment before 6 April 2026

A claimant 'awaiting assessment' under the UC Regs before 6 April 2026, who is later found to have LCWRA and entitled to UC with the element, is a pre-2026 claimant.

'Awaiting assessment' is not defined.

It may be enough to have reported a health condition, but ideally claimants should have provided evidence of LCW (usually via a fit note, after possible self-certification for 7 days).

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Had LCW and was awaiting reassessment

A claimant who had LCW and was awaiting a further assessment under the UC Regs before 6 April 2026, who is later found to have LCWRA and entitled to UC with the element, is a pre-2026 claimant.

‘Awaiting a further assessment’ is not defined.

Presumably it should include a claimant if:

- they had reported a change of circumstances or asked for a new WCA before 6 April 2026– or if, before that date, the SSWP starts the reassessment process?
- In practice, a claimant who reported a change in the assessment period (AP) which included 5 April 2026 should be covered, as the element has to start from the beginning of that AP.

In the relevant period before 6 April 2026

A claimant who had LCWRA status but whose award didn't include the LCWRA element before 6 April 2026 due to the 'relevant period' rules is a 'pre-2026' claimant.

This could include those 'treated as' having LCWRA where the relevant period still applies, eg pension age partner on pension age disability payment.

The relevant period is a three-month period, usually started by submitting medical evidence or requesting assessment (for pension age partner, being on a disability benefit appears to be sufficient, but unclear how law applies).

Technically, for someone with earnings of £881.23 a month or more, the relevant period is started by applying for the LCWRA element.

Medical evidence to start ‘relevant period’

Most claimants start relevant period by providing evidence of LCW (reg 28(2)(b) UC Regs).

In any case, medical evidence is required for every day until assessment of LCW under reg 2 Social Security (Medical Evidence) Regs 1976.

Claimants can self-certify for first 7 days, but this must be in writing.

After that a fit note is needed unless ‘unreasonable’ to provide one and they provide other ‘sufficient’ evidence.

Following *KS v SSWP* (UC) [2025] UKUT 15, not being told to provide a fit note may make it ‘unreasonable’.

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ESA with support component before 6 April 2026

A claimant entitled to ESA with a support component before 6 April 2026 is a pre-2026 claimant, as long as they remain entitled from 6 April 2026, up to and including the date on which they are awarded UC with an LCWRA element.

This is intended to apply to both old and new style ESA claimants.

For example, an old-style ESA claimant, getting a support component, who migrates to UC after 6 April 2026 but by their final deadline, will be entitled to ESA with a support component throughout the period from 6 April 2026 to the date of their award of UC with the LCWRA element.

However – this does NOT help people with credits-only ESA awards.

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Backdating – reporting a change of circumstances late

What if a claimant reports a health condition or deterioration on/after 6 April 2026?

In most cases they won't be protected because:

- Not getting the LCWRA element before 6 April 2026
- Not awaiting an assessment before 6 April 2026
- Not in relevant period (started by submitting medical evidence) before 6 April 2026.

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Backdating – who might be protected

Someone who as result of revision/supersession/appeal has LCWRA & is a 'pre-2026 claimant' should be protected. Other situations may include:

- A claimant who already had LCW status might have reasons for lateness in reporting a late change, in which case their LCWRA status and therefore element could start before 6 April 2026.
- A claimant who can be 'treated as' LCWRA before 6 April 2026 due to a separate determination made later on (eg late PADP determination) *may* be protected.
- It's also possible that some other people could argue their 'relevant period' started before 6 April 2026 – for example, DWP knew about their health condition but did not ask for evidence. Case law (incl *KS v SSWP*) may help with this.

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Retaining protected status

Claimants retain 'pre-2026 claimant' status as long as they:

- Remain continuously entitled to an award of UC which includes the LCWRA element.

Pre-2026 status can therefore be lost by anything which terminates UC or ends LCWRA status.

The one exception is where UC is lost due to income and become entitled again within six months. But remember that does not help those whose UC entitlement stops for any other reason, eg due to capital, absence from GB or becoming a prisoner.

Severe conditions criteria

- To meet severe conditions criteria (reg 40A UC Regs 2013):
  - Be <u>assessed</u> as having LCWRA for UC, ie under sch. 7 UC Regs 2013
  - <u>At least one descriptor</u> applies '<u>constantly</u>' and will do so '<u>for rest of the claimant's life</u>'
  - On basis of a 'specific' 'bodily' or 'mental' 'disease or disablement'
  - Diagnosed by 'appropriately qualified medical care professional' while providing NHS services
- 'Constantly' means:
  - At all times (ie always); *or*
  - 'On all occasions' attempt the activity in the descriptor
  - "reliably, safely, repeatedly and in a reasonable time?"

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Severe conditions criteria assessments

- Reg 41 UC Regs 2013
  - *may* be called for additional medical assessment
  - once completed, similar to WCA, no further assessment unless may have been wrong or change of circumstances
- Reg 43 and 44 UC Regs 2013
  - *may* be required to provide additional information/evidence
  - failure to do so, or attend assessment, without good reason results in being treated as not meeting severe conditions criteria
- Additional assessment needed if treated as LCWRA
- Notification of assessment outcome? May refer to ‘severe lifelong health condition’ not severe conditions criteria

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What's not changed

- The WCA determines LCW and LCWRA using the same descriptors as before, and with the same 'treated as' routes (though we also now have severe conditions criteria assessment)
- There is a still a 'relevant period' of three months before the assessment period in which the LCWRA element can be included (with some exceptions, eg terminal illness, already have LCW). This is usually started by providing medical evidence.
- Most assessments will still be done by phone (though there is an aim to reach 30 per cent face to face).
- ESA assessments and rates

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Who gets lower rate?

- Get lower rate if on or after 6 April 2026 determined to have LCWRA, unless protected, ie:
  - meet pre-2026 claimant definition; *or*
  - meet severe conditions criteria; *or*
  - meet terminal illness criteria (sch. 9)
- Also, those treated as having LCWRA or assessed initially only for ESA, unless also meet severe conditions criteria – so may still need to complete full WCA50/medical?
- If only determined to have LCWRA after 6 April 2026, can you be a pre-2026 claimant and get higher rate?

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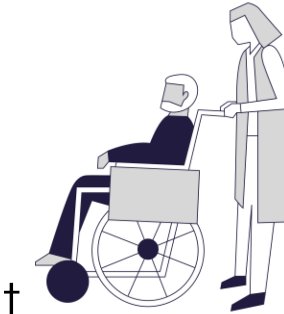
Couple where both have LCWRA



- Joint claimants both have LCWRA, one element paid at higher rate as pre-2026 claimant - what if they separate?
- Both may be pre-2026 claimants for new UC awards:

27A. Meaning of "pre-2026 claimant"

(1)For the purposes of regulation 27, a claimant with LCWRA is a "pre-2026 claimant" if the claimant—

(a)was entitled at any time before 6 April 2026 to an award of UC that included the LCWRA element, and

(b)has been entitled to an award of UC that included the LCWRA element continuously from that time.

- If not, lower rate unless otherwise protected

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Help for advisers

CPAG Welfare Rights

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New Welfare Benefits Handbook

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It also provides practical guidance on overpayments, deductions from benefits to third parties, how to challenge benefit decisions, and provides the expertise needed to maximise clients' income, carry out comprehensive benefits checks, support claims and deal confidently with problems when they arise.

We've also produced a wall chart (available in A2 and A4) which give quick and handy access to the benefit rates for 2026/27.

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Child Poverty Action Group in Scotland
4th floor
5 Renfield Street
Glasgow
G2 5EZ