Benefits Bulletin
Registered Charity 1164225
Winter 2023–24

Autumn Statement 2023

Increasing labour market participation is a key focus of the measure in the November 2023 Autumn Statement. The plans include an increase in work-related conditionality for jobseekers with tougher sanctions for non-compliance as well as increasing the working hours requirement for parents of school age children.

Summary of the Chancellor's announcements

Benefit increases from April 2024

- Most benefits are to be increased in line with the consumer price index inflation rate 6.7%.
- State Pension and Pension Credit standard minimum guarantee to remain protected by the 'triple lock' and to increase by 8.5%.
- Local Housing Allowance rates to be increased to the 30th percentile of local rents for 2024/25 and then frozen at this level. Following this, indicative Local Housing Allowance rates have been published at: www.gov.uk/government/statistics/local-housing-allowance-indicative-rates-for-2024-to-2025/indicative-local-housing-allowance-rates-for-2024-to-2025

The Back to Work Plan – a plan to 'get people into work and deliver growth' involving:

- Incentivising compliance and strengthening Universal Credit sanctions, including:
  - 'Closing' claims of those on an open-ended sanction for more than six months and who are only entitled to the standard allowance of Universal Credit. Note that this means terminating the Universal Credit award.
  - Use of the Targeted Case Review process to review Universal Credit awards of 'disengaged' claimants who have been on an open-ended sanction for more than eight weeks.
  - Tracking attendance at job fairs and interviews organised by jobcentres.
- Enhanced support across 3 phases with interventions intensifying with length of unemployment:
  - Phase 1 – regular support for the unemployed from a work coach with Additional Jobcentre Support in certain Jobcentre areas.
  - Phase 2 – in England and Wales referral to an expanded Restart scheme after 6 months unemployment (previously after 9 months) providing 12 months of support.
  - Phase 3 – in England and Wales, after 12 months on Restart, referral to post-restart claimant review. Where no suitable local job is available claimants will be required to accept a time-limited mandatory work placement or other intensive activity. Refusal to accept these conditions could result in closure of their Universal Credit award. Phase 3 is to be rolled out gradually from 2024.
  - The Back to Work Plan will also include funding for NHS Talking Therapies and the WorkWell service.

Work Capability Assessment changes

- Alongside the Autumn Statement, the government published its response to the consultation on the above, confirming that some but not all of their proposed changes are to be implemented. See our article on page 8.

Fraud and error

- New powers will be used to access data held by third parties such as banks.

Personal Independence Payment

- 'Operational easements' extended until the end of 2024. Under these provisions, introduced in response to backlogs, awards due for renewal are automatically extended for 12 months.

Continued overleaf →

Universal Credit

- Surplus earnings threshold retained at £2,500 for a further year to April 2025.
- Increase to minimum income floor for carers of children aged 3 to 12. From January 2024, the minimum income floor which applies to self-employed people who are the lead carer is increased to 30 hours per week at the National Minimum Wage to reflect the increase in 'expected hours' announced in the Spring Budget 2023.

National Minimum Wage increase

- The National Living Wage is increased to £11.44 per hour from April 2024 and extended to include 21- and 22-year-olds.

National Insurance

- Class 1 National Insurance contributions are reduced from 12% to 10% from 6 January 2024.
- From 6 April 2024, self-employed people with profits over £12,570 will not be required to pay class 2 National Insurance contributions. Those with profits between £6,725 and £12,570 will receive "a National Insurance credit". Both groups will retain access to contributory benefits including the State Pension. Those with profits below £6,725 and other self-employed earners may continue to pay voluntary class 2 contributions.
- Class 4 National Insurance contributions reduced from 9% to 8% from April 2024

Homes for Ukraine 'thank you' payments extended for a further year at £500.

The full Autumn Statement is available here: www.gov.uk/government/publications/autumn-statement-2023

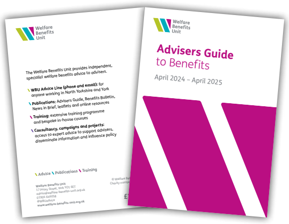
Contents

Advisers Guide to Benefits 2024/25

"The advisors guide is indispensable especially when doing outreach work, it is very portable yet contains all the basic rules and rates"

Our Advisers Guide to Benefits is written for people who give information and advice as part of their work. This concise annual guide provides an overview of benefit criteria including Universal Credit, disability benefits and additional help available. Its clear format makes it ideal for quick reference, and the compact style is handy to use, whether in the office, out and about, or for home working.

The 2024/25 Guides will soon be available to pre-order online at www.welfare-benefits-unit.org.uk/publications/advisers-guide



Managed Migration to Universal Credit – Geographical Particulars

The DWP has released its plans for issuing migration notices to all people in receipt of tax credits, but only to the end of March 2024.

To this end, migration notices will be issued to tax credit recipients in the following remaining areas:

- from January 2024: Northumberland and Tyne and Wear; Leicestershire and Northamptonshire; and Devon and remaining parts of Cornwall;
- from February 2024: Northern Scotland; Northeast Scotland; South Yorkshire; Merseyside; North and Mid Wales; Mercia; Birmingham and Solihull;
- from March 2024: Black Country.

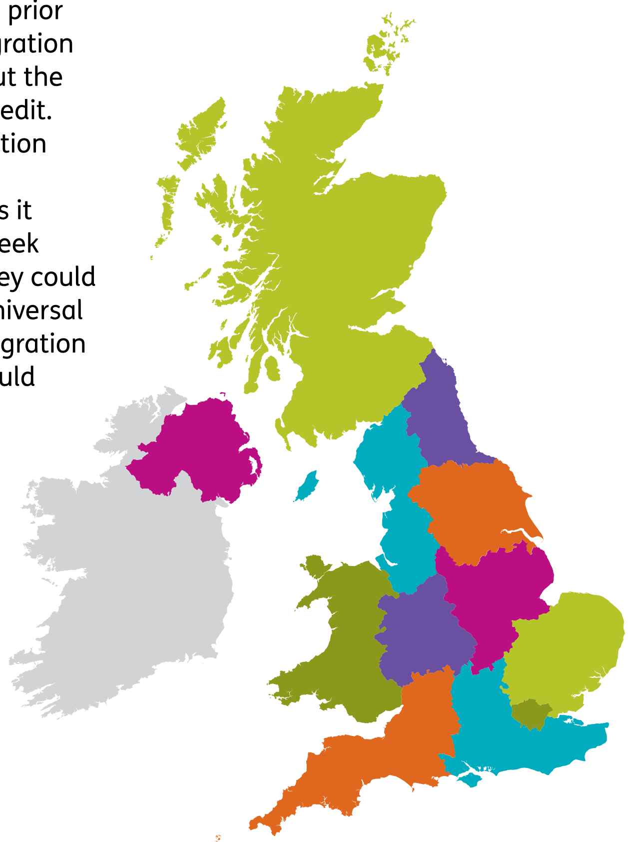
Areas where tax credits only recipients already subject to managed migration include:

- from May 2022 to February 2023: the discovery areas: Bolton and Medway; Truro and Falmouth; the London Borough of Harrow; Northumberland and the wider Cornwall area;
- from April/May 2023: Avon, Somerset and Gloucestershire; East London; and Cheshire;
- from June 2023: Greater Manchester; and North-east Yorkshire and Humber;
- from July 2023: Durham and Tees Valley; Kent; North London and East Anglia;
- from August 2023: West Scotland; West Yorkshire; Staffordshire and Derbyshire; and South London;
- from September 2023: East Scotland; Cumbria and Lancashire; South West Wales; Essex; Lincolnshire, Nottinghamshire and Rutland; and Dorset, Wiltshire, Hampshire and the Isle of Wight;
- from October 2023: South East Wales and Central Scotland and Northern Ireland;
- from November 2023: South West Scotland; and
- from December 2023: Berkshire, Buckinghamshire and Oxfordshire.

Notifications are being issued to people receiving tax credits prior to the issue of a formal migration notice, to advise them about the introduction of Universal Credit. Because transitional protection only applies via the formal managed migration process it is important for people to seek advice to check whether they could be better off by claiming Universal Credit before receiving a migration notice. Otherwise, they should wait for the migration notice to be issued.

The next steps are to migrate the following category of benefit recipients within the following periods:

- April 2024 to April 2025, those in receipt of tax credits plus any other legacy benefit, those receiving income-based Jobseeker’s Allowance, those receiving Income Support and those receiving Housing Benefit (but not those receiving Housing Benefit along with income-related Employment and Support Allowance unless they also receive tax credits)
- April 2028 to April 2029: recipients of income-related Employment and Support Allowance only or income-related Employment and Support Allowance plus Housing Benefit.



Managed Migration – Reports and Statistics

Following the expansion of its managed migration programme from April 2023, the DWP published, in August 2023, a report of what it had learned from managed migration up to that time.

The report was called "Completing the Move to Universal Credit: learning from initial Tax Credit migrations". The emphasis was on tax credit claimants as these were the first group of legacy benefit claimants to undergo managed migration. The report can be found here: www.gov.uk/government/publications/completing-the-move-to-universal-credit-learning-from-initial-tax-credit-migrations

The most important conclusion from the report was that there was a "consistent if relatively small" proportion of tax credit claimants who did not proceed, after receipt of a migration notice, to make a claim for Universal Credit. It's a conclusion that's optimistic, and re-assuring.

That was back in August 2023.

Since then, further statistics have been published, covering the period from July 2022 to August 2023. These were made available in November 2023.

The full title of the document containing the statistics is long, but very informative. The title and the document can be found here: www.gov.uk/government/statistics/move-to-universal-credit-statistics-july-2022-to-august-2023/completing-the-move-to-universal-credit-statistics-related-to-the-move-of-households-claiming-tax-credits-and-dwp-benefits-to-universal-credit-data

The statistics showed that legacy benefit awards were terminated through failure to claim Universal Credit in just under one in seven of those claimants sent a migration notice. Furthermore, claimants appear to be feeling some trepidation towards the new benefit, as during the period that produced the figures, almost half of migration notice recipients had yet to make a claim for Universal Credit.

The starting point for the statistics was the number of claimants who had been sent a migration notice. Total: 117,690 sent, between July 2022 and August 2023.

This total then generated a set of three figures derived from the three possible outcomes of being sent the notice. These consisted of i) numbers who made a claim for Universal Credit – 61,130; ii) numbers who have yet to make a claim but whose three-month deadline hasn't passed – 40,540; and iii) numbers whose legacy benefits have been terminated and who have not made a claim for Universal Credit – 16,020.

The DWP statistics were published in mid-November 2023, and almost immediately the Child Poverty Action Group responded with its own document, called "The limits of test and learn" based on its own research and Freedom of Information requests. The document can be found here: cpag.org.uk/news-blogs/news-listings/limits-test-and-learn

The document makes a number of observations. The DWP, for instance, did not carry out research into the group of claimants who did not proceed to Universal Credit or the reasons why they didn't. Furthermore, those tax credit claimants who did not make a claim for Universal Credit in the time-period covered by the DWP stats, lost an average of £300 per month.

A freedom of information (FOI) request was sent to the DWP seeking further particulars of the background to the DWP's research. Here's an extract of what it asked: *"The DWP's report in Completing the Move to Universal Credit: learning from initial tax credit migrations said that the department had done 'a significant amount of research and analysis' on the reasons claimants decide not to claim UC.*

1. *Of the 770 tax credit only claimants who were sent a migration notice between November 2022 and March 2023 and did not claim UC, how many claimants did the DWP, or the externally commissioned agency Ipsos, speak to about their reasons for not claiming UC?"*

The Department, in its answer to the FOI, said that it "did not conduct research with claimants who did not respond to the migration notice issued during the period November 22 and March 2023". What it had done was to undertake some qualitative research, the findings of which were based on a small number of claimants.

This may mean, says CPAG, that the DWP doesn't fully appreciate whether or not claimants are making an informed decision about claiming, or not claiming, Universal Credit.

Such knowledge might appear to all interested parties as indispensable at a time of rapid expansion of the managed migration programme.

The Universal Credit (Transitional Provisions) (Amendment) Regulations 2023 No. 1238

We have to go back to January 2022 and the *TP and AR* case to put these regulations into context.

The two claimants, TP and AR, had already established at the Court of Appeal that in the migration of severely disabled claimants from their legacy benefit to Universal Credit, there was a failure to protect their income – their income in this instance being the severe disability premium. This failure was unlawful.

The situation was remedied by the introduction of the transitional severe disability premium element on Universal Credit at the then rate of £120 per month for a single claimant with limited capability for work-related activity.

The severe disability premium isn't the only legacy premium associated with disability. There's also the enhanced disability premium. For this reason, for TP and AR, the business wasn't finished. They challenged the Secretary of State for Work and Pensions, via Judicial Review at the High Court, saying that the amount of £120 wasn't enough because it didn't compensate them for the additional loss of the enhanced disability premium. This meant that they were still about sixty quid worse off, per month. This was the foundation of their action – the transitional payment still left them out of pocket, and constituted unlawful discrimination under Article 14 of the European Convention on Human Rights.

The High Court Judge, Mr Justice Holgate upheld TP and AR's claim – dropping the enhanced disability premium for those naturally migrated to UC, without providing compensation for the loss, amounted to unlawful discrimination for the purposes of Article 14.

So, this brings us to the regulations – the *Universal Credit (Transitional Provisions) (Amendment) Regulations 2023, No. 1238*.

These regulations make provision for additional amounts to be added to the transitional severe disability premium element where a claimant moves to UC via natural migration. The amounts are to compensate for the difference in monies paid on the legacy benefit and UC, and are paid for the loss of the enhanced disability premium, the disability premium, the disabled child premium and the disabled child element of Child Tax Credit.

The additional amounts will be paid where:

- the claimant is entitled to a transitional severe disability premium element in their UC, *and*
- they were previously entitled in the month preceding their claim for UC and continue to satisfy the eligibility conditions up to and including the first day of their UC award, to one or more of the following:
  - the enhanced disability premium;
  - the disability premium
  - the disabled child premium or the disabled child element and are now receiving the lower rate disabled child addition in their UC.

The monthly rates for each of the above are:

- enhanced disability premium: £84 (single) and £120 (couple)
- disability premium: £172 (single) and £246 (couple)
- disabled child addition (lower rate): £177 for each eligible child or qualifying young person.

The explanatory memo to the regs states that *"The additional amount will be added to the claimant's [transitional severe disability premium element] and in line with the existing transitional protection rules covered under the UC (Transitional Provisions) Regulations 2014 the new amount will be subject to erosion and will end where UC claimants form a couple or separate from their partner or where entitlement to UC ends."*

The full regulations can be found here: www.legislation.gov.uk/uksi/2023/1238/contents/made

Transitional Protection Guidance

Regular readers will be aware that managed migration is underway across the UK. As the process rolls out, many questions have arisen about transitional protection (TP), including its calculation and how it will be eroded.

This guidance gives claimants the basic principles of transitional protection including eligibility, when you would get a TP payment (a transitional element), and changes that will decrease or end payments.

However, for advisors it leaves many questions unanswered about how to calculate TP for more complex situations, for example: where a change of circumstances is expected around the time of migration or how retrospective awards will be dealt with.

These, and other questions, have been fed back to the DWP through stakeholder channels. The information is currently being collated; however, it is not currently easily accessible. If you have a client with a migration notice and have questions, please contact the Advice Line.

The guidance from the government can be found at: www.gov.uk/guidance/transitional-protection-if-you-receive-a-migration-notice-letter

Welfare Writes

An Inquiry into the Implementation of Universal Credit

An Inquiry has been launched by the Public Accounts Committee into the implementation of Universal Credit.

As part of the function of a public inquiry, evidence is taken from experts and professionals.

The Inquiry will therefore, necessarily, take evidence from senior DWP officials. It can also accept written and oral evidence from others involved in the Inquiry's subject. Written evidence is often published online, and once published the document remains available on the internet for eternity. However, anyone submitting evidence can request anonymity and confidentiality.

The Inquiry will cover the following areas:

- plans to undertake managed migration effectively;
- support for vulnerable claimants;
- timelines and plans for moving all claimants to universal credit; and
- the implementation costs.

Responses must be submitted by 25th February 2024.

The Secondary Legislation Scrutiny Committee and the TP and AR Case

The above Committee is a Committee of the House of Lords. Within its terms of reference, it has the power to bring to the special attention of the House all types of secondary legislation (statutory instruments and the like) that are subject to parliamentary procedure. It is further able, within its terms of reference, to examine the policy intent and actual outcome of secondary legislation.

It's within this context that the statutory instrument resulting from the TP and AR case came to the special attention of the Peers of the House of Lords.

It also came to our attention. Hence the article on this subject earlier in the Bulletin.

The Committee are concerned at the amount of time it's taken for the DWP to remedy the situation of 44,000 claimants that came to light two years ago. They criticised the Explanatory Memorandum (EM) attached to the regulations as not adequately explaining the policy context of the statutory instrument, nor the numbers involved.

Continued overleaf →

Furthermore, the EM *"fails to explain why DWP required two years to make that change, and how long it will be before DWP remedies the situation of the more than 44,000 existing claimants who have been adversely affected as the continued delay prolongs the financial discrimination against them."*

The Independent Case Examiner's Annual Report

The Independent Case Examiner handles complaints against a number of government organisations, including Jobcentre Plus (including most work provider services), The Pension Service, and the Disability and Carers Service.

At its head is Joanna Wallace, who has been in post since April 2013.

In the foreword to the ICE's most recent Annual Report for 2022/23, she offers plaudits to the DWP for its new approach to student claims for Universal Credit.

It seems that insufficient checks on student finance caused payments of Universal Credit being made in error, thus generating substantial overpayments. Joanna Wallace says that *"our feedback, along with DWP's own insight, had led to a system change which now requires full student finance information and an award calculation before any universal credit payment can be made."*

By checking a student's entitlement upfront, we hope that many student income-related overpayments will be avoided in the future. Let's also hope that checks are undertaken in a timely manner so that claimants are not left with a large wait for the payments that they are entitled to.

Vulnerable Claimants – Written Evidence to the Work and Pensions Committee

The DWP have submitted their written evidence to the Work and Pension Committee as part of the Safeguarding Vulnerable Claimants inquiry that we reported on in the Autumn Bulletin.

The DWP's evidence includes their assertion that "it has neither a statutory nor common law duty of care to claimants". It goes on to state that it does however take its responsibilities seriously and outlines its current measures to support vulnerable claimants.

These include:

- Designated Advanced Customer Support Senior Leaders to support Escalation Teams to help vulnerable claimants.
- A 6-step Framework for DWP staff to follow when communicating with a claimant who is expressing intent to harm themselves or others.
- Ensuring payments do not stop where a claimant is not responding but is deemed vulnerable.
- The 'Unexpected Findings' process where a referral can be made to the claimants GP, when unexpected or serious medical conditions are considered serious or life threatening during a health assessment.
- Internal Process Reviews (IPR's) which the DWP says will allow the department to learn from negative (or below standard) customer experiences along with the Serious Case Panel which considers changes and improvements from themes found during IPRs.
- Help to Claim and reasonable adjustments. The DWP has said that although Help to Claim is a remote service, any claimant who cannot access it is directed to help from their local JCP.

If you have a vulnerable claimant who is struggling with DWP processes, then you can use the Escalation Team to flag up any issues they are having.

The inquiry continues with oral evidence being given by a number of interested parties including the National Audit Office, policy researchers and campaigning bodies.

Work Capability Assessment Response Outcome

The government response to the Work Capability Assessment Consultation, that we reported on in the last bulletin, has been released.

The Consultation focussed on four of the WCA criteria; mobilising, continence, social engagement and getting about. Additionally, it considered changes to the limited capability for work-related activity substantial risk criteria.

1348 organisations and individuals responded. The Government acknowledged the challenges and concerns in their response, mainly: financial loss if placed in the limited capability for work group, availability of suitable remote working opportunities and concerns about sanctions.

As a result of the above concerns there will be no change to the continence or social engagement criteria.

However, the Government continue to assert that remote working is a viable option for disabled people and therefore they will be making the following changes to the mobility and getting about criteria:

- Remove the LCWRA mobility criteria completely. The LCW mobility descriptors will remain.
- Reduce the points in getting about for LCW.

LCWRA substantial risk will be amended to "realign substantial risk with its original intention of only applying in exceptional circumstances". What this means in practice is unclear as they have yet to define the criteria and decide what evidence will be required. This is likely to cause great concern for claimants who do not fit easily into the descriptors but who are unable to work.

These changes will also bring a shift in terminology – 'work preparation' instead of 'limited capability for work', and 'health group' will replace 'limited capability for work and work-related activity'. This at least will make the two groups more distinct and easier for claimants to recognise which group they have been placed in. Those familiar with Employment and Support Allowance will no doubt note the similarity to the work-related activity group and the support group.

A new offer for disabled people to help them into work will also come in with these changes. The Chance to Work Guarantee aims to give those claimants in the LCWRA group the confidence to try work without risking losing their LCWRA. Under this offer the WCA will be abolished for most claimants. Re-assessments will only occur in this group if the claimant:

- has a change to their health
- has been awarded LCWRA for pregnancy risk or cancer treatment where recovery is likely to be short-term
- has been placed into LCWRA under substantial risk
- is subject to a fraud allegation

These changes will be implemented no earlier than 2025.

The full report can be found at: www.gov.uk/government/consultations/work-capability-assessment-activities-and-descriptors/outcome/government-response-to-the-work-capability-assessment-activities-and-descriptors-consultation

Benefit Rates

April 2024 – April 2025

MEANS-TESTED

Universal Credit

figures per month

Capital limits

Upper limit	£16,000
Lower limit	£6,000

Yield income – £4.35 per £250 or part £250

Standard allowances

Single age under 25	£311.68
Single age 25 or over	£393.45
Couple both under 25	£489.23
Couple either 25 or over	£617.60

Elements

Eldest or only child	£333.33 *(a)*
Child	£287.92 *(b)*
Disabled child	
Lower rate	£156.11
Higher rate	£487.58
Limited capability for work	£156.11 *(c)*
Limited capability for work-related activity	£416.19
Transitional Severe Disability Premium Element (up to)	
Single	£140.97 or £334.81
Couple	£140.97, £334.81 or £475.79
Carer	£198.31

Childcare: maximum

One child 85% of cost up to	£1,014.63
Two or more children 85% of cost up to	£1,739.37

Housing cost contribution £91.47

Work allowances

Responsible for child/limited capability for work

Lower: with housing costs	£404.00
Higher: without housing costs	£673.00

Income Support, income-related Employment and Support Allowance and income-based Jobseeker's Allowance

figures per week

Capital limits

Upper limit	£16,000
Lower limit	£6,000
Lower limit – care homes	£10,000

Tariff income – £1 per £250 or part £250

Personal allowances

Single	
Age 16–24	£71.70
Age 16–24 main phase ESA	£90.50
Age 25 or over	£90.50
Lone parent	
Under 18	£71.70
Age 18 or over	£90.50
Couples	
Under 18 depends on circumstances	
Both aged 18 or over	£142.25

Components – ESA

Work-related activity component	£35.95 *(c)*
Support component	£47.70

Premiums

Disability – not payable in ESA	
Single	£42.50
Couple	£60.60
Enhanced disability	
Single	£20.85
Couple	£29.75
Severe disability	£81.50
Carer	£45.60
Pensioner	
Couple	£190.70
For ESA reduce by the component amount	

Disregarded earnings

Single	£5.00
Couple	£10.00
Disability	£20.00
Carer	£20.00
Lone parent	£20.00
Firefighter/Lifeboat/Coastguard/TA	£20.00
Permitted work – higher limit (not IS)	£183.50

Other disregarded income

War Pensions/Armed Forces Scheme	£10.00
Widowed Mother's/Parent's Allowance	£10.00
Student loan	£10.00
Income from boarder (plus 50% of remainder)	£20.00
Income from subtenant	£20.00

Housing Benefit

figures per week

Capital limits

Under State Pension age

Upper limit	£16,000
Lower limit	£6,000

Tariff income – £1 per £250 or part £250

Over State Pension age

Upper limit	£16,000
Lower limit	£10,000

Tariff income – £1 per £500 or part £500

Applicable amounts same as Income Support/JSA/ESA except:

Personal allowance – State Pension age claims only

State Pension age before 1 April 2021

Single	£235.20
Couple (one or both)	£352.00

State Pension age on or after 1 April 2021

Single	£218.15
Couple (both)	£332.95

Dependent children

Child allowance	£83.24

Premiums

Family (pre May 2016 claims)	£19.15
Disabled child	£80.01
Enhanced disability (child)	£32.20

Disregarded earnings same as Income Support/JSA/ESA except:

Lone parent	£25.00
Working 16hrs/30hrs	£17.10
Childcare: maximum	
One child	£175.00
Two or more children	£300.00
Incapable of work prior to State Pension age or aged 80+	£20.00

Other disregarded income

Maintenance paid for an adult	£15.00
War Pensions/Armed Forces Scheme	£10.00
Widowed Mother's/Parent's Allowance	£15.00
Student loan	£10.00
Income from boarder (plus 50% of remainder)	£20.00
Income from subtenant	£20.00

Fuel deductions

Heating	£35.25
Hot water	£4.10
Lighting	£2.85
Cooking	£4.10
All fuel	£46.30
One room	£21.10

Meals deductions

Three meals per day	£35.35
Less than three meals a day	£23.60
Breakfast only	£4.30

Non-dependant deductions

Age 18 and working 16+ hours pw	
gross income less than £176.00	£19.30
gross income £176.00–£255.99	£44.40
gross income £256.00–£333.99	£60.95
gross income £334.00–£444.99	£99.65
gross income £445.00–£553.99	£113.50
gross income £554.00 or over	£124.55
Others age 18 or over unless disregarded	£19.30

Child Tax Credit

figures per annum

Threshold (entitled to CTC but not WTC)	£19,995

Elements

Family	£545 (a)
Child	£3,455 (b)
Disability	£4,170
Severe disability	£1,680

Working Tax Credit

figures per annum unless otherwise stated

Threshold	£7,955

Elements

Basic	£2,435
Couples and lone parents	£2,500
30-hour	£1,015
Disability	£3,935
Severe disability	£1,705
Childcare: maximum	
One child 70% of weekly cost up to	£175
Two or more children 70% of weekly cost up to	£300

Pension Credit

figures per week

Capital limits

No upper limit	
Lower limit	£10,000

Deemed income – £1 per £500 or part £500

Standard minimum guarantee

Single	£218.15
Couple	£332.95

Dependent children

Eldest child or only child	£76.79 (a)
Child	£66.29
Disabled child	
Lower rate	£35.93
Higher rate	£112.21

Additional amounts

Severe disability	£81.50
Carer	£45.60

Savings credit threshold

Single	£189.80
Couple	£301.22

Savings credit

Single (maximum)	£17.01 (d)
Couple (maximum)	£19.04 (d)

Disregarded earnings

Single	£5.00
Couple	£10.00
Carer, age 80+, incapable of work prior to State Pension age, lone parent	£20.00

Other disregarded income

War Pensions/Armed Forces Scheme	£10.00
Widowed Mother's/Parent's Allowance	£10.00
Income from boarders (plus 50% of remainder)	£20.00
Income from sub-tenant	£20.00

(a) Born before April 2017
(b) Check two child limit rules
(c) Pre April 2017 claims
(d) If State Pension age before April 2016

NON-MEANS-TESTED

figures per week

Attendance Allowance

Lower rate	£72.65
Higher rate	£108.55

Bereavement Support Payment

With dependent children	
Lump sum	£3,500
Monthly payment	£350.00
Without dependent children	
Lump sum	£2,500
Monthly payment	£100.00

Carer's Allowance / Carer Support Payment (Scotland) £81.90

Supplement (paid twice yearly in Scotland)	tbc
Earnings threshold	£151.00

Child Benefit

Eldest or only child	£25.60
Each other child	£16.95

Disability Living Allowance / Child Disability Payment (Scotland)

Care component	
Lower rate	£28.70
Middle rate	£72.65
Higher rate	£108.55
Mobility component	
Lower rate	£28.70
Higher rate	£75.75

Employment and Support Allowance

Basic allowance	
Age 16–24	£71.70
Age 16–24 main phase	£90.50
Age 25 or over	£90.50
Work-related activity component	£35.95 *(c)*
Support component	£47.70
Permitted work – higher limit	£183.50

Guardian's Allowance £21.75

Industrial Injuries (100%) £221.50

Jobseeker's Allowance

Age 16–24	£71.70
Age 25 or over	£90.50

Maternity Allowance (up to) £184.03

Earnings threshold	£30.00

Personal Independence Payment / Adult Disability Payment (Scotland)

Daily Living Component	
Standard	£72.65
Enhanced	£108.55
Mobility Component	
Standard	£28.70
Enhanced	£75.75

State Pension

State Pension (full)	£221.20
State Pension Category A or B	£169.50
State Pension Category B or D	£101.55

Statutory Adoption, Maternity, Paternity, Shared Parental and Parental Bereavement Pay £184.03

Earnings threshold	£123.00

Statutory Sick Pay £116.75

Earnings threshold	£123.00

Widowed Parent's Allowance (up to) £148.40

Benefit Cap

figures per annum

Outside Greater London	
Couples/lone parents	£22,020
Single adult	£14,753
Greater London	
Couples/lone parents	£25,323
Single adult	£16,967

National Minimum Wage £ per hour

Age 21 and over	£11.44
Age 18–20	£8.60
Age 16–17	£6.40
Apprentice rate	£6.40

Health Impact Report

Back in March 2023 the Government published their Health and Disability White Paper.

Six initiatives were outlined in the paper and the Minister for Disabled People, Health and Work, Tom Pursglove, has released an update on these measures.

- **Employment and Health Discussion (EHD)** – a voluntary service available to disabled claimants aimed at tackling barriers to moving towards work, is to be expanded to 13 more sites across England and Wales.
- **Severe Disability Group (SDG)** – for those whose health conditions are severely limiting and unlikely to improve. Those placed in this group will have reduced forms and no face-to-face assessment.
- **Matching Assessors to Primary Health Conditions** – a small-scale test has been running in London and Birmingham to see if this idea has value. The results aim to be reviewed and next steps decided this month. It is hard to see how this approach would not be more beneficial for claimants.
- **Enhanced Support Service (ESS)** – testing is ongoing for this service in East Anglia, Kent, Blackpool, and Birmingham. It intends to provide personalised support for people who find DWP processes hard to deal with and will include form filling, help to provide medical evidence and support to attend assessments.
- **Health Impact Report** – this is one of the ways the DWP is looking at tracking how fluctuating conditions affect a claimant, before their WCA or PIP assessment. It intends to be a structured way of showing how a health condition varies in its impact.
- **Health Assessment Channels Trial** – has been looking at differences in outcomes for remote vs face-to-face assessments and the experiences of claimants for each.

The full statement is available here: questions-statements.parliament.uk/written-statements/detail/2023-11-20/hcws44

PR v SSWP (UC), [2023] UKUT 290 (AAC) – waiting period for LWCRA element in a mixed-age couple claim for Universal Credit

We have reported before about the need for couples in receipt of income-related Employment and Support Allowance, where the older person is the claimant, to make a well-timed claim for Universal Credit to ensure that the limited capability for work-related activity element is paid immediately, rather than after a three-month wait.

The claim for Universal Credit would need to be made before the current award expired, that is, before the claimant reached State Pension age, unless the older partner met an exception to the waiting period. This has always been unsatisfactory as it has relied on claimants knowing that they must claim in advance of their birthday and the end of their current benefits. This information is generally not readily available.

Continued overleaf →

Sometimes, this can be mitigated by backdating the application. Note: although backdating may lead to an overpayment of income-related Employment and Support Allowance (and Housing Benefit if in payment), the claimant will normally be better off.

In this case, the claimant reached State Pension age on 18 October 2020 and made a claim for Universal Credit on 26 October 2020. Although it was accepted that she had limited capability for work-related activity from the start of the claim, the element was only paid after the three-month waiting period as she had not been in receipt of Employment and Support Allowance on the day Universal Credit was claimed. Nor was she receiving National Insurance Credits for limited capability for work.

Consequently, the limited capability for work-related activity element became payable from 26 January 2021.

The claimant challenged this on the ground that regulation 28 of the Universal Credit Regulations 2013 "discriminated against her, contrary to Article 14 of the European Convention on Human Rights".

Once at appeal, she also asked that backdating of the Universal Credit claim be considered so that she had a determination of limited capability for work-related activity on the day that the Universal Credit claim was (treated as) made, and thus enabling the element to be paid immediately.

The First-tier Tribunal disagreed with the arguments put forward by the appellant and outlined their somewhat lengthy decision over a noteworthy "four complete pages and 37 paragraphs." Judge Wright determined that nowhere in those four complete pages and 37 paragraphs did the Tribunal actually give reasons why they rejected the human rights arguments.

As a result, Judge Wright decided that *"the Tribunal's wholesale failure to [consider the human rights issue and explain the decision] was an abnegation of its judicial duty. I have, accordingly, no hesitation in setting aside the Tribunal's decision as being given in error of law."*

They then went on to give a very thorough and detailed consideration of the issues and application of not only Article 14, but also Article 1 of the First Protocol to the ECHR, otherwise known, for shortness, as A1P1. If A1P1 did not bite, the discrimination that even the Secretary of State agreed now had occurred would not be relevant.

Ultimately, Judge Wright was persuaded that A1P1 was engaged and therefore so was Article 14 and as a result, *"the offending (part of) regulation 28 must therefore be disapplied. The result of this, given the terms of regulation 27(1) of the UC Regs, is that the appellant's award of Universal Credit had to include the LCWRA element from and including 26 October 2020."*

Finally, Judge Wright considered the issue of backdating and agreed that the Universal Credit claim could be backdated to 18 October 2020 as in this case. The claimant had not been informed that their benefits were due to end until the 24 or 26 October 2020.

The full judgement is available here: assets.publishing.service.gov.uk/media/659bcce2d7737c000df334fd/UA-2022-000330-ULCW.pdf

Secretary of State for Work and Pensions v GK [2023] UKUT 273 (AAC) – Carer's Allowance – cared-for's consent to a Carer's Allowance claim

About the person you provide care for... Remember

You must tell the person you are providing care for, or their legal representative, before you claim Carers Allowance.

Continued overleaf →

When you claim Carer's Allowance, the person you provide care for may stop getting any severe disability premium they get with their:

- *Income-based Jobseekers Allowance*
- *Income Support*
- *Income-related Employment and Support Allowance*
- *Housing Benefit*
- *Universal Credit*

If they get extra Pension Credit for severe disability, it will either stop or go down.

It could also affect their Council Tax reduction..." etc etc.

The above is a word-for-word quote from page 6 of the current online claim form for Carer's Allowance. Neither here, nor anywhere else on the claim form, is a signature of consent required from the cared-for.

Here's why.

A single claimant has a claim for income-related Employment and Support Allowance in place. He lives alone, gets a qualifying disability benefit, and no-one gets Carer's Allowance for looking after him. A severe disability premium is therefore included in his applicable amount for the Employment and Support Allowance.

Then his mum claims CA. Due to lack of capacity, the son does not know the claim for CA has occurred and does not counter-sign the CA claim that was then, at the time, in use.

The dual payments of severe disability premium and CA are eventually discovered by the DWP, who make a decision that the ESA claimant had not been entitled to the severe disability premium in his award from 7th July 2020; furthermore, there was a recoverable overpayment.

The ESA claimant appealed.

At the First-tier Tribunal, the judge allowed the ESA claimant's appeal, not because they found that the overpayment was not recoverable, but because the claimant continued to qualify for the severe disability premium in his award of ESA.

But how could this be the case when his mum continued to claim Carer's Allowance for him?

The First-tier Tribunal decided that this was perfectly possible because the claimant had given no effective consent to his mum's claim for the Carer's Allowance. "You can keep your SDP" the tribunal said. Furthermore, the First-tier Tribunal proceeded to "pronounce in a determinative manner" upon the mother's entitlement to Carer's Allowance on an assumption that the cared for person's consent was a condition of entitlement to the CA.

Judge Stuart Wright, of the Upper Tribunal, was seriously troubled by the behaviour of the First-tier Tribunal. What were they doing messing about with the mum's Carers' Allowance award? "It may be asked", he asked, "what the jurisdiction was of the First-tier Tribunal in this case to determine the claimant's mother's entitlement to Carer's Allowance when it had no appeal against the decision awarding the mother the Carer's Allowance?"

The cared-for person's view of their mum's CA may be relevant as evidence in determining the mum's entitlement to CA, "but legally", says Judge Wright, "the cared for person's view is irrelevant".

It's irrelevant because nowhere in the conditions of entitlement to CA is there a requirement that the consent of the cared-for is required, and if there's no such requirement, the person being looked after doesn't need to counter-sign the CA application form.

There were two outcomes of Judge Wright's reasoning. It was decided that the appellant wasn't entitled to the severe disability premium on his ESA (because his mum was receiving CA), and a countersignature is no longer required for a CA claim to be made.

The CA form was subsequently changed, and all that remains in this respect of the CA application form is a slightly less than stiff warning of what might happen if the person you are providing care for, or their legal representative, is not informed of the claim.

The full judgement can be found here: assets.publishing.service.gov.uk/media/6569cd4f1104cf0013fa7357/UA-2023-SCO-000065-ESA.pdf

KR v SSWP (CA) [2023] UKUT 202 (AAC) – Carer's Allowance – application of discretion to average weekly earnings

This is the second of two write-ups of Upper Tribunal cases concerning the intricacies of Carer's Allowance.

In this particular case, it's the intricacies of weekly earnings, and how they can be calculated.

Carer's Allowance is paid for a benefit week. A benefit week is a period of seven days. Earnings received on any one of those seven days are treated as having been received on the first day of the benefit week in which they are due to be paid. The concept of a benefit week and its practical application, is the starting point for determining whether the CA claimant is in "gainful employment" for that week. The definition of gainful employment is itself a weekly earnings figure; this currently stands at £139.

Not every CA claimant in part-time work is paid weekly, and not every benefit is structured for weekly earnings. The foundation of the UC system, for example, is built upon a monthly payment cycle. That, in itself, has produced several Upper Tribunal decisions since the introduction of UC.

But don't worry yourself about discrepancies between UC and CA. They both have regulations that smooth over any misfit, and which produce, in most cases, workable results.

For Carer's Allowance, the regulations governing the calculation of weekly earnings are the *Social Security Benefit (Computation of Earnings) Regulations 1996*. More specifically, it's regulation 8 of the set which deals with payment cycles outside the weekly norm.

And what stretches the practical usefulness of the regulation on payment cycles is, of course, fluctuating earnings.

Because this Upper Tribunal case concerns itself with fluctuating earnings, we'll begin by quoting, in full, the sub-paragraphs that determine how they should be calculated.

The relevant sub-paragraphs of the Computation of Earnings regulations are 8(3)(a) and 8(3)(b):

8(3) Where the amount of the claimant's net earnings fluctuates and has changed more than once, or a claimant's regular pattern of work is such that he does not work every week, the application of the foregoing paragraphs may be modified so that the weekly amount of his earnings is determined by reference to his average weekly earnings –

(a) If there is a recognisable cycle of work, over the period of one complete cycle (including, where the cycle involves periods in which the claimant does not work, those periods but disregarding any other absences);

(b) In any other case, over a period of five weeks or such other period as may, in the particular case, enable the claimant's average weekly earnings to be determined more accurately.

The CA claimant in this case was paid on the 23rd of each month, at a fixed hourly rate which fluctuated from month to month, with the months of June, July and September being the busiest. In addition, there were weeks for which she could not claim CA, as her son was in residential school. This led to a DWP decision in January 2019 that the claimant was not entitled to CA for certain periods between June and September the previous year.

The claimant appealed the decision to a First-tier Tribunal, advancing the argument that her earnings should have been calculated using a weekly average based on a recognisable cycle of work, that is, an argument based on regulation 8(3)(a), the payment cycle being one month.

The Tribunal rejected this argument. They accepted the DWP's view that there was no recognisable cycle of work and that the appellant's earnings had to be calculated on a week-by-week basis, with no entitlement arising in the benefit weeks when her earnings exceeded the then earnings threshold of £120.

The Tribunal went on to consider the application of the discretion in 8(3)(b) and decided it could not apply as the appellant was an irregular earner and her earnings were considered retrospectively.

One of the motives behind the appellant's case was that she could get more Carer's Allowance if her earnings were averaged under regulation 8(3) than if they weren't.

Continued overleaf →

However, the judge of the First-tier Tribunal made it clear in their reasons that "the fact that [the appellant] would have benefitted from the application of Regulation 8(3) in that she would have likely been entitled to more CA is not grounds for the regulation to be applied."

The claimant then appealed to the Upper Tribunal, and the case came before Judge Wright, who decided it on 23rd August 2023.

By this time, before Judge Wright decided the case, some agreement between the parties had been reached. They both agreed, for example, that a recognisable cycle of work under regulation 8(3)(a) had not arisen at the time of the initial decision, although it may have been established on subsequent decisions. More importantly, they agreed that the Tribunal erred in law by not considering the application of the discretion available in regulation 8(3)(b).

This case offers a framework for two things: examining the treatment of earnings for Carer's Allowance, and, where the facts of the case suggest it is appropriate, checking that, at whatever level of decision-making, the discretion found in regulation 8(3)(b) has been properly considered.

The full decision is available here: www.gov.uk/administrative-appeals-tribunal-decisions/kr-v-sswp-ca-2023-ukut-202-aac

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SSWP v AD [2023] UKUT 272 (AAC) – treatment of student maintenance loan for Universal Credit

Students studying degree-level courses are generally eligible for a limited amount of help towards tuition fees. This can lead to situations where students find themselves making up the cost of their tuition from other sources.

This is the situation that the respondent in this appeal, Ms D, found themselves in and their not unreasonable solution was to use some of their £12,645 maintenance loan to cover the £9,250 tuition fees, leaving £3,395 of the loan for living costs.

Ms D and her partner received Universal Credit and the deduction for student income was calculated using the standard formula set out in reg 71 of The Universal Credit Regulations 2013, giving a student income of £1,295 per assessment period. This was deducted from the assessment period ending 24 November and then later a decision maker realised that it should have also been deducted from the assessment period ending 24 October, leading to a recoverable overpayment of £764.30.

These decisions were appealed by Ms D when mandatory reconsiderations led to no change.

The appeal considers the status of the loan received by Ms D. Although the student applied for and received a maintenance loan of £12,645, should £9,250 of this loan be characterised as a payment intended to meet tuition fees and therefore disregarded from the calculation of student income?

"Yes," the First-tier Tribunal decided, it should because "it should look beyond the names attached to the payments to their reality, and what they were to be used for."

DWP had differing thoughts about how this payment should be categorised, so took the case to the Upper Tribunal, when Judge Eleanor Grey had a good look and decided as follows:

> "12. The language used by Regulation 68(2) is clear, requiring assessment of UC entitlement to be based on the "amount of" the loan. ...
>
> 13. The definitions used in Reg. 68(7), read with these underlying provisions, seem to me to make it clear that the characterisation of the nature and amount of the financial payment made to a student is based on objective criteria relating to the source of the funds and their characterisation under the Student Support Regulations, rather than how each applicant intends to apply or actually uses the funds granted.

Continued overleaf →

14. Even if it might be said that £9,250 of the loan should not be characterised as a "loan towards a student's maintenance" as it was not used for that purpose, Regulation 69(1) also bases the assessment of UC on the maximum loan that a student would reasonably be able to acquire. ..."

The First-tier Tribunal relied not on reg 68(2) (which covers loans), but on reg 70 instead. Unfortunately for the Tribunal, reg 70 covers grant income, which this particular student does not receive. Reg 70 can only bite when reg 68(2) is not applicable, and in this case, it is very much applicable so reg 70 cannot be relied upon at all.

Judge Grey also disagreed with the Tribunal's assessment of Student Finance England's intentions when awarding the maintenance loan. The Tribunal had asserted that "on balance this was an arrangement reached between the appellant and SFE to permit her to undertake this three year course of study by facilitating indirectly the payment of the tuition fees. Awarding a maintenance loan to a student who would otherwise be unable to pay the tuition fees would be futile." Judge Grey concluded that there was no evidence to support such an assertion and that even if such an intention existed, it would "not affect the characterisation of the money as a maintenance loan."

Therefore, Judge Grey agreed with DWP. The First-tier Tribunal had erred in law and it was correct to take the full amount of student loan into account.

assets.publishing.service.gov.uk/media/6554d445544aea000dfb2db2/UA.2023.000542.USTA.000543.2.USTA.pdf

Looking Forward To... An Increase in the Local Housing Allowance Rates

Usually, in this penultimate regular, our looking forward is unalloyed.

I can't quite say that here for what we are looking forward to.

The Chancellor, Jeremy Hunt, in his Autumn Statement, announced that Local Housing Allowance rates would be increased, from April 2024, to the 30th percentile of local market rates for accommodation in the private rented sector.

The 30th percentile of a data set is the data value that is equal to 30% of the data values. To find the 30th percentile, divide the data set into 100 equal parts and look for the data value in the 30th position. That's your Local Housing Allowance for the purposes of the Universal Credit housing costs element.

I'm sure, at some point in the probably, by now, dim distant past, and for Housing Benefit purposes, and before our nation ever heard of Universal Credit, the percentile was set at a more generous 50th position.

Maybe some of our advisors might remember this.

But that's by the by.

The Chancellor made his announcement in November of 2023, and the statutory instrument putting his words into effect was published in January 2024. Its measures came into force on 31st January 2024.

Alongside the S.I., the DWP published a list of indicative LHA rates for 2024-25.

Here they are, for some of our local areas, in weekly figures:

	Shared Accomm. Rate (£)	1-Bed LHA (£)	2-Bed LHA (£)	3-Bed LHA (£)	4-Bed LHA (£)
Richmond & Hambleton	96.12	103.56	126.58	149.59	191.01
Scarborough	71.3	97.81	126.58	149.59	166.85
Harrogate	96.96	136.93	169.35	201.37	293.42
York	96.12	155.34	178.36	189.86	276.16

These figures are based on data for the year to 30th September 2023.

However – and the reason for our mixed feelings – LHA rates have been frozen at the 30th percentile since April 2020. The figures are re-jigged for one year, and this year's increase will again be frozen from 2025-26 onwards, "thereby" says the Office for Budget Responsibility "eroding its generosity over time as rental prices rise".

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Upcoming Training

Universal Credit Housing Costs
Wednesday 7 February 2024
10am to 12:30pm

Universal Credit and Work
Thursday 8 February 2024
10am to 12:30pm

Benefits Overview – Working Age
Wednesday 21 February 2024
10am to 4pm

Introduction to Benefits
Wednesday and Thursday 17, 18, 24 and 25 April 2024 and 1, 2, May 2024
10am to 12.30pm

Introduction to Universal Credit and Migration
Wednesday 19 June 2024
10am to 4pm

Move to Universal Credit?
Wednesday 26 June 2024
10am to 4pm

Introduction to Benefits
Thursday 4, 11 and 18 July 2024
10am to 4pm

Benefits Following a Bereavement
Wednesday 4 September 2024
10am to 12:30pm

Universal Credit – Income and Capital
Thursday 12 September 2024
10am to 12:30pm

Personal Independence Payment – How to Get the Right Decision
Tuesday 24 September 2024
10am to 4pm

Introduction to Benefits
Wednesday and Thursday 9, 10, 16, 17, 23 and 24 October 2024
10am to 12.30pm

Benefits for Disabled Young People Including Students
Tuesday 5 November 2024
10am to 4pm

Benefits for State Pension Age
Wednesday 13 November 2024
10am to 4pm

Introduction to Benefits
Thursday 16, 23 and 30 Jan 2025
10am to 4pm

Benefits to Help Pay Rent
Wednesday 5 February 2025
10am to 4pm

Benefits Overview – Working Age
Thursday 13 February 2025
10am to 4pm

Welfare Benefits Unit

Welfare Benefits Unit Advice Line 01904 642512
advice@welfare-benefits-unit.org.uk

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BenefitsBulletin is compiled by the **Welfare Benefits Unit**, 17 Priory Street, York YO1 6ET Registered Charity 1164225