

What changes might lead to a claim for Universal Credit?

Universal Credit (UC) has rolled out across the country. Normally, anyone making a **new** claim for any of the six 'legacy benefits' that UC is replacing may have to claim UC instead & usually stops any claim to those legacy benefits - unless the person is in 'specified' (e.g. supported or temporary) accommodation, where Housing Benefit is still paid. See page 5 regarding the 'severe disability premium' (SDP).

But what about people already on legacy benefits? If they have a change in circumstances which would have meant a claim for another legacy benefit, they will normally have to claim UC instead & their legacy benefits will stop – apart from the 'specified accommodation rule above. The Department for Work & Pensions (DWP) call this 'natural migration.' However, there are other reasons where a UC claim is not necessary. See the table, page 5 & endnotes.

What are the changes in circumstances that mean a claim for UC (or not)?

This table lists some example. Please read alongside the exceptions & see below for abbreviations & more details

<i>Change of circumstance(s)</i>	<i>What could happen before UC?</i>	<i>What happens under UC?</i>
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Change in employment status

On 'legacy benefit' e.g. IB-JSA & HB & start work but not enough hours to satisfy WTC	Legacy benefits adjusted	Choice - stay on legacy benefit or claim UC if better off. See 'swapping' page 5
No kids (no CTC), start or increase working hours to satisfy WTC rules	New claim to TC (WTC) ⁱ	Claim UC or if on other legacy benefits, choose to stay on them with earnings adjustment, as above
On CTC & start work to satisfy WTC rules	Request WTC (TC adjusted, not a new TC claim)	If already on TC & gain or lose entitlement to CTC or WTC, then it's not a new TC claim but a TC adjustment so don't <i>have</i> to claim UC – so 'choice' as above. ⁱⁱ Also see 'change in family circumstances' below
On IR-ESA doing permitted work & hours increase to over 16 or pay increases over permitted level	Potential WTC claim	Claim UC (but may want to remain on permitted work by reducing hours or pay as may be worse off ⁱⁱⁱ)
On WTC & increase hours	Stay on WTC	See ' choice ' above
On WTC & becomes sick	Claim IR-ESA	Claim UC

<i>Change of circumstance(s)</i>	<i>What could happen before UC?</i>	<i>What happens under UC?</i>
Change in family circumstances		
On a legacy benefit but not WTC & becomes responsible for a first child	Claim CTC (a new claim to TC)	Claim UC
On WTC, becomes responsible for a first child	Remain on TC & request CTC	See ' choice ' & explanation about 'TC adjustment' above
Lone parent on IS & youngest child turns 5	Unless another reason to stay on IS, claim IB-JSA	Unless another reason to stay on IS, claim UC
On IB-JSA & baby due within 11 weeks	Claim IS	Claim UC (could remain on IB-JSA if meets conditionality but would need UC anyway when child is born)
On CTC & have second/subsequent child	Remain on CTC - may not get child element if third/subsequent child ^{iv}	Remain on CTC - may not get child element if third/subsequent child
- Partner leaving / joining household		
Couple on TC separate or partner dies (or any other reason where single claim needed)	Make separate/new claims for legacy benefits	Both may be eligible for UC as single person. For bereavement, surviving partner may have to claim UC. See endnote ⁱⁱ
Couple, one claiming IR-ESA for both, then separate or partner dies	Claimant remains on IR-ESA, ex-partner claims their own legacy benefit	Claimant remains on IR-ESA (but see ' choice ' - above), ex-partner claims UC. For bereavement, surviving partner can continue on IR-ESA if they were the claimant before the death - or claim UC
Couple on IB-JSA with child under 5 becomes a lone parent	Claim IS / IB-JSA	Both claim UC as single people. If claimant of IB-JSA is not responsible for child s/he can stay on IB-JSA
Single person on IR-ESA, becomes couple	IR-ESA recalculated - couple rate	IR-ESA recalculated (unless e.g. partner on UC, or claim for another legacy benefit made)
Lone parent on e.g. IS & CTC becomes a couple	Claim e.g. IB-JSA or IR-ESA as a couple & make new TC claim as a couple	Claim UC as a couple
Single person under pension age on legacy benefit(s). Becomes a couple with person of Pension Credit qualifying age	Claim PC, PA-HB or legacy benefit(s)	Claim PC, PA-HB or legacy benefit(s). From 15 May 2019, claim UC. Some protection for existing awards ^v

<i>Change of circumstance(s)</i>	<i>What could happen before UC?</i>	<i>What happens under UC?</i>
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Carers

Satisfies Carer's Allowance rules which means a new 'legacy benefit' claim	Claim the relevant benefit legacy benefit(s) e.g. IS	Claim UC or stay on legacy benefit with carer premium. Depends on circumstances e.g. a single person on IB-JSA may not be able to do this; a person on IB-ESA or a partner of someone who is main IB-JSA claimant could
On IS & stops being a carer (including where disabled person has died)	Unless reason to stay on IS, claim IB-JSA	Claim UC unless reason to stay on IS

Tax Credits (see also **Change in employment status & Change in family circumstances** above)

TC renewal	Remain on TC	See ' choice ' page 1
On TC & change does not lead to a claim for a new 'legacy benefit' e.g. less income, TC elements lost/gained but entitlement remains	Remain on TC	See ' choice ' page 1

Sickness (see also **Change in employment status** above)

On IR-ESA & fails Work Capability Assessment (WCA) ^{vi}	Claim IB-JSA during mandatory reconsideration (MR), then IR-ESA pending appeal	Choice: claim UC, or wait during MR, then 'reinstate' IR-ESA when appeal ^{vii}
On IB-JSA & becomes unfit for work	Claim IR-ESA	Claim UC

Moving area / taking up a tenancy

HB claimant moves into a different Local Authority ^{viii}	New claim for HB	Claim UC for self & children but if in 'specified' accommodation HB is paid for housing costs so can claim that & remain on legacy benefits ^{ix}
HB claimant moves within same Local Authority	Remain on HB	See ' choice ' page 1 ^x
On TC / IS / IR-ESA / IB-JSA & takes up a new tenancy for the first time	Claim HB	Claim UC but if 'specified' accommodation in which case claim HB, see above & endnote ^{ix}

<i>Change of circumstance(s)</i>	<i>What could happen before UC?</i>	<i>What happens under UC?</i>
Other		
On IB-JSA & attends court / jury service	Claim IS - after 8 weeks	Claim UC - after 8 weeks ^{xi}
On IB-JSA & remanded in custody	Claim IS, HB may continue temporarily	Possibly claim UC but seek advice ^{xii}
On IS & ceases full time education	Claim IB-JSA, or other reason to claim IS	Claim UC, unless other reason for IS ^{xiii}
Income / or capital goes over threshold / capital limit so comes off that benefit	Come off legacy benefit(s) depending on income / capital rules for each. May claim another e.g. TC that don't have capital limit	If come off legacy benefit can't later reclaim it later or another – as would be UC but that depends on UC income / capital rules
On contribution based JSA or ESA & believes entitled to IB-JSA or IR-ESA	Ask for IB-JSA or IR-ESA as a top up to contribution-based ESA or JSA	If already on 'old style' ESA/JSA before UC applied, you can request IR-ESA/IB-JSA as a top up. If not, & make a new claim for ESA it's UC ^{xiv}
Receives a benefit sanction	Receives reduced/cut 'legacy benefit'. Claim hardship payment, check HB	Legacy benefits continue at reduced rate or zero unless a claim to e.g. HB has to be made, then UC ^{xv}
Student in advanced education, getting TC/HB/IR-ESA/IS during term time but has to be available for work during long vacation	Claims I-B JSA	Could claim UC but student loan taken into account as income from start of autumn term (whether in payment or not), unlike current TC

Abbreviations

CTC	Child Tax Credit	IR-ESA	Income related ESA	SSP	Statutory Sick Pay
ESA	Employment & Support Allowance	JSA	Jobseekers Allowance	TC	Tax Credits
HB	Housing Benefit	PC	Pension Credit	UC	Universal Credit
IB-JSA	Income based JSA	PA-HB	Pension age HB	WCA	Work Capability Assessment
IS	Income Support	SDP	Severe Disability Premium		

Exceptions, including ‘specified accommodation’, protection for some disabled people & ‘mixed age’ couples

Those who satisfy certain ‘disability rules’ get over £66 a week extra in legacy benefits, called the Severe Disability Premium (SDP). Other rules apply for couples. This is not replicated in UC so to protect them from losing benefit under ‘natural migration’, from 16 January 2019 claimants in receipt of a legacy benefit with the SDP (or in receipt within the last month & continue to meet the conditions) could not claim UC. From 27 January 2021, regs [SI.No.4/2021](#) removed this ‘gateway’ so those with the SDP are not barred from claiming UC & can receive a transitional amount if their UC is lower. The bar to claiming UC for those with 3 or more children ended on 31 January 2019. For ‘mixed age’ couples, see endnote ^{vi}. For ‘specified’ accommodation, see endnote ^{ix}.

Swapping from legacy benefit to claim UC - a ‘choice’

Those on legacy benefits in a UC area **can choose** to claim UC without a change in circumstances. Examples are shown as a ‘**choice**’ in the table. Usually this should only be done if the claimant is ‘better-off’ under UC. This can be determined by a ‘better-off’ calculation done ideally by an experienced adviser. If a UC claim is made, DWP will contact benefit centres, local authorities & / or HM Revenue & Customs to stop the existing award(s), but you should check this is done to avoid overpayment. Note the risk of payment gaps & delays due to UC monthly payments in arrears & assessment periods & increased conditionality & a higher risk of sanctions under UC

Behind the examples in the table are these general ‘rules’ - unless exceptions apply:

- Claimants cannot claim a legacy benefit ^{xvi}
- Claimant cannot also be entitled to a legacy benefit should s/he consequently claim & get UC ^{xvii}
- A claim for UC or a new claim for legacy benefits can trigger their abolition ^{xviii}

What if the claimant’s UC is lower than their previous legacy benefit?

Where a claimant on a legacy benefit has to claim UC, they are not protected against any possible drop down to a lower UC amount. Transitional protection does not apply to these ‘natural migrations’. An exception exists for those on the SDP in their legacy benefit who do get a transitional protection amount. In other circumstances UC may be higher - in which case a claim for UC can be made - see ‘swapping...’ above. At some stage, remaining claimants on legacy benefits will be told to claim UC - called ‘managed migration’ & transitional protection is paid.

Sources & further information

These examples are from various sources. More information can be found from the DWP web pages [Universal Credit](#) & [Universal Credit guides](#), [CPAG](#), [Disability Rights UK](#), [Revenuebenefits](#) & the [Newcastle City Council Universal Credit web page](#). This document has been produced by Newcastle City Council Active Inclusion Service, is as accurate as possible at **January 2021** & subject to change. Many thanks to the advisers who have helped ^{xix}. If you have any comments, email [Active Inclusion Newcastle](#).

Endnotes

- ⁱ The general principle is that if on a legacy benefit & it does not mean a claim for another legacy benefit, then they remain on the legacy benefit.
- ⁱⁱ Article 7(5) of [SI 2015 No.634](#) says that the rule preventing Tax Credit claims in UC full service areas does not apply for someone already entitled to WTC or CTC, such as a WTC claimant having a child. However, a single TC claimant becoming a couple means a cessation of that person's single person status & TC would stop & vice versa. A similar single/couple change in IR-ESA does not in itself lead to an end in single or couple status. Rather it would simply be a change in circumstances & remain on legacy benefit. Where a couple separate or forms & there are attempts to make **new** IS/IB-JSA/IR-ESA claims, that would necessitate a claim for UC & terminate those benefits.
- ⁱⁱⁱ A person may want to avoid coming off IR-ESA higher limit permitted work by e.g. working 16 plus hrs because they may be worse off under UC.
- ^{iv} Usually cannot get Tax Credits or Universal Credit for a third or subsequent child born on or after 6 April 2017 – unless exceptions apply.
- ^v From 15 May 2019, where a claimant on PC &/or PA-HB forms a couple with someone below PC age, this ends entitlement to PC or PA-HB & UC may need to be claimed. Plus new claims for PC &/or PA-HB are not available for 'mixed age' couples, except backdated claims can be made up to 3 months i.e. up to & including 14 August 2019. For some other changes, PC &/or PA-HB may be retained or claimed. See DWP guidance [DMG memo 1/19](#) & [HB Circular A3/2019](#).
- ^{vi} Meaning 'not sick' / fails the 'limited capability for work test'.
- ^{vii} The DWP agree with CPAG (Bulletin 255&253) that "IR-ESA can be re-awarded where a (WCA) appeal is lodged, **provided the claimant has neither claimed 'new style' JSA nor UC during the mandatory reconsideration (MR) period.** Essentially this is because the claimant is not required to make a new claim in order for the IR-ESA to be re-awarded therefore doesn't trigger a need to claim for UC." Entitlement to ESA pending appeal does not require a new claim for ESA (Reg 39(j) Social Security (Claims & Payments) Regulations 1987, No.1968). If UC is claimed during MR stage, then will have to stay on UC unless (before 27.1.21) you had a SDP in one of your legacy benefits. Also see '[Connor](#)' decision which means that a claimant who, once they appeal would get ESA pending appeal, can go straight to appeal & does not need MR – although it may be advisable to submit a MR in case.
- ^{viii} Strictly the rule is which LA is *responsible* for the HB, rather than the area covered by the LA. If a LA pays HB for a tenancy in another LA area, HB could be claimed rather than UC.
- ^{ix} Even though it's a new HB claim (normally triggering a UC claim), HB is payable for 'specified accommodation' (supported or temporary accommodation), so it's still HB & not a new HB or legacy benefit claim. So, any existing legacy benefits also continue.
- ^x A change of address in same local authority is a change in circumstances not a new claim. Regulation 79(2A) of HB regulations 2006. Some authorities may issue a claim form, but this does not mean the claim has been terminated.
- ^{xi} You are treated as available for work for up to 8 weeks so may be able to continue to claim IB-JSA, carer & so on
- ^{xii} This is complex, so advice is needed. Regulation 19 of the [UC Regulations 2013](#) basically says no UC arises for a prisoner unless (amongst other things) they were entitled to the housing costs of UC immediately before becoming a prisoner.
- ^{xiii} For example, being 29 weeks or more pregnant or lone parent with youngest child under certain age
- ^{xiv} This depends on whether it's 'old style' or 'new style' ESA & JSA. You are on 'old style' ESA if you were already on it before UC applied in your area. 'Old style' IR-ESA & contribution-based ESA (CB-ESA) are composite parts of the same benefit so requesting a top up of IR-ESA is not a new claim so should not trigger a claim for UC. But if you are making a *new* claim for contribution-based ESA in a UC area, that is 'new style' ESA. If you then request IR-ESA, it is UC - but CB-ESA continues as long as its payable. Also, if CB-ESA ends after a year, entitlement & the claim terminates & previously it would have meant a claim for IR-ESA but in full service UC area, it would mean a UC claim. Same applies to JSA. The legislation is complex. If the DWP say a UC claim must be made, you may need to ask for the legal provision or guidance that supports that view.
- ^{xv} Always check HB is paid. If JSA is stopped rather than sanctioned HB may be suspended. So tell HB that you have nil income so that it can be put back in payment. You will need to challenge the decision to stop JSA otherwise a claim for UC will have to be made.
- ^{xvi} The rules are contained in each Commencement Order introducing 'full service' areas. See, for example, Article 7 (read with Article 4) of S.I. 2016 No.33.
- ^{xvii} Regulation 5 Universal Credit (Transitional Provisions) Regulations 2014 No.1230: IB-JSA & IR-ESA are abolished for affected claimants under separate provisions at Article 4 of The Welfare Reform Act 2012 (Commencement No.9 & Transitional & Transitory Provisions & Commencement No.8 & Savings & Transitional Provisions (Amendment)) Order 2013 No.983 ('the No.9 Order'); & similar provisions in individual Commencement Orders introducing 'full service' areas (see, for example, Article 4 of S.I. 2016 No.33).
- ^{xviii} Article 4 No.9 Order & similar provisions in individual Commencement Orders introducing 'full service' areas (see, for example, Article 4 of S.I. 2016 No.33 – but note there is no reference to the claimant satisfying gateway conditions in the 'full service' area).
- ^{xix} For example, S. Osborne, CPAG, D. Hall, NAWRA, G. Vaux, Herts CC, W. Hadwen & many others.