

What triggers a claim for Universal Credit in a ‘full service’ area?

‘Full Service’ Universal Credit (UC) is being rolled out across the country. Normally, someone living in a ‘full service’ area who makes a new claim for any of the six ‘legacy benefits’ that UC is replacing has to claim UC instead. Full UC rules will apply to them & stops any claims to those ‘legacy benefits’. **What about someone on ‘legacy benefits’ when their area becomes ‘full service’? If they have a change in circumstances which means a claim for another ‘legacy benefit’, they will normally have to claim UC instead and their legacy benefits will stop.** The Department for Work & Pensions (DWP) call this ‘natural migration.’ Some exceptions apply e.g. **most people with 3 or more children cannot claim Universal Credit & can continue to claim ‘legacy benefits’ until the 31 January 2019 (the ‘2-child limit’).** See page 4 below for details on this & other caveats. The bar on claiming ‘legacy benefits’ does not apply where the claimant (or one of them) is of [Pension Credit age](#).

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

This table lists some examples. It is followed by further explanation, abbreviations & more details about [Universal Credit](#).

An * denotes the 2-child policy may apply, which bars UC claims from most of those with 3 or more children, details page 4.

The government [announced](#) in June’18 that at some stage some disabled people may also remain on ‘legacy benefits’, details to be added when known.

<i>Change of circumstance(s)</i>	<i>What could happen before UC?</i>	<i>What happens in a ‘full service’ UC area?</i>
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 4
No kids (no CTC), start or increase working hours to satisfy WTC rules	New claim to TC (WTC) ⁱ	Claim UC
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 See also ‘change in family circumstances’ below
On IR-ESA doing permitted work & work becomes permanent, hours increase over 16 or other reason for not satisfying permitted work rules	Potential WTC claim	Claim UC (but may want to avoid coming off permitted work 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 in a 'full service' UC area?</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' on page 1
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 *
Partner leaving / joining household. If it means a new claim to a 'legacy benefit', usually claim UC * iv for example:		
Couple on TC separate	Make separate claims for 'legacy benefits'	Both claim UC as single people *
Couple, one claiming IR-ESA for both, then separate	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 *
Lone parent on e.g. IS & CTC becomes a couple	Claim e.g. IB-JSA or IR-ESA & make new TC claim as a couple	Claim UC as a couple *
Couple on IB-JSA with child under 5 becomes a lone parent	Claim IS / IB-JSA	Both claim UC as single people *
Single person under pension age on 'legacy benefit(s)'. Becomes a couple with person of Pension Credit qualifying age	Claim PC or 'legacy benefit'	Claim PC or 'legacy benefit'. When UC fully rolled out across the country, may have to claim UC * v
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 *
On IS & stops being a carer	Unless reason to stay on IS, claim IB-JSA	Claim UC *
Tax Credits (see also Change in employment status and 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	Remain on TC	See ' choice ' page 1

<i>Change of circumstance(s)</i>	<i>What could happen before UC?</i>	<i>What happens in a 'full service' UC area?</i>
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 claim IR-ESA when appeal <i>but see note</i> ^{vii}
On IB-JSA & becomes sick	Claim IR-ESA	Claim UC *
Moving area / taking up a tenancy		
HB claimant moves into 'full service' area (different Local Authority) ^{viii}	New claim for HB	Claim UC (if in 'specified' or temporary accommodation HB is paid for housing costs ^{ix})
HB claimant moves into 'full service' area (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 *
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. Tax Credits 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 unless a claim to e.g. HB has to be made, then UC * ^{xv}

2-child limit complication

From 6 April 2017, a 2-child limit rule applies to Child Tax Credit & Universal Credit. Between 6 April 2017 & 31 January 2019, an interim period applies where those with 3 or more children cannot claim UC & are told to claim 'legacy benefits' instead, unless an exception applies. More details on the [Newcastle City Council Universal Credit web page](#). An * in this document denotes where this may apply.

Swapping from 'legacy benefit' to claim UC - a 'choice'

Those on 'legacy benefits' in a 'full service' area **can choose** to claim UC without a change in circumstances (unless the 2-child limit applies). 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.

Behind the examples in the table are these general 'rules':

- Someone in 'full service' area cannot claim a 'legacy benefit' except for the caveats described such as the '2-child limit' ^{xvi}
- In 'full service' areas, someone cannot also be entitled to a 'legacy benefit' should s/he consequently claim & get UC * ^{xvii}
- For 'full service' areas, a claim for UC or a new claim for JSA or ESA can trigger abolition of IR-ESA & IB-JSA ^{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 as described in this document, they will not be protected against any possible drop down to a lower UC amount. Transitional protection does not apply to these 'natural migrations'. An example of a drop includes the loss of £61 or £41 per week for a severely disabled person who is single, lives alone & receives the daily living component of PIP. However, in other circumstances UC may be higher - in which case a claim for UC can be made - but see 'Swapping...' above. Transitional protection will only apply to 'managed migration' cases when the DWP 'transfer' remaining people on 'legacy benefits' across to UC after the roll out is completed possibly [between 2019 & 2022](#).

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 at **June 2018**, is as accurate as possible & subject to change. If you have any comments, email [Active Inclusion Newcastle](#).

Abbreviations

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

Endnotes

ⁱ The 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} As footnote ⁱⁱ above

^v Pending legislation (specifically a Commencement Order) to make this change. Until then there is a choice to claim UC or PC. In some circumstances the younger person can claim 'legacy benefits'

^{vi} Meaning 'not sick' / fails the 'limited capability for work test'.

^{vii} The DWP agree with Child Poverty Action Group (Welfare Rights 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 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 JSA/UC claimed during MR stage, then may have to stay on UC rather than returning to ESA but this may be arguable.

^{viii} Strictly the rule relates to which LA is *responsible* for the HB, rather than the area covered by the LA. Occasionally, a LA pays HB for a tenancy in another LA area. If so, 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' (e.g. supported accommodation), so it's still HB & not a new HB or 'legacy benefit' claim.

^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 and 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 got it before UC applied. 'Old style' IR-ESA & contribution-based 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 contribution-based ESA continues as long as its payable. Also, if CB-ESA runs out 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. This is based on advice from CPAG. 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 also stop. So claim HB on nil income but of course, may be told to claim UC instead.

^{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).