

Changes and “natural migration” to UC

(adapted from the original by kind permission of Newcastle City Welfare Rights and Money Advice Service)

‘Full Service’ Universal Credit (UC) has now been 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 who was on ‘legacy benefits’ already, when their area became ‘full service’?** If they have a change in circumstances which would have previously involved a claim for a ‘legacy benefit’, they will normally have to claim UC instead and their legacy benefits will stop. The DWP call this a ‘natural migration.’ Some exceptions apply e.g.

⇒ The general UC Full Service bar on claiming ‘legacy benefits’ does **not** apply where the claimant (or an older partner until 15th May 2019) is **of Pension Credit age** (65 rising to 66 by Oct 2020). After 15th May, **both** must be of PC age.

⇒ the **Two child policy** bar preventing most people with 3 or more children claiming Universal Credit ended on 01.02.19. A change, now means that the policy will within UC in the same way as tax credits i.e based on a date of birth after 06.04.17, and not the date of claim for UC as had been originally intended.

⇒ from 16th January 2019, someone getting a **severe disability premium** within any legacy benefit, will no longer be able to claim UC and will claim legacy benefits instead, if there is a change, until contacted by DWP re a “managed migration”. # denotes that the SDP Gateway will apply, barring natural migrations to UC

This table, then lists some examples of common situations and whether they require a claim to UC or not. If a switch to UC is not actually required, there is usually a choice to claim UC if wanted. The table is followed by further explanation and notes

Change in your circumstances	What could happen before UC?	What happens in a Full Service UC area?
Change in employment status		
On ‘legacy benefit’ - e.g. Ib-JSA and HB - and start work, but under 16 hours	‘Legacy benefits’ adjusted	Choice - stay on ‘legacy benefit’ or claim UC # if better off. See ‘Swapping’
No children (and so no CTC) and start or increase work to enough hours for WTC	New tax credits claim for WTC See note ¹	Claim UC - but you may be better off not claiming and adjusting HB get advice
On CTC only & start work to satisfy WTC hours	Request WTC to be added to your tax credits (NB this is not a new claim)	As its not a new claim ² , no requirement to claim UC. So it’s a Choice as above. See also ‘change in family circumstances’ below
On WTC and hours fall below 16 for a long time or job ends	Claim IS / Ib-JSA	Claim UC #
On WTC and increase hours	Stay on WTC	See Choice above
On WTC and becomes sick	Count as a worker for WTC for first 28 weeks. Then claim Ir-ESA	Count as a worker for WTC for first 28 weeks. Then claim UC #
On Ir-ESA doing permitted work and extra hours, earnings or other reasons mean this is no longer “permitted work”	Potential claim for Working Tax Credit	Claim UC * . But not if an SDP # NB: you may want to avoid coming off permitted work as you may be worse off. See note ³)
Change in Family Circumstances		
On a legacy benefit, but not on WTC & becomes responsible for a first child	Claim CTC as part of a new tax credits claim	Claim UC #
On WTC, becomes responsible for a first child	Remain on tax credits and have CTC be added to claim	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 *#

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Change in your circumstances	What could happen before UC ?	What happens in a Full Service UC area ?
Becoming single or one of a couple. If it means a new claim to a “legacy benefit” ⁴ , claim UC e.g. :		
Couple on Tax Credits 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 own legacy benefit	Claimant remains on Ir-ESA (but see ‘choice’), ex-partner claims UC #
Lone parent on e.g. Income Support and Child Tax Credit becomes a couple	Claim e.g. Ib-JSA or Ir-ESA and make new CTC 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 (PC) qualifying age	Choice: Claim Pension Credit (PC) or a “legacy benefit”	Claim PC while you still can. After 15th May 2019 a new claims would have to be UC - much worse off ⁵
Carers		
If a Carer’s Allowance claim and not on IS, JSA or ESA already	Claim the relevant benefit ‘legacy benefit(s)’ e.g. IS (for carers)	Claim UC # - but not if staying with an existing IS, Ib-JSA or Ir-ESA claim
New claim for CA when already on a legacy benefit	Adjust other benefits for any CA received and a carers premium	Choice - Get advice before a UC claim #
On IS and stops being a carer	Unless another reason to be on IS, claim Ib-JSA	Claim UC# - unless another reason to be on IS or getting an SDP
Tax Credits		
Tax Credit renewal	Remain on tax credits	See Choice on previous page
On TC and change does not need a claim for a new ‘legacy benefit’ e.g. less income	Remain on tax credits	See Choice on previous page
Sickness - see also under “Change in employment status” above		
On Ib-JSA and becomes sick	Switch to Ir-ESA	Claim UC #
On Ir-ESA and fails Work Capability Assessment (WCA) i.e. is found not to have “limited capability for work” ⁶ (NB if appeal is about which ESA group, then remain on ESA until the appeal)	Claim Ib-JSA during mandatory reconsideration, then back to Ir-ESA pending appeal	Choice: Claim UC # during MR period but will then stay on UC; or • find other ways through MR, then return to Ir-ESA pending appeal. See note ⁷ ; or • if getting an SDP # cannot claim UC, so can still claim JSA during MR and return to Ir-ESA
Moving home / taking up a tenancy		
HB claimant moves into ‘full service’ area (in a different Local Authority) ⁸	New claim for HB	Claim UC (but if in “specified” or temp. accommodation, rent stays with HB ⁹)
HB claimant moves into ‘full service’ area (within same Local Authority)	Existing HB claim is adjusted for new address	See Choice on previous page and see note ⁶
On legacy benefits - but not HB - and takes up a tenancy for first the time	Claim HB	Claim UC * #
<i>Continued on next page...</i>		

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Change in your circumstances	What could happen before UC ?	What happens in a Full Service UC area ?
<i>Other changes</i>		
On IB-JSA and attends court / jury service	Claim IS - after 8 weeks	Claim UC #- after 8 weeks ¹¹
On IB-JSA and remanded in custody	Claim IS. HB may continue for a bit	Possibly claim UC# but seek advice ¹²
On IS and ceases full time education	Claim Ib-JSA unless other reason to continue on IS	Claim UC # unless other reason to continue on IS
Income or capital goes over threshold / capital limit	May come off “legacy benefits” Possible claim for tax credits (which has no capital limits)	If come off legacy benefits you cannot then reclaim it. Claim UC * # (if can meet UC income / capital rules)
On Contribution-based JSA or Contributory ESA and believes entitled to Ib-JSA or Ir-ESA	Claim Ib-JSA or add in Ir-ESA (fully backdate-able)	If already on ‘old style’ ESA / JSA before UC applied for, you can request Ir-ESA/Ib-JSA as a top up. If not, it’s a new claim for “New Style” ESA and claim UC * # ¹⁴
Receives a benefit sanction	Receives reduced/cut ‘legacy benefit’. Claim hardship payment, check HB.	‘Legacy benefits’ continue, unless a new claim to e.g. HB has to be made, then claim UC *# ¹⁵

Further explanations of UC “triggers”

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](#).

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

Those on ‘legacy benefits’ in a ‘full service’ area usually just **choose** to claim UC without a change in circumstances (unless the SDP Gateway applies from 16.01.19). 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. Consider, not just how things are now, but with any potential changes ahead

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. Consider next legacy payment date to to minimise 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 SDP Gateway ¹⁶
- In ‘full service’ areas, someone cannot also be entitled to a ‘legacy benefit’ should s/he consequently claim & get UC * ¹⁷
- For ‘full service’ areas, a claim for UC or a new claim for JSA or ESA can trigger abolition of Ir-ESA / Ib-JSA ¹⁸

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’. However, from 16.01.19 one common cause of a drop - loss of SDP - is prevented as can only claim UC via a protected “managed migration”. And uniquely—compensation will be offered to those who have lost out

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. There will be a small pilot from July 2019, but the main managed migration is now due to occur from Nov 2020 to Dec 2023.

Footnotes and sources for these tables of potential UC triggers

1. The principle is that if on a 'legacy benefit' & a change does not mean a new claim for a 'legacy benefit', then you stay remain on the 'legacy benefit'.
2. 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 and now claiming the other e.g. a WTC claimant having a child. However, a single TC claimant becoming a couple means a cessation of that person's single person claim & 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 then attempts to make **new** IS/IB-JSA/IR-ESA claims, that would necessitate a claim for UC & terminate those benefits (unless an SDP applies).
3. 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.
4. As footnote 2 above
5. A Commencement Order now makes this change from 15th May 2019. Until then there is a choice to claim UC or PC. In some circumstances the younger person can claim 'legacy benefits'
6. Meaning 'not sick' / fails the 'limited capability for work test'.
7. 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 this 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. From 16.01.19, claimants with an SDP cannot claim UC either during MR or pending appeal .
8. 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.
9. 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.
10. 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.
 11. 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
 12. 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.
 13. For example, being 29 weeks or more pregnant or lone parent with youngest child under certain age
 14. This depends on whether it's 'old style' or 'new style' ESA & JSA. You are on 'old style' ESA if you got it before Full Service 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 contributory ESA in a Full Service UC area, that is 'new style' ESA. You cannot then request IR-ESA, but claim UC instead. "old style" Contributory ESA continues as long as its payable. Also, if C-ESA runs out after a year, entitlement & the claim now 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.
 15. Always check HB is paid. If JSA is stopped rather than sanctioned, HB may also stop. If you can continue HB claim on nil income before it is terminated you can do so. If not UC.
 16. 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.
 17. 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).
 18. 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).⁹ 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.

Sources and further information

All these examples are from various sources such as the DWP and CPAG. More information can be found on the DWP web pages Universal Credit and Universal Credit guides, from CPAG and Disability Rights UK and on the Newcastle City Council Universal Credit web page. The Revenuebenefits webpage provides useful information on this area including moves between 'live service' and 'full service' areas, which is not covered here.

The original document—which with kind permission is adapted for the Big Book is periodically updated and available at:
https://www.newcastle.gov.uk/sites/default/files/wwwfileroot/benefits-and-council-tax/welfare-rights-and-money-advice/what_triggers_a_claim_for_universal_credit_in_a_full_service_area_0.pdf