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Housing costs in Universal Credit

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Summary

Universal Credit (UC) is replacing six 'legacy' benefits and tax credits, including Housing Benefit for working-aged households. This paper explains the key changes to housing support under the new benefit, considers evidence of their impact to date, and the Government response.

The Welfare Reform Act 2012 and associated regulations provide for the replacement of several benefits, including Housing Benefit, with a single monthly payment of Universal Credit (UC).

Detailed provisions setting out how housing costs are calculated under UC are set out in The Universal Credit Regulations 2013, SI 2013/376.

What does not change?

The calculation of entitlement to assistance with rent payments in Universal Credit is similar to the Housing Benefit system it replaces.

In short, a 'housing costs element' for social sector tenants is based upon their actual housing costs minus any under-occupancy deduction where the tenants live in housing that is deemed to be too large for their needs. For private sector tenants, the element is the lower of actual rent or the Local Housing Allowance (LHA), a maximum based on local rental prices.

Many of the highest profile changes to housing support since 2010 have applied to both Universal Credit and Housing Benefit. For example, changes to the maximum support available in the private rental sector and the under-occupation deduction factor into the calculation of both.

This paper focusses on the significant differences between the two systems.

What does change?

Universal Credit takes responsibility for administering housing support away from local authorities and places it with the Department for Work and Pensions (DWP). Claims are made online to the DWP, instead of by sending a form to the local authority.

The default position is that UC is paid direct to claimants as a single monthly sum – so claimants are responsible for ensuring that the housing cost element is paid to the landlord to cover the rent due. This involves a

behavioural change for most tenants of social landlords. Alternative Payment Arrangements and budgeting assistance may be available in certain circumstances where claimants struggle to adapt. In addition, the minimum wait before first Universal Credit payment is 5 weeks from the point the person's claim begins, generally longer than the wait for Housing Benefit.

Beyond these major differences in administration and design, which have been the subject of significant public debate, there are also a series of smaller rule changes affecting claimants in particular.

Debate and government responses

Universal Credit is already the main way in which working age households access support with housing costs through the benefits system. In February 2021, there were 2.91 million households getting a housing cost element in their Universal Credit, considerably more than the 1.77 million working-age Housing Benefit recipients. As a result, much of the debate around Universal Credit includes the changes made to the ways both forms of housing support have been calculated since 2010. These, and the debate around them, are covered in detain in our in our August 2021 briefing paper on The rent safety net: changes since 2010.

However, since Universal Credit rollout began in 2013, there have been significant concerns about how differences in the design and administration of Universal Credit compared to legacy benefits have impacted claimants. In particular, campaigning groups, MPs and select committees have pointed to evidence of hardship and rent arrears associated the wait for a first payment and other changes to the way benefits are paid.

The Government has responded to these concerns with a series of measures designed to support claimants during the wait for a first payment. For example, payment timeline was improved, claimants were provided with greater support to make claims, and more financial support was made available in the form of repayable advances and 'run-ons' of legacy benefits.

The use of 'Alternative Payment Arrangements' (APAs) allowing payments to be made direct to landlords and more frequently than monthly, has also increased in recent years. Devolved administrations have gone further. In Scotland, claimants can choose to have their housing costs element paid to their landlord. In Northern Ireland this is the default.

The impact of these design changes, and the government responses to concerns, are covered in detail in our July 2021 briefing paper on Universal Credit: Ten years of changes to benefit claims and payments.

Despite the Government response, stakeholders in the housing sector, and parliamentarians, remain concerned about the impact of Universal Credit, and continue to argue for changes to benefit design, as well as how the housing costs element is calculated.

1 Introduction

What is Universal Credit?

Universal Credit (UC) is a means-tested benefit which is in the process of replacing six existing benefits and tax credits for working-age households. It is available to those who are in work but on low incomes, as well as those who are unemployed or whose capability for work is limited by sickness or disability. It was introduced by the Coalition Government from 2013 in order to simplify and streamline the benefits system, improve incentives for work, tackle poverty, and reduce fraud and error.

The Welfare Reform Act 2012, and associated regulations, provide for the new benefit.

Universal Credit has been available in every part of the UK since December 2018 and is now the only option for any working-age individual or family wishing to apply for a means-tested benefit. In February 2021, just over 5 million households were claiming Universal Credit, compared to 3.2 million for the benefits it is replacing. [1]

The DWP originally envisaged that Universal Credit would fully replace legacy benefits for all claimants by 2017, but the rollout timetable has been pushed back several times.

Currently, only people who make new claims or existing claimants whose circumstances change have to claim Universal Credit. In order to complete caseload rollout, the Department has always planned a 'managed migration' phase where existing legacy benefit would be transferred to the new benefit. However, the DWP has suspended the 'Move to Universal Credit' pilot it was conducting owing to the coronavirus outbreak. The intention is to restart the pilot "as early as possible", but no date has been set. [2]

Despite the suspension of the pilot, the Government says that full caseload rollout of Universal Credit – when everyone who would have claimed legacy benefits has moved over – is still expected to be completed by the end of 2024. [3]

1 For up-to-date rollout statistics see Commons Library Data Dashboard, Constituency data: Universal Credit rollout

2 See Letter from Thérèse Coffey, Secretary of State for Work And Pensions, to Stephen Timms, Chair of the Work and Pensions Committee, 27 May 2021

3 Work and Pension Committee, Oral evidence: The work of the Secretary of State for Work and Pensions, 7 July 2021, HC 514, Q34

Housing costs in Universal Credit

Detailed provisions setting out how housing costs are calculated under UC are contained in Regulations 25 and 26 together with Schedules 1-5 of the Universal Credit Regulations 2013, SI 2013/376.

Instead of claiming multiple separate benefits to cover different costs as happened under the legacy system, Universal Credit claimants apply for one benefit which includes a basic amount, but also additional 'elements'. These are extra amounts for those who are unable to work on account of disability or ill health, households with children and childcare costs, as well as those other caring responsibilities. The focus of this paper is the 'housing costs element', which supports claimants in rental accommodation with housing costs.

With some significant differences explored in section 2, the housing costs element in Universal Credit is calculated in a broadly similar way to Housing Benefit.

Briefly, where a claimant is liable to pay rent, their level of assistance is calculated with reference to their household size and circumstances, in addition to the actual rent level charged, but is calculated differently depending on tenure type:

- Support for housing costs for social sector tenants is based upon their actual housing costs minus any under-occupancy deduction where the tenants live in housing that is deemed to be too large for their needs. [4]
- For private sector tenants, support is the lower of actual rent or the Local Housing Allowance (LHA). LHA is a flat rate allowance for different sizes of properties within a local 'Broad Rental Market Area' (BRMA).

A separate system of loans, Support for Mortgage Interest, is available to eligible homeowners who claim Universal Credit or legacy benefits. [5]

However, the new benefit transforms the way that benefits are administered, claimed and paid, so the experience of being on each benefit can be quite different. Section 2 of this paper highlights some of the main changes between the two systems.

In addition, since 2010 there have been a series of changes which have applied to both Housing Benefit entitlement and the housing costs element in Universal Credit. These have included national caps on LHA entitlement,

[4] See Under-occupying social housing: Housing Benefit entitlement, Commons Library Briefing Paper SN6272, 1 November 2019

[5] See Support for Mortgage Interest (SMI) scheme, Commons Library Briefing Paper SN06618, 5 April 2018

calculating LHA based on the 30th percentile of market rents, the benefits freeze, the size criteria in social rented housing and the household benefit cap. Each of these is explored in detail in our briefing paper on The rent safety net: changes since 2010.

There are several online guides which cover how entitlement to UC is calculated, e.g. GOV.UK. The DWP has published Universal Credit and rented housing: guide for landlords (updated 13 May 2020) and has brought information for landlords together on a website: Universal Credit and landlords.

2 Differences between Housing Benefit and the Universal Credit housing costs element

The following sections highlight the key differences between the Housing Benefit system and the calculation of assistance with housing costs under UC.

2.1 Administration

Housing Benefit is a national benefit which is administered by local authorities. UC is administered by the Department for Work and Pensions (DWP) through an online platform. Local authorities continue to have responsibility for the administration of Discretionary Housing Payments. [6]

As Universal Credit replaces Housing Benefit, social landlords need to add relationships with the DWP to their existing relationships with local authority Housing Benefit sections.

2.2 Online claims

Housing Benefit claims were made by filling in application forms and sending them to local authorities, [7] although people claiming other legacy benefits such as Jobseeker's Allowance would often also fill out applications forms at the same time and have those sent to their local authority.

Universal Credit aims to end excessive form-filling, high administration costs, and the scope for error in legacy benefits through the introduction of a single online claim. Through a single application process, it is determined whether a claimant is eligible and whether they are entitled to additional support for housing, children, caring responsibilities, disability and ill health.

This has not been controversial in principle. As Universal Credit was being introduced, however, claimants and advocacy groups pointed to problems faced by those who cannot access the internet or struggle to use it. As

6 These are discretionary payments to Housing Benefit claimants who experience a shortfall between their benefit and contractual rent payment.

7 For people of pension age who can still claim Housing Benefit, this remains the case.

rollout got underway, there were also criticisms of the application process itself. These issues resulted in a significant proportion of new UC claims not being paid in full and on time. Adaptations to the claim-making process from 2017 onwards brought about improvements in payment timeliness, and the Government commissioned Citizens Advice and Citizens Advice Scotland to deliver 'Help to Claim' from April 2019, assisting people to make applications.

These issues are covered in detail in section 3 of the Commons Library briefing Universal Credit: Ten years of changes to benefit claims and payments, 16 July 2021.

2.3 Paying claimants, not landlords, by default

Council tenants who qualify for assistance currently receive their Housing Benefit as a rent rebate, their rent accounts are adjusted accordingly. Housing associations, the other main providers of social housing, cannot require the direct payment of tenants' Housing Benefit entitlement to the landlord but most of their tenants opt for this method of payment.

Since April 2008, most claimants living in private rented accommodation have had assistance with housing costs paid directly to them.

Under UC, the housing component is usually paid direct to all tenants by default. This was designed to smooth transitions between claiming benefits and being in work, and "encourage people to manage their own budget in the same way as other households."[8] The policy brings the social housing sector in line with the private rented sector:

> (b) The Government's intention is to pay universal credit to the claimant in the majority of cases. The Government believes that this policy will replicate the budgeting skills that people will need when working and will help to break the cycle of welfare dependency that is a feature of the current benefit system.[9]

Direct payment of the housing element of Universal Credit to social housing tenants is controversial. There is concern that it results in increased rent arrears and impacts on landlords' revenue streams. Private landlords, who have experienced direct payment of LHA to claimants since April 2008, have long campaigned for tenants to be given a choice over whether their housing costs are paid direct to the landlord or not. There is evidence that private landlords are increasingly unwilling to let to claimants who are fully or partially reliant on LHA to meet their housing costs.[10]

[8] DWP, Universal Credit: welfare that works, 11 November 2010, Cm 7957, p20
[9] HC Deb 10 October 2011 c255W
[10] See Library paper SN07008: Can private landlords refuse to let to Housing Benefit claimants?

Payment arrangements are not the same across the whole of the UK. Claimants in Scotland can choose to receive their UC payments twice a month and for their landlord to receive the housing element directly as part of the Scottish Government's 'Scottish Choices' programme. [11] In addition to these choices, Alternative Payment Arrangements (see below) are also available in the same way as in England and Wales.

In Northern Ireland, twice-monthly payments and direct payments to landlords are the default, and evidence suggests very few claimants have opted out. [12] See section 2.20 below for more details about different approaches in Scotland and Northern Ireland.

Alternative Payment Arrangements

Regulation 58 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013, SI 2013/380 provides for Alternative Payment Arrangements (APAs) under UC – this enables direct payment of all or some of a claimant's UC to a third party (such as a landlord) in certain circumstances.

Significant preparatory work was put into the development of APAs during the early development of Universal Credit. For example, the DWP ran six small-scale demonstration projects which operated from June 2012 to the end of 2013. The projects tested different elements of direct payments:

> ...including testing different trigger points when social landlords should receive direct payments if tenants fall into specified levels of arrears. The projects will also inform how best to communicate the changes to claimants, provide assistance with budgeting to successfully pay their rent, and support claimants and landlords experiencing financial difficulties. [13]

Detailed background information on direct payments to social landlords, including information on the results of the early demonstration projects, can be found in the Commons Library briefing Paying Housing Benefit direct to tenants in social rented housing, 10 February 2014.

The current version of the guidance on Alternative Payment Arrangements was updated in May 2020. Some of the safeguards the DWP has developed to mitigate potential risks to tenancies and landlords' income streams resemble current arrangements within Housing Benefit for claimants living in the private rented sector. For example, it is possible to pay the rent to

[11] For background see Scottish Government, Universal Credit Scottish choices: evaluation, 4 March 2021

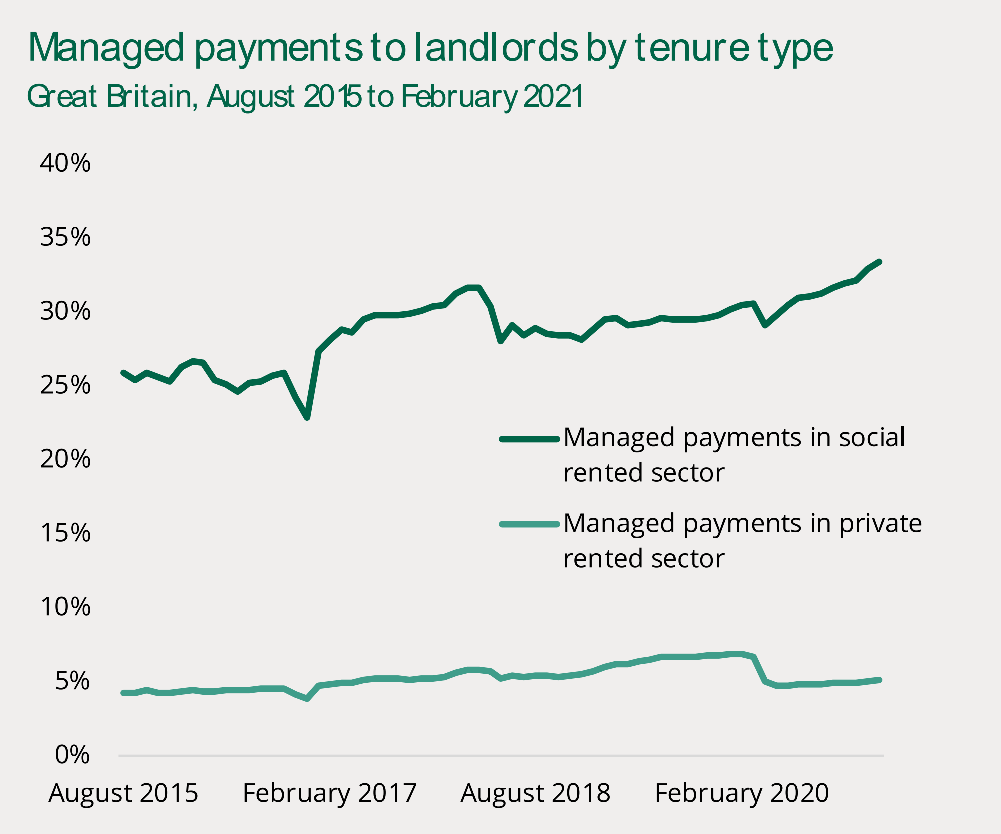
[12] Letter from Anne McCleary, Director of Social Security Policy & Legislation at the Department for Communities, to Stuart Ramsey, Second Clerk of the Work and Pensions Committee, 13 August 2019

[13] DWP Press Release, 19 January 2012

landlords on behalf of claimants in arrears. Personal budgeting advice is available for claimants who struggle to manage their finances.

From the Autumn of 2017, the Landlord Portal and Trusted Partner Scheme for social landlords was rolled out allowing, among other things, social landlords to verify housing costs when applications are made, and request managed payments.

Managed payments to landlords have long been more common in the social rented sector than the private sector. The proportion of social tenants claiming UC who have direct payments has risen from one in four to one in three between August 2015 and February 2021. Until the beginning of the coronavirus crisis, the proportion of private tenants with direct payments rose from around 4% to around 7%, before falling back to about 5% during the pandemic.



Source: DWP Stat-Xplore

Note: this data excludes claimants who do not get a housing costs element.

On 11 January 2019, the then Secretary of State, Amber Rudd, acknowledged issues with APAs for tenants of private landlords and said:

> One third of UC claimants in social rented housing have their rent paid directly to their landlord. But in the private sector, that number is only 5%.

> People in the private rented sector already face a far higher risk of losing their tenancy, and I know from talking to claimants and landlords that the current system isn't working for some of them.
>
> So we need to make it easier for tenants in the private sector to find and keep a good home, by giving landlords greater certainty that their rent will be paid.
>
> Therefore, I have asked the Department to build an online system for private landlords, so they can request (where necessary) for their tenant's rent to be paid directly to them. And I will consider what else we can do, because I am determined to help keep people in their homes. [14]

The DWP introduced an online service allowing private and social landlords to apply for direct rent payments in May 2020 in certain circumstances where the DWP considers it necessary, such as where the claimant is in significant rent arrears. [15]

The DWP has faced frequent calls to expand access to APAs or adopt the approaches to payment flexibility taken in other parts of the UK (see below), allowing claimants to choose. In response to such a recommendation by the Lords Economic Affairs Committee, [16] the Government rejected the idea, reiterating the argument that both monthly household payments and the requirement for claimants to pay rent themselves engenders financial responsibility:

> UC encourages all claimants to take responsibility for their own financial affairs and helps them to develop the financial capability to do so. Therefore, households are expected to manage their own budgets, unless this risks financial harm to themselves and/or their family. By default, as the Committee knows, UC is paid monthly, mirroring how the majority of the working population are paid. However, where it is identified that a claimant is finding it difficult to budget monthly, they can have their UC paid more frequently, for example: twice monthly or, exceptionally, four times a month.
>
> Our guidance to Work Coaches is already clear that where claimants may struggle with budgeting or debt, financial guidance and/or debt advice should be offered, and APAs should be considered. Each claimant will have a named Work Coach with whom a trusted relationship can be forged. This localised approach allows for

[14] DWP, Universal Credit: Personal Welfare, 11 January 2019

[15] DWP, Alternative Payment Arrangements, 13 May 2020, para 2

[16] House of Lords Economic Affairs Committee, Universal Credit isn't working: proposals for reform, 31 July 2020, HL 105, p20

> appropriate support, which can be delivered by the Department or its partners, to be tailored to the needs of the individual claimant. [17]

2.4 Monthly payments in arrears & the 'five week wait'

Universal Credit is paid in arrears, after a month-long period where income is assessed to calculate the award, and a seven-day processing period. Awards are almost always delivered as a single household payment combining multiple elements designed to contribute to different needs – including housing. By contrast, different legacy benefits such as Housing Benefit are paid at different frequencies – weekly, fortnightly, every four weeks, or monthly.

Monthly payment in arrears does not necessarily 'fit' with social landlords' rent account systems. For example, some landlords take rental payments weekly, or at other frequencies which Housing benefit often also be paid at. It is not unusual for social landlords to operate rent a rent-free period for tenants over Christmas. The guidance for landlords advises:

> If rent is charged over fewer than 52 weeks, the monthly payment will be worked out based on the number of weeks rent is charged.
>
> For example, if rent is payable 48 weeks of the year, Universal Credit will be calculated as weekly rent multiplied by 48 and divided by 12.
>
> Tenants should be made aware of any rent free weeks they may be entitled to so that they can notify DWP, this will help to avoid confusion and ensure payments are accurate. [18]

In certain circumstances, Universal Credit claimants are able to access more frequent payments and split payments. [19]

Another consequence of the monthly payment design of Universal Credit is that claimants have a five-week wait before they can first be paid. Before February 2018, there were an additional seven 'waiting days' after the claim was made, before the first assessment period began. [20]

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[17] Work and Pensions Committee, Universal Credit: the wait for a first payment: Government Response to the Committee's Third Report, 12 January 2021, HC1117, p3

[18] DWP, Universal Credit and rented housing: guide for landlords, 13 May 2020, para 6.4

[19] DWP, Alternative Payment Arrangements, 13 May 2020, paras 3 and 4

[20] These waiting days were removed in the Autumn Budget 2017

Particularly in the early stages of Universal Credit rollout, many claimants were waiting for longer than the normal (then) six weeks due to payment delays. Since that time payment timeliness – the proportion of claimants paid on time and in full - has improved. At the beginning of 2017, just 55% of new Universal Credit claims were paid in full and on time. By 2020, this was closer to nine in ten, [21] a figure that improved even as the DWP processed an unprecedented number of new claims during the early months of the Coronavirus crisis. [22]

The wait for the first payment in Universal Credit has long been controversial and has been cited as a cause of rent arrears, among other hardships. These issues and the Government response to them is explored in detail in section 4 of the Commons Library briefing Universal Credit: Ten years of changes to benefit claims and payments, 16 July 2021.

Interim/advance payments

As noted above, Housing Benefit can be paid more frequently than monthly, and therefore, earlier after a claim is made. In addition, regulation 93 of the Housing Benefit Regulations 2006, SI 2006/213 (as amended) requires that a local authority must make an interim HB payment to a claimant if all necessary information has been supplied and the authority has not determined the claim within 14 days, ensuring that a payment will be made in most cases even if claims are not processed in time.

When commenting on the draft Universal Credit Regulations, the Social Security Advisory Committee (SSAC) sought clarification over whether there would be an equivalent provision to these interim payments. The Government provided the following response:

> We are not making an equivalent provision to the existing rule in connection with Housing Benefit. In circumstances where we are not able to verify all elements of a claimant's Universal Credit award, an advance of benefit may be payable in the interim. This advance would then be recovered in full once the award becomes payable. Any under payments paid to the claimant as soon as is practical and overpayments recovered through usual deduction processes.
>
> We could also make an award of Universal Credit in respect of decided elements even where other elements remain undecided. So, for instance, we could make an award of Universal Credit that

[21] Source: DWP Stat-Xplore

[22] See Section 2 of Coronavirus: Universal Credit during the crisis, Commons Library Briefing Paper CBP-8999, 15 January 2021

> does not include an amount in respect of housing costs where a question around rent liability remains to be decided. [23]

Therefore, if claimants are paid on time, or late, and don't have money to pay rent and other essentials, they must rely on a repayable advance payment. In response to concerns about claimants struggling with the wait for a first payment, available advances have been expanded from 50% to 100% of the estimated entitlement, and repayment periods have been extended from six to 24 months. [24]

Deductions to recover advances

Advance payments have to be repaid, either through direct deductions from benefit awards over the subsequent months, or through a separate arrangement if a household is no longer claiming Universal Credit.

Deductions were introduced in the benefits system in the 1970s, originally in response to fuel supply disconnections due to arrears. Over time deduction rules expanded to include other items such as housing costs, rent arrears and Council Tax debt, as well as social obligations such as court fines and child maintenance. In addition to third party deductions and social obligations, the Government can recover money owed benefit overpayments, Social Fund loans and advance payments.

Parliamentarians and welfare rights organisations have expressed concern that the frequency and level of deductions causes hardship for claimants to a greater degree that deductions in legacy benefits Universal Credit is replacing. For Universal Credit claimants with a payment due during February 2021, 45% had a deduction and 5.1% of the total amount paid was deducted. They repayment of advances is the most significant part of this story – almost half of the total amount deducted was taken to repay advance payments. [25]

In response, the Government has lowered the cap on the amount that can be deducted from 40% to 25% of the Universal Credit standard allowance, and increased repayment periods for advance payments made from April 2021 to 24 months.

Universal Credit deduction rules, their impact, and the Government response to concerns is covered in detail in section 6 of the Commons Library briefing Universal Credit: Ten years of changes to benefit claims and payments, 16 July 2021.

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[23] SSAC, Universal Credit and related regulations consultation: DWP response to technical comments and policy points, 1 December 2012

[24] For further detail see section 4 of Universal Credit: Ten years of changes to benefit claims and payments, Commons Library Briefing Paper CBP-9109, 16 July 2021

[25] PQ 16144 15 June 2021

Housing Benefit 'run on'

Another response to concerns about the wait for first payments, was the introduction of 'run-ons' of certain legacy benefits, which allow those benefits to continue to be paid for two weeks after Universal Credit is claimed. The first of these was Housing Benefit run on, announced on 23 November 2017 and introduces in April 2018. Announcing the change the then Secretary of State for Work and Pensions, David Gauke, said:

> From April, for new claimants already receiving support towards their housing costs, we will provide an additional payment of two weeks of their housing benefit to support them as they transition to universal credit, helping to address the issue of rent arrears for those who most need it. That is a well-targeted measure that will support 2.3 million people, including the most vulnerable, with an unrecoverable automatic payment worth an average of £233 each. This is a one-off investment of £550 million to ensure that universal credit supports those who need it. [26]

This was achieved by The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018.

From July 2020, two-week run-ons of Income Support, income-based Jobseeker's Allowance and income-related Employment and Support Allowance were introduced for households moving over from those benefits.

2.5 Payment based on the end of the assessment period – mid-assessment moves

As noted above, Universal Credit is assessed and paid monthly. If a person's circumstances change within that month, a 'whole month' approach to the change of circumstance is adopted. Under this model, the housing element of the UC award, is calculated to reflect the claimant's circumstances at the end of their assessment period. The DWP has described how this works:

> To do this, we treat all changes as applying from the beginning of the assessment month in which they take place (if reported in the assessment period within which they occurred). The award for that month is therefore wholly at the new rate, net of all changes in the period.
>
> The award under this approach will therefore reflect the claimant's circumstances at the point of payment, and will better anticipate their needs over the forthcoming month – the period for which we would expect them to use this money to budget and pay for living

[26] HC Deb 23 November 2017 cc1200-02

> expenses. This balances the requirement that UC be a benefit paid in arrears with the need to reflect as accurately as possible the circumstances a claimant will be in for the month ahead.
>
> This rule applies to all elements of UC including housing costs. If the claimant moves address part way through the Assessment Period, we pay the claimant the costs of the property they are in at the end of the month. [27]

The DWP described this approach as "more straightforward for claimants to understand as they will be able to anticipate how much UC they will receive so they can budget accordingly." As an explanatory memorandum to the Social Security Advisory Committee explained, they contrast to legacy benefits where "changes of circumstance which affect an award commonly take effect from the start of the benefit week in which the change occurs, is reported or the date from which we are notified of the change." [28]

It is possible that a mid-assessment period move could leave a claimant with zero entitlement to the housing element of UC at the end of the month. For example, if they move into their parent's home where they would be treated as ineligible for the housing element, thus there would be no payment to cover rent due before the move. The whole month approach can also be positive for people who have a change increasing their award, who will receive a full month of any new higher entitlement, even if the change of circumstance occurs late in their assessment period.

2.6 Payment on a 52-week year

The National Housing Federation (NHF) has pressed the Government for amendments to the Regulations to allow Universal Credit to cover a whole year's rent for tenants with weekly tenancies where there are 53 rent payment days in a year. [29] The Government's initial response was to advise landlords to move to a monthly rent payment cycle. [30] On 12 February 2019, the Government said it was considering whether the formulation around weekly rents should be amended:

> No year contains 53 weeks. This perceived issue arises where a landlord charges rent weekly on a Monday and, because of the way the calendar falls every 5 or 6 years, seeks 53 rent payments in a

[27] Response provided by a DWP official following an inquiry from the House of Commons Library.

[28] DWP, Explanatory Memorandum for the Social Security Advisory Committee on the Decision Making and Appeals Regulations for Universal Credit, Personal Independence Payment, Jobseekers Allowance (Contributory) and Employment and Support Allowance (Contributory), 13 June 2012

[29] NHF, Technical advice note, 20 December 2018

[30] PQ 195091 29 November 2018

> year, with the 53rd payment in part covering the tenancy for the first few days of the following year.
>
> Universal Credit is paid on a monthly cycle. Where a tenant has a weekly rental liability, they will have to make either 4 or 5 rent payments in any one month. This means that claimants are 'overpaid' by UC in months where they have to make four rental payments and 'underpaid' where they make five. But over time this broadly balances itself out. It is impossible to accurately align weekly and monthly payment cycles at all points in time.
>
> Where a tenant makes a 53rd weekly rent payment on the last Monday of the 2019/20 year, only two days of that payment relates to a liability falling within that year (i.e. payment covering Monday and Tuesday of that week as Wednesday falls in the new year). Thus, five days of that payment is an advance payment for the following month and that month has only four Mondays and hence four rent payments. The combination of the advance rent payment and the 'overpayment' in April 2020 means that the shortfall is immediately recovered.
>
> There is a separate issue with respect to the way the calculation in the Universal Credit regulations converts a weekly liability into a monthly allowance. The conversion is achieved by multiplying the weekly rent by 52 and then dividing by 12. This effectively means one day's rent a year (two days in a leap years) are not covered by UC. We are currently considering whether this formulation around weekly rents, and potentially other weekly amounts in the UC calculation, should be amended. [31]

This issue was picked up by the Work and Pensions Committee. Correspondence on the matter between the former Chair of the Committee and the then Secretary of State, Amber Rudd, can be found on the Committee's webpage. [32]

2.7 Incentivising regular payments

The Universal Credit (Approved Tenant Incentive Scheme) (Amendment) Regulations 2017, SI 2017/427 were introduced to facilitate a scheme proposed by a housing association in East Lothian. The association wanted to reward tenants who paid their rent by direct debit or standing order, and who engaged in the digital roll-out of UC, by offering a rent reduction. In the absence of the Regulations, the rent discount would have been clawed back through a reduction in the tenant's benefit award. The Regulations allow for

[31] PQ HL13222 29 12 February 2019

[32] Work and Pensions Select Committee: Universal Credit: rent losses to claimants and landlords not a "problem of perception", 7 May 2019

social landlords to devise these schemes, but each subsequent proposal must secure the Secretary of State's approval prior to implementation.

The explanatory memorandum to the regulations justifies the changes noting that Universal Credit is "intended to encourage claimants to take responsibility for managing their own finances and to engage via a digital platform where appropriate." [33] The Regulations were considered by the Social Security Advisory Committee on 8 March 2017.

2.8 Size criteria

Reductions in Housing Benefit can apply to claimants where they live in a property that is deemed to be too large for their needs. [34] A similar set of rules exists for the Universal Credit housing costs element. For more on the under-occupation reduction see the Library briefing Under-occupying social housing: Housing Benefit entitlement.

Overnight care

An exemption operates so that an additional bedroom is allowed where a disabled person, or someone with a long-term health condition, has a proven need for overnight care and it is provided by a non-resident carer. This exemption was introduced for claimants in the private rented sector in April 2011 by an amendment to the Housing Benefit Regulations 2006. It also applies to claimants in the social rented sector from April 2013.

Under UC a more restrictive definition of people requiring overnight care applies. It is possible for claimants to have a spare room for an overnight carer and not suffer a Housing Benefit reduction if they do not receive Attendance Allowance (AA) or Disability Living Allowance (DLA) if the authority is satisfied that overnight care is needed and is provided by someone who does not live with the claimant. Under UC the exemption only applies if the claimant or the person receiving the care (the claimant's partner/child/non-dependant) is in receipt of DLA (middle or highest rate), AA or the daily living component of the Personal Independence Payment (PIP).

Temporary protection

Where the tenant could previously afford the rent and has not claimed Housing Benefit in the last 52 weeks the size criteria does not apply for 13

[33] Explanatory memorandum to The Universal Credit (Tenant Incentive Scheme) Amendment Regulations 2017, SI 2017/427

[34] For working-age claimants in social rented housing under-occupation reductions have applied since 1 April 2013.

weeks. Housing Benefit will cover their full rent temporarily. Under Universal Credit the size criteria applies immediately. [35]

Temporary absences

Under Universal Credit, the rules for temporary absences are more restrictive than in Housing Benefit. The following rules on temporary absences from the home apply:

- a child (or young person aged 16-19) will be considered as occupying a bedroom for the first six months that they are in care or in prison, or outside Great Britain (depending on circumstances).
- non-dependants will be considered to be still occupying a bedroom during travel outside Great Britain for up to six months, during a prison sentence that is expected to or has reached no more than six months, or for any other temporary absence of up to six months.

The SSAC questioned the changes to eligibility for assistance with housing costs during a temporary absence:

> Temporary Absences (regs 3(6) & 4(7)): reducing the period of temporary absences from 52 weeks to 26 weeks may cause some difficulties for a claimant whose partner or child is, for example, in hospital or respite care. Although the partner would be eligible to claim as a single person, the loss of support with respect of a child could jeopardise ongoing contact with them if they were at a distance and travel costs were high.

The Government responded:

> Universal Credit clarifies and aligns a disparate mix of temporary absence rules in the current income-related benefits. DWP believes that introducing a standard 26 week rule for temporary absence is broadly fair. Where there are clear rules, there will always be people who fall on the wrong side of the line but we do not expect that this change will cause significant problems in practice. [36]

Death

Where a member of the household dies, resulting in under-occupation, Housing Benefit entitlement is not reduced for a period of 52 weeks. Under UC this period is reduced to 3 months.

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[35] This policy change is explained, and criticised, in Shelter, Briefing: 13 Week Protection, September 2013

[36] DWP, Universal Credit and related regulations: Response to SSAC technical comments and policy points, 1 December 2012

Lodgers

Under UC no room is allowed for a lodger but any income from lodgers is disregarded in full. Under Housing Benefit, a room *is* allowed for a lodger but any income received is taken into account aside from the first £20.

Amendments to the UC Regulations

The UC Regulations have been amended to take account of several court cases which established that certain disabled people may be entitled to an additional bedroom. For example, disabled children and adults who cannot share a bedroom because of a disability. For more information see Library briefing paper Under-occupying social housing: Housing Benefit entitlement.

2.9 Non-dependant deductions

A non-dependant is someone who normally lives with the Housing Benefit claimant such as an adult son, daughter, relative or friend. There are seven separate rates at which a deduction is made from the claimant's Housing Benefit entitlement irrespective of whether the non-dependant actually makes this payment. These rates vary by income (of the non-dependant) – under 25s on benefit are exempt. [37]

Under UC, one flat-rate Housing Cost Contribution (HCC) of £75.53 per month is deducted from a claimant's entitlement [38] - all under-21s are exempt from the HCC. Some working non-dependants benefit from the flat-rate contribution compared to the varying scale in Housing Benefit, while others on benefit and with lower incomes – particularly younger people aged 21-25 (who receive a lower rate of UC) may struggle. As Universal Credit regulations were being debated, the National Housing Federation (NHF) argued that the single rate of deduction would "cause hardship within households where the non-dependant is on benefit but not exempt." [39]

There are also exemptions (as there are under Housing Benefit) for non-dependants who are in receipt of or entitled to receive the care component of DLA at the middle or highest rate, AA or the daily living component of PIP, carer's allowance, as well as prisoners and those responsible for a child under 5.

Tenants registered as blind and anyone in receipt of, or, entitled to receive the care component of DLA at the middle or highest rate, AA or the daily living component of PIP do not face an HCC deduction.

[37] DWP, Benefit and pension rates 2021 to 2022, 8 July 2021

[38] This is the rate in the 2021/22 financial year – see DWP, Benefit and pension rates 2021 to 2022, 8 July 2021

[39] NHF Briefing: Universal Credit Regulations, December 2012

The flat-rate HCC deduction is made from the claimant's housing cost element after other deductions e.g. in respect of any under-occupation, have been made.

Under Housing Benefit full-time students are exempt from non-dependant deductions but they are not exempt from the HCC under UC.

2.10 Temporary and other absences from home

Going abroad

From 28 July 2016, the Government amended the rules on claiming Housing Benefit while absent from Great Britain to limit entitlement to 4 weeks "to align with the allowable period in other benefits, including Universal Credit" Which has an allowable absence of one month. [40] Prior to this, Housing Benefit could be claimed for up to 13 weeks. It is possible to receive the housing costs element for a longer period in certain circumstances, such as where the absence is caused by certain bereavements or a claimant is abroad to get medical treatment. [41]

Other absences

Claimants may continue to receive the housing element of UC for six months where they are in prison and are not expected to be absent from their home for longer than that period. [42] This is less generous than under Housing Benefit where prisoners in custody waiting for a trial or sentencing, or who have to stay away from home (for example, in a bail or probation hostel) as a condition of bail, may get Housing Benefit for up to 52 weeks. Housing Benefit can also be received for up to 13 weeks if a claimant is sentenced to prison, if the total time spent in prison is likely to be 13 weeks or less, including any time spent on remand. The NHF pointed out: "delays in the court process mean that people who may be subsequently found not guilty are sometimes held in custody for much longer than six months." [43]

The Social Security Advisory Committee commented on this issue:

> Temporary Absence of a Benefit Unit Member (Schedule 4, para 13): this provision will have an adverse impact upon remand prisoners

[40] SSAC, The Housing Benefit and State Pension Credit (Temporary Absence)(Amendment) Regulations 2016 (S.I. 2016 No. 624), July 2016
[41] See DWP, Universal Credit guidance: Going abroad v6.0, 15 April 2021
[42] See DWP, Universal Credit guidance: Prisoners v11.0, 15 April 2021
[43] NHF, Briefing: Universal Credit Regulations, December 2012

> subsequently found not guilty or who are given an outcome by the court which is other than a custodial sentence. [44]

The Government responded:

> This provision provides protection for claimants where members of the extended benefit unit are absent temporarily. In the case of remand prisoners, six months protection for the claimant is a reasonable period. [45]

Where a member of the household dies, UC continues to be paid at the same rate for up to three months. [46] This is less generous than under Housing Benefit where entitlement is not reduced for a period of 52 weeks when a member of the household dies.

2.11 Pension age changes

Claimants must be under State Pension age to be eligible to claim UC.

At the time of writing, people of pension age can still make new claims for Housing Benefit. The Welfare Reform Act 2012 legislated to abolish Housing Benefit for all claimants. [47] For Pension Credit claimants, reforms would mirror Universal Credit by introducing a Housing Credit element of State Pension Credit.

The details of how this new element would be calculated would be in regulations which have not yet been laid. [48] The Government's intention was that claimants would be entitled to "broadly the same amount of support under the Housing Credit as they would have been entitled" to by way of Housing Benefit. [49] Pension-age Housing Benefit claimants not affected by the introduction of the social sector size criteria [50] so there will be no size criteria in the assessment of the new Housing Credit Element.

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[44] SSAC, Universal Credit and related regulations consultation: DWP response to technical comments and policy points, 1 December 2012

[45] Ibid.

[46] See DWP, Universal Credit guidance: Death and bereavement v11.0, 15 April 2021

[47] Sections 33 and 34 of the Welfare Reform Act 2012

[48] DWP, Welfare Reform Act 2012 regulations, 26 March 2021

[49] Explanatory notes to schedule 4 of the Welfare Reform Act 2012, para 162

[50] See Under-occupation of social housing: Housing Benefit entitlement, Commons Library Briefing Paper SN06272, 1 November 2019

Mixed age couples

Couples where one person is over and the other under Pension Credit age will be expected to claim Universal Credit and will, therefore, be subject to relevant conditionality requirements and measures such as the social sector size criteria.

The DWP has confirmed that mixed-age couples will only be able to access pension-age income-related benefits (including, for now, Housing Benefit) when both partners have reached the qualifying age after 15 May 2019. There will be some protection for those already in receipt of Pension Credit/Housing Benefit:

> The change will not affect mixed age couples who are entitled to and claiming Pension Credit and/or pension age Housing Benefit immediately before the implementation date unless their entitlement to both those benefits subsequently ends (for example, due to a change of circumstances) and they then need to make a fresh claim. Mixed age couples in receipt of pension age Housing Benefit but not Pension Credit will still be able to make a new claim to Pension Credit after the implementation date if they need additional support with their daily living expenses, provided they are entitled to pension age Housing Benefit at the date of claim. Similarly, those in receipt of Pension Credit but not pension age Housing Benefit will be able to make a new claim for Housing Benefit after the implementation date, if they require help with rent costs. [51]

The publication, Mixed age couples: benefit impacts of ending access to Pension Credit and pension age Housing Benefit, provides information on the number of pensioners that the DWP expects to be affected.

2.12 Single people aged between 18 and 21

From April 2017 until 31 December 2018, single people (or members of a couple claiming as a single person) aged between 18 and 21 who claimed for the first time, became ineligible for the housing cost element of UC. There were a number of exceptions to this rule - the Government published detailed guidance on the exemptions in ADM Memo 6/17.

On 29 March 2018, the Government issued a Written Statement which announced that the regulations would be amended “so that all 18-21 year olds will be entitled to claim support for housing costs in UC.” [52] The

[51] DWP, Mixed age couples: benefit impacts of ending access to Pension Credit and pension age Housing Benefit, 26 April 2019

[52] HCWS611 29 March 2018

regulations were laid on 5 November 2018 [53] and the relevant provisions came into force on 31 December 2018.

2.13 Supported housing

Residents of supported 'exempt' accommodation have help with their housing costs provided separately to Universal Credit in a similar way to Housing Benefit. The Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013, SI 2013/2070 enable Universal Credit and Housing Benefit to be paid simultaneously where the claimant is in "exempt accommodation." [54]

Exempt accommodation includes a resettlement place and accommodation provided by a county council, housing association, registered charity or voluntary organisation where that body, or person acting on their behalf, provides the claimant with care, support or supervision.

Similarly, claimants living in 'specified' supported accommodation are expected to claim Housing Benefit in respect of their housing costs. In 2014 the DWP introduced a new category of "specified accommodation" [55] to resolve concerns amongst providers of supported housing, who argued that the existing definition of exempt accommodation would not protect residents of supported housing from welfare reform policies, such as direct payments, the under-occupation deduction, and the benefit cap. The National Housing Federation published an explanatory note on the Housing Benefit and Universal Credit (Supported Housing) (Amendment) Regulations 2014, SI 2014/771 which explains the definition of specified accommodation. [56]

Having carried out extensive consultation over the future funding of supported housing, on 9 August 2018 the Government said that a decision had been made to keep Housing Benefit in place to fund supported housing. [57] There is an intention to carry out work with providers, local authorities, membership bodies and resident representatives "to develop a robust oversight regime". Ensuring quality and value for money will be key factors of this regime. A further review of housing related support will be carried out to "better understand how housing and support currently fit

[53] The Universal Credit and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 2018, SI 2018/1129

[54] See DWP Circular HB A19/2013

[55] Housing Benefit and Universal Credit (Supported Housing) (Amendment) Regulations 2014, SI 2014/771

[56] National Housing Federation, Definition for specified accommodation, 10 August 2018

[57] MHCLG, All supported housing funding to be retained in welfare system, 9 August 2018

together". [58] For more information see the Commons Library briefing Paying for supported housing, 14 August 2018.

2.14 Temporary accommodation

The Regulations define temporary accommodation as accommodation where rent payments are made to the local authority, or a provider of social housing other than the local authority, where the accommodation is being used to discharge the authority's homelessness duty or to prevent the resident becoming homeless. [59]

The Government had intended that claimants in temporary accommodation would receive housing support as part of their UC and that this would be based on the appropriate Local Housing Allowance rate for the household and would take account of household size as opposed to property size. [60]

Early experiences of local authorities with homeless households placed in temporary accommodation who claimed UC identified delays in processing claims as a problem.

On 23 November 2017, the Secretary of State announced changes to the payment of housing costs for those in temporary accommodation:

> In April, as a short-term measure, we will change how claimants in temporary accommodation receive support for their housing costs to ensure that local authorities can recover more of their costs and can therefore continue to offer this valuable support to those who need it most. We will also consider longer-term solutions. [61]

This was achieved by The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018. The explanatory memorandum to the Regulations explains the impact:

> This instrument provides that Universal Credit claimants cannot get the housing cost element whilst living in temporary accommodation and will instead be able to claim Housing Benefit for their temporary accommodation rent liability. By allowing Housing Benefit to be paid, this change reinstates the previous process which ensures that Local Authorities recover the money as before. Claimants will retain an underlying entitlement to the housing cost element during the transition from Universal Credit to Housing

[58] Ibid.

[59] Certain types of temporary accommodation where support is provided fall into the category of 'specified' accommodation – claimants in these types of temporary accommodation continue to claim Housing Benefit.

[60] HB/CTB Circular G10/2010

[61] HC Deb 23 November 2017 cc1200-02

Benefit to ensure they remain eligible to claim Discretionary Housing Payments should they require additional assistance.

This change will result in those who move in and out of temporary accommodation within an assessment period receiving more help towards their housing costs as, under current arrangements, these outgoings would not be recognised. Most other claimants in temporary accommodation are likely to receive a higher level of benefit as Housing Benefit is not restricted in temporary accommodation cases whereas in Universal Credit the Local Housing Authority cap applies. However, this increase in entitlement is notional as Local Authorities pick up the short-fall between the Local Housing Authority level and the actual cost of the accommodation for those on Universal Credit.

Except in those cases where the claimant moves on the last day of their assessment period, someone with a housing liability in Universal Credit who moves to temporary accommodation will lose up to one month's housing element at the point of transition. It is for this reason that the transitional provisions have been amended to allow for Discretionary Housing Payments in such cases.

To give an example: George receives the housing element in Universal Credit and his assessment period runs from the 1st to the 31st of the month. His tenancy ends on the 15th of the month and his Local Authority place him in temporary accommodation. Currently, George would receive one month's rent at the appropriate local housing allowance rate for that assessment period.

Under the new arrangements, Universal Credit housing costs would be switched off for that month as George has entered temporary accommodation. Housing Benefit would be payable from the 15th onwards so the claimant receives no support with housing costs for the Private Tenancy between 1st to 15th of the month. By allowing an underlying entitlement to Universal Credit, George is able to seek a Discretionary Housing Payment, should one be required, for support with this period.

However, George moves out of temporary accommodation and into mainstream accommodation on the 15th day of the following month. He would receive Housing Benefit for the first 15 days and then, at the end of that month, would receive a whole month's rent even though he has lived at his new address for only two weeks. The Housing Benefit received in that period would not be taken into account in the Universal Credit assessment. [62]

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[62] Explanatory Memorandum to The Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018, SI 2016/65

2.15 Service charges

There were initial concerns that the housing element of UC would cover far fewer types of service charge that tenants are liable to pay than under the Housing Benefit system. On 21 December 2012, the DWP published an 'exhaustive list' of eligible service charges (i.e. those charges for services that are covered by UC) and guidance for consultation up to the end of January 2013.[63] Social landlords welcomed the move but highlighted some remaining issues:

> However, housing benefit consultant Chris Smith warned there is still likely to be some uncertainty.
>
> He cited a DWP survey published in 2010 showing that more than 400 descriptions of service charges are used by landlords. He said there could be legal disputes as social landlords try to 'shoehorn' charges into one of the four headings in the guidance.
>
> According to the most recent global accounts for housing associations, service charge income is worth £870 million a year.[64]

The current version of the list of service charges covered by UC was updated in December 2019: Universal Credit service charges – guidance for landlords.

2.16 Ground rent

Ground rent is payable by long leaseholders as a condition of their lease agreement. It is possible to claim Housing Benefit to cover ground rent liability, but this is not the case under UC. This change was raised by the Social Security Advisory Committee (SSAC) when they considered the draft Universal Credit Regulations:

> Payments which are not Rent Payments (Schedule 1, para 3): this means that leaseholders will have to meet a demand for ground rent from their own resources.

The Government provided the following response:

> Provision for ground rent is excluded from support within Universal Credit. Amounts for such liabilities are generally low and it is not

[63] DWP, Universal Credit service charges – guidance for landlords, 30 December 2019
[64] Inside Housing, DWP spells out service charges eligible for benefit, 10 January 2013

> considered appropriate to include them within a simplified system. [65]

2.17 Use and occupation charges & mesne profits

The SSAC questioned the omission of use and occupation charges and mesne profits [66] from the definition of rent payments that the housing costs element of UC will cover:

> Rent Payments (Schedule 1, para 2): in the definition of 'rent payments' no provision is made for 'use and occupation charges' (the payments made by a person commonly left in the property after the death of a tenant whilst the new tenancy situation is resolved). Similarly there is no provision for mesne profits.

The Government said:

> No specific provision is being made for mesne profits in the housing element of Universal Credit as we consider that they would be more likely to appear as rent or payments for a licence or permission to occupy. In these cases legitimate housing costs are likely to be covered under Schedule 1 of the regulations. We decided not to carry forward specific provision for mesne profits as it would not be fair for the benefit system to underwrite such arrangements. [67]

2.18 Paying rent on two homes

Under UC benefit is payable on two homes if:

- liability to pay rent on two homes has arisen because of fear of violence in the accommodation normally occupied as the home. In this case, both liabilities can be paid for up to 12 months as long as there is an intention to return to the original property; [68]
- a disabled person is unable to move into a new home because it needs adaptations to make it suitable. The claimant will have to prove that the delay is reasonable. A disabled person is defined as someone in receipt of specified disability benefits (high or middle rate care component DLA,

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[65] DWP, Universal Credit and related regulations: Response to SSAC technical comments and policy points, 1 December 2012

[66] Sums of money paid for the occupation of land to a person with right of immediate occupation where no permission has been given for that occupation.

[67] DWP, Universal Credit and related regulations: Response to SSAC technical comments and policy points, 1 December 2012

[68] The original draft regulations only allowed for domestic violence.

Attendance Allowance or PIP). Benefit will be payable for up to one month.

The housing element of UC is payable for up to one month if a claimant cannot move into their accommodation immediately because they are in hospital or a care home.

An additional amount for housing costs can be paid where someone is not able to occupy their home because of essential repairs but this payment will only cover either the housing costs of the other accommodation or the accommodation which they normally occupy as their home (not both).

There is no equivalent in the UC Regulations to the four-week concession that allows Housing Benefit to be paid where there is an unavoidable overlap in liability for rent.

2.19 Overpayments of UC

Section 105 of the Welfare Reform Act 2012 provides that the Secretary of State can recover any amount of UC paid in excess of entitlement – this applies regardless of the cause of the overpayment. This represents a change from the position under Housing Benefit; for example, overpayments are generally not recoverable where the claimant can establish that the overpayment arose as a result of an official error.

2.20 Scotland & Northern Ireland

The Scottish Government has power under section 29 of the Scotland Act 2016 to make regulations in relation to the housing costs element of UC for claimants who rent their homes.

The Scottish Government said it would use this power to abolish the size criteria for claimants in social rented housing (Removal of Spare Room Subsidy/bedroom tax). There is an intention to deliver a technical fix for Universal Credit claimants in Scotland so that the under-occupation reduction is no longer applied. [69] At the time of writing, however, the policy is mitigated through the use of Discretionary Housing Payments. [70]

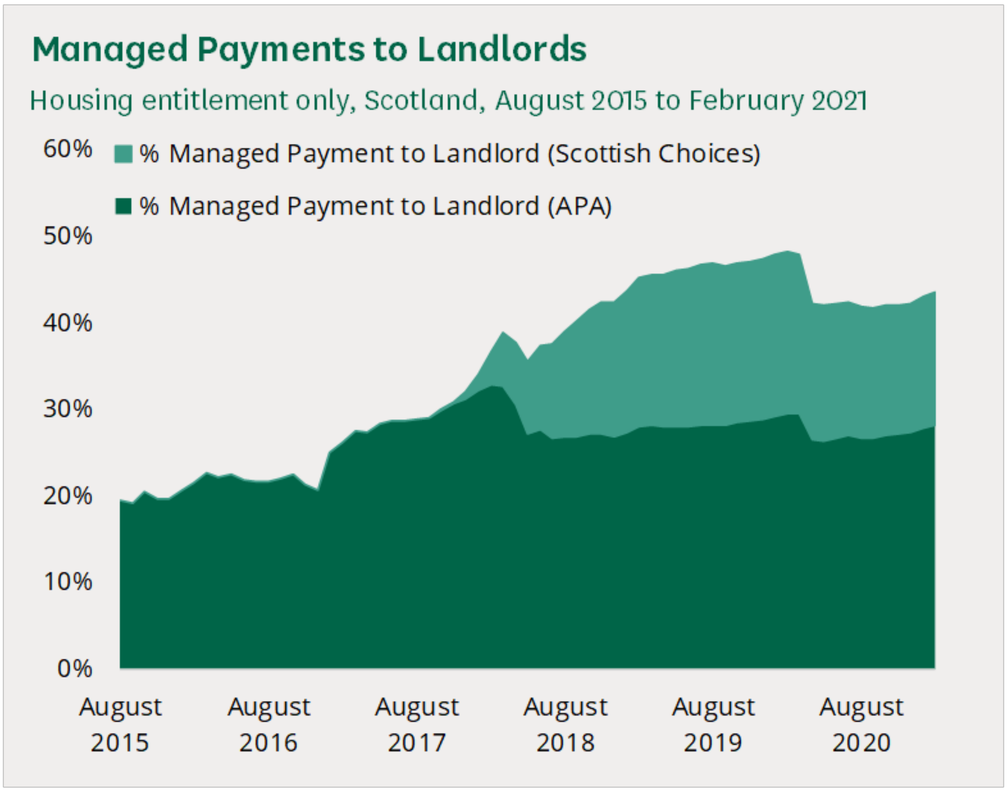
[69] Written evidence from Shirley-Anne Somerville, Cabinet Secretary for Social Security and Older People, to Pete Wishart, Chair of the Scottish Affairs Committee, 4 September 2019

[70] The Scottish Government, Housing cost support, accessed 30 July 2021

The Scottish Government also extends the Scottish Welfare Fund to assist claimants affected by the measure to limit entitlement to housing costs in UC for young people aged 18-21. [71]

UC payment arrangements are not the same across the whole of the UK. Claimants in Scotland can choose to receive their UC payments twice a month and for their landlord to receive the housing element directly as part of the Scottish Government's 'Scottish Choices' programme. [72] The Scottish Government also plans eventually to split payments of UC to couples "to increase equality within the welfare system", although DWP officials say that they have not been able to find a workable policy for delivering this. [73] In addition to these choices, Alternative Payment Arrangements are also available in the same way as in England and Wales.

The rules in Scotland have led to significantly higher take up of managed payments to landlords, with nearly half of claims including a housing costs element choosing direct payments to landlords. [74]



Source: DWP Stat-Xplore

[71] Ibid

[72] For background see Scottish Government, Universal Credit Scottish choices: evaluation, 4 March 2021

[73] Lords Economic Affairs Committee and Work and Pensions Committee, Corrected oral evidence: Reports—Universal Credit Isn't Working: Proposals for Reform, and, Universal Credit: the Wait for the First Payment, 9 March 2021, Q18

[74] Take up of more frequent payments is also higher in Scotland. See Universal Credit: Ten yours of changes to benefit claims and payments, Commons Library Briefing Paper CBP-9109, 16 July 2021.

An April 2021 Scottish Government evaluation of Scottish Choices found that both managed payments to landlords and more frequent payments had positive impacts, but "cannot overcome all the perceived problems with the Universal Credit system – in particular, they cannot address the overall level of Universal Credit payments (which falls outwith the power of the Scottish Government to change)." The study also found that awareness for Scottish Choices was low, and that there is evidence of confusion around how they work, resulting in some negative impacts. [75]

In Northern Ireland, twice monthly payments and direct payments to landlords are the default. Split payments are available on request. [76] The Permanent Secretary of the Department of Communities reported in February 2019 that the "overwhelming majority" of UC claimants in Northern Ireland receive their payments fortnightly. [77] 71% of Northern Irish households claiming Universal Credit in February 2021 had a payment made directly to their landlord. [78]

Mitigations in Northern Ireland are discussed in detail in section 5.4 of Social security powers in the UK, Commons Library Briefing Paper CBP-9048, 9 November 2020.

[75] Scottish Government, Universal Credit Scottish choices: evaluation, 4 March 2021

[76] See Social security powers in the UK, Commons Library Briefing Paper CBP-9048, 9 November 2020, Section 5.4

[77] Letter from Permanent Secretary, Department for Communities NI, to Chair of the Work and Pensions Committee, 11 February 2019

[78] Department for Communities, Universal Credit Statistics - February 2021, 26 May 2021, Table 3b

3 Impact and Government response

The Government plans for Universal Credit to replace Housing Benefit for all working age claimants by the end of 2024. Since rollout accelerated in the Autumn of 2017 Universal Credit has become the main way in which working age households access support with housing costs through the benefits system.

In February 2021, there were 2.91 million households getting a housing cost element in their Universal Credit, considerably more than the 1.77 million working-age Housing Benefit recipients. [79] As a result, much of the debate today about the future of housing support in Universal Credit includes the changes made to the ways both forms of housing support have been calculated since 2010, such as changes to the Local Housing Allowance and the under-occupation reduction. [80]

However, since Universal Credit rollout began in 2013, there have been significant concerns about how differences in the design and administration of Universal Credit compared to legacy benefits have impacted claimants. In particular, campaigning groups, MPs and select committees have pointed to evidence of hardship and rent arrears associated the wait for a first payment and changes to how Universal Credit is paid compared to Housing Benefit.

From Autumn 2017, the DWP announced a series of measures designed to help people moving onto Universal Credit. This included introducing the free helpline, [81] the 'landlord portal', [82] and Citizens Advice Help to Claim. These changes, designed to help claimants who encounter problems making and completing their claims, have improved payment timeliness and ensured that fewer claimants face longer waits. [83]

Further changes were made, including shortening the length of the wait, providing easier access to money upfront in the form of expanded advances people could get at the start of their claim, and benefit 'run-ons'. The use of 'Alternative Payment Arrangements' (APAs) allowing payments to be made direct to landlords and more frequently than monthly, has also increased in recent years. Devolved administrations have gone further. In Scotland,

[79] DWP Stat-Xplore

[80] See Under-occupying social housing: Housing Benefit entitlement, Commons Library Briefing Paper SN6272, 1 November 2019

[81] Work and Pensions Committee, Oral evidence: Universal Credit rollout, 18 October 2017, HC 336, Q72

[82] This helps people in social housing evidence their housing costs and access Alternative Payment Arrangements. See DWP, Universal Credit: Landlord Portal and Trusted Partner Scheme for social landlords, 20 November 2020

[83] See

claimants can choose to have their housing costs element paid to their landlord, and in Northern Ireland, this is the default.

Changes to housing support since 2010 and the different ways in which Universal Credit is claimed and paid are covered in detail in two recent Commons Library Briefing Papers:

- The rent safety net: changes since 2010, 17 August 2021
- Universal Credit: Ten years of changes to benefit claims and payments, 16 July 2021

The Commons Library has also compiled an extensive Universal Credit reading list (updated 4 May 2021). Section 8 provides links to a wide range of commentary on housing issues.

3.1 Current debate on Universal Credit and housing

Despite the Government response, stakeholders in the housing sector, and parliamentarians, remain concerned about the impact of Universal Credit, and continue to argue for changes to benefit design and how the housing costs element is calculated.

Universal Credit design

Despite reforms such as expanded advances and run-ons, and the increased use of APAs, commentators continue to push for further change to the design of Universal Credit.

Stakeholders in the housing sector continue to point to problems associated with the five-week wait for a fist payment, and argue that expanded repayable advances and other reforms are not adequate. For example, the Residential Landlords Association,[84] Shelter,[85] Peabody[86] and the National Housing Federation[87] have all made proposals for reforming or ending the wait for a first payment. Proposals include introducing non repayable introductory payments as well as reducing the impact of deductions made to repay advances.[88]

[84] Residential Landlords Association and the National Landlords Association, Written submission to the Lords Economic Affairs Committee inquiry into the economics of Universal Credit, 28 February 2020
[85] Shelter, Written evidence to the Work and Pensions Committee inquiry into Universal Credit: the wait for a first payment, April 2020
[86] Peabody, Understanding the impact of Universal Credit, September 2019
[87] National Housing Federation, Universal Credit in a time of crisis, 15 April 2021
[88] Extensive discussion of these issues can be found in section 4 of Universal Credit: Ten years of changes to benefit claims and payments, Commons Library Briefing Paper CBP-9109, 16 July 2021

In early 2020, the Lords Economic Affairs Committee took evidence in their inquiry into the economics of Universal Credit. The June 2020 report argued for non-repayable grants at the start of claims and for claimants to be able to choose Alternative Payment Arrangements (original emphasis):

> 96. The housing element of Universal Credit is normally paid in arrears as part of the overall monthly award. It is paid directly to the claimant who is expected to budget accordingly and make rent payments to the landlord.94 This contrasts with Housing Benefit, which for council tenants and housing association tenants is paid directly to a claimant's rent account. There is evidence of an increase in rent arrears among people claiming Universal Credit compared with those still receiving Housing Benefit. A recent quantitative study by Iain Hardie, a doctoral researcher at the University of Glasgow, found a statistically significant relationship between the rollout of Universal Credit in local authority areas across England and the increase in repossession orders from landlords.
>
> 97. In evidence, the five-week wait was cited as a significant cause of rent arrears. Peabody, a housing association, found that rent arrears increased by 28% on average after tenants claim Universal Credit.
>
> 97 Research by the National Residential Landlords Association for October–December 2019 found 79% of landlords with tenants claiming Universal Credit had experienced tenants going into rent arrears in the previous 12 months. The average amount owed by Universal Credit claimants was £3,149, compared with average debt of £1,973 for all tenants in arrears.9
>
> Alternative Payment Arrangements
>
> 98. Alternative Payment Arrangements enable the housing element of Universal Credit to be paid directly to landlords. These are intended to be used only in particular circumstances and are supposed to be temporary. For an Alternative Payment Arrangement to be made, the claimant must be two months or more behind on rent, after which the landlord can apply to have the housing element paid to them directly.
>
> 99. The National Residential Landlords Association said that the average waiting time for a direct payment to a landlord under an Alternative Payments Arrangement was eight and a half weeks. As a result, the National Residential Landlords Association said that "it is not difficult to understand why landlords are so concerned about the financial impact of [Universal Credit]."100 It said that between October and December 2018, 18% of landlords who had tenants in receipt of Universal Credit had applied for an Alternative Payment

> Arrangement. Of those, 61% had experienced delays in receiving payment.
>
> 100. In December 2019, the DWP opened a 'Landlord Portal' and 'Trusted Partner Scheme' for social landlords. Both schemes have made it easier for social landlords to share data with the DWP and identify tenants who are at risk of rent arrears. The average waiting time for an Alternative Payment Arrangement may reduce with the launch in May 2020 of a new online form, which is to be extended to private landlords as well as social landlords. According to reports, in some cases the revised system could cut the processing time down from in excess of three weeks to two hours.
>
> 101. The design of the housing element has led to increased rent arrears and left many claimants feeling vulnerable and at risk of eviction from their home. All claimants should be given the choice, at the beginning of their claim and not when significant arrears have accrued, of having an Alternative Payment Arrangement. If implemented alongside our recommendation to introduce a two-week nonrepayable grant at the beginning of a claim, this would help prevent unmanageable rent arrears and provide greater security of housing for all claimants.

The Government rejected both proposals. On non-repayable initial payments, they argued that not all claimants require advances, and that advances represent a rescheduling of payments, rather than a loan:

> Support is available for new claimants in need and they can access up to 100% of their first estimated payment urgently. This is repaid gradually from their awards over 12 months, and from October 2021 these can be repaid over 24 months.
>
> An advance is a payment of UC and the consequence being that a claimant will receive thirteen payments in a year rather than twelve. In 2021, we will give claimants the option to have twenty-five payments over twenty four months. So far in 2020, around 5 in 10 new claimant's requested an advance, the vast majority of which were issued within 72 hours. This ability to deliver money at pace to individuals is unmatched by other government schemes and was a key element of the pandemic response.
>
> Not all new claimants require nor request an upfront payment. Providing this by default to all would call into question the balance between support for those on benefits and the taxpayer as in effect the suggested two week initial grant would simply be an extra sum of money to the calculated UC amount. Furthermore, this could prove a significant fraud risk as any attempts to retrieve monies from fraudulent claims for the grant after two months would be difficult. Consequently, the Government rejects this recommendation.

> Recognising the differences between DWP legacy benefit payment schedules and UC resulting from transition, the Government has introduced another bridging payment. We introduced new 'run ons' for DWP legacy benefits from July 2020 to ease the transition from DWP legacy benefits to UC. These claimants will see a one-off gain of approximately £200 during their first assessment period. This forms part of additional government transition support worth nearly £1bn by 2023/24.

On providing claimants a choice of Alternative Payment Arrangements, they pointed to the option to request managed payments to landlords and noted the measures that have already been put in place to streamline the process:

> Managed Payments to Landlords are already available on request to any claimant from the start of, or during their claim. Such arrangements can also be requested by the landlord or DWP staff, where it is clear such an arrangement is necessary or would be beneficial. As such, the Department believes that sufficient provision is already in place to achieve the outcomes the committee has suggested. We have worked to facilitate such arrangements through the new Apply for a Direct Rent Payment site, a new online service that facilitates more streamlined interaction between the private rented sector and UC by enabling the direct payment of a claimants' rent. This replaced a previously time-intensive clerical process and enables direct payments, where appropriate, to be implemented more easily. The Department also works closely with social landlords to improve their understanding of UC processes and encourage monthly tenancies as standard. It should also be noted that payable rent can be higher than the housing element calculated, and this will vary by claimant. [89]

A full discussion of recent debate about the five week wait and monthly payments in Universal Credit can be found in the Commons Library briefing paper on Universal Credit: Ten years of changes to benefit claims and payments, 16 July 2021.

3.2 Wider changes to the level of housing support

For a decade after 2010, the levels of housing support available through the benefits system had been restricted. These policies have applied to both Housing Benefit and Universal Credit and include:

[89] Lords Economic Affairs Committee, Government response to the economic affairs committee report on the economics of Universal Credit, 13 October 2020

- Limits to the amount that claimants of housing support could get such as Local Housing Allowance changes and the under-occupation reduction.
- Restricting the entitlement of certain groups, such as most single people and couples without children under 35 who are only entitled to the 'shared accommodation rate'.
- Other limits to benefit entitlement such as the benefits cap and two child limit. [90]

By April 2020, 946 of the 1,000 Local housing Allowance rates in the UK were poised to be lower than the corresponding 30th percentile – with an average shortfall of 9.6%. This shortfall existed despite the end of the freeze and an uprating of 1.7% in line with the Consumer Price Index (CPI) which was due to be implemented from April 2020.

In March 2020, as part of the Government's coronavirus support package, the Chancellor announced that LHA rates would be reset to the 30th percentile:

> As well as keeping people in work, and supporting those who lose their jobs or work for themselves, our plan for jobs and incomes will help keep a roof over your head.
>
> I'm announcing today nearly £1bn pounds of support for renters by increasing the generosity of housing benefit and Universal Credit, so that the local housing allowance will cover at least 30% of market rents in your area. [91]

LHA caps remained in place but were upwardly revised to the equivalent of the highest outer London 30th percentile rent plus 20%, enabling LHA to provide increased coverage in every private rental market segment in Great Britain. Even after this increase, the caps still bite at a lower level than the 30th percentile for 15 of the 30 LHA rates in central and inner London.

Unlike the temporary increases to Universal Credit and Working Tax Credit, the increase to LHA is not being withdrawn. The change did not, however, restore an ongoing link between rental prices and LHA. Instead, the Government froze rates at April 2020 levels and the "assumption in the forecast is that rates will remain at these levels in future years, subject to the Secretary of State reviewing annually in the usual way." [92]

Several Stakeholders in the housing sector including Shelter and the Residential Landlord Association, have expressed concern about the new LHA freeze, as well as the removal of the temporary increases to Universal

[90] See The rent safety net: changes since 2010, Commons Library Briefing Paper SN05638, 17 August 2021

[91] HM Treasury, The Chancellor's updated statement on coronavirus, 20 March 2020

[92] HCWS600 25 November 2020

Credit. This is discussed in detail in section 6 of the Commons Library briefing paper on The rent safety net: Changes since 2010.