

1GC | Family Law

Universal Credit

Where are we now?

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Universal Credit Reform - Key Facts

- Replacing the 6 'legacy' benefits (income support, income-based job seeker's allowance, income-related employment and support allowance, housing benefit, child tax credit and working tax credit).
- Aim to simplify the benefit system with one monthly payment.
- Rolling out of the new Universal Credit from 2013 to date, area by area.
- Estimated completion date of managed migration is now December 2024.
- Principal legislation: Welfare Reform Act 2012, Part 1; Universal Credit Regulation 2013; Universal Credit (Transitional Provisions) Regulations 2014.
- Over 5.5 million recipients of Universal Credit to date. Estimated 7 million by December 2024.
- Recipients claim the standard allowance and then on top of that can claim for other financial needs, such as housing, child care. Deductions are then made from the total based on income.
- Can be claimed as a couple or individually.

Universal Credit Reform

Criticisms:

- Work allowance has been cut – the point at which deductions start is now lower than under the old system.
- Paid in arrears.
- Generally a week (at least) wait for the payment to be processed.
- Typically a reduction in the level of benefits being received when transferring from the old system to UC.
- Monthly system is difficult for those who are paid weekly or whose pay may fluctuate throughout the month.
- Issues for renters – landlords seeing tenants on UC as more risky, owing to uncertainty about getting rent on time.

Key differences

- UC can be claimed when **employed or unemployed** – must show looking for work if unemployed (subject to exceptions)
- Single **monthly payment** rather than weekly or fortnightly.
- No separate housing benefit – the rent is usually paid directly to the recipient as part of UC
- There is now a **capital limit**. Ineligible for UC if you have savings of over £16,000.
- Savings of under £6,000 are ignored.
- Savings between £6,000 - £16,000 are treated as generating income (£4.35 per month for every £250 (whether or not this is actually received)).
- **Spousal maintenance** is taken into account as **unearned income** (Reg. 66). Deductions on a pound for pound basis. (Child maintenance is still not taken into account).
- Unearned income also includes pension income, income from a trust or annuity or capital treated as income.
- All **earned income** (above the work allowance) is deducted at 63%. All unearned income is deducted pound for pound.

The Figures

Monthly Standard Allowance:

- Single and under 25 - £342.72 pcm
- Single and 25 or over - £409.89 pcm
- Couple, both under 25 - £488.59 pcm
- Couple, one or both 25 or over - £594.04 pcm

Example additional payments:

- Up to 85% of childcare costs
- £285.83pcm for the first and second child (can be claimed for the first two children only)

Work Allowance (before deductions begin)

- £292 pcm if housing assistance received
- £512 pcm if no housing assistance

Calculating Universal Credit

- At a Glance – Table 26 (Social Security Benefits)
- Butterworths
- Online calculators

- <https://benefits-calculator.turn2us.org.uk/AboutYou> * * *

- <http://www.betteroffcalculator.co.uk/>

- <https://www.entitledto.co.uk/benefits-calculator/Intro/Home?cid=9b3ff71a-3cf5-4a49-95db-8a615bb34e94>

Benefit Cap

- Applies if you receive UC or Housing Benefit;
- Benefits reduced if you receive more than the limit allows for your circumstances;
- Online calculators useful in assessing if you will hit the cap;
- May not affect UC for 9 months – the ‘grace period’;
- May not be capped if receiving UC - there are a number of exceptions including: if you receive WTC, receive UC because of a disability or because you care for someone with a disability, receive PIP or DLA payments.

Figures:

A couple, or have children, outside of London:	£384.62 per week
A couple, or have children, inside London:	£442.31 per week
Single and live outside of London:	£257.69 per week
Single and live inside London:	£296.35 per week

Issues upon separation

- Will the separation lead to a party making a new claim for UC?
- Will separate benefit claims now have to be made? Separation = a change of circumstance for the DWP. Meaning a move to the new UC system and likely reduction in benefit income per person.
- How will the financially weaker party meet their outgoings whilst waiting for the new claim to be processed and awaiting their first UC payment?
- Will separation affect the housing element of UC?
- Impact of any child arrangements on what child care assistance can be received. DWP to be informed of who has main care of the children when making separate UC claims.

Issues within FR Proceedings

- Spousal maintenance as **unearned income**: spousal maintenance unlikely an effective remedy in cases where the financially weaker party claims UC.

e.g. £500 benefits and PP of £400. Old regime would = £900. UC regime will = £500.

- Can this be solved through capital transfers? Be aware of the capital limits now in place for UC.
- Pensions? Although pension income from early retirement will also count as **unearned income** for UC purposes.
- Depends on income needs vs capital needs.

- Capital for the purposes of UC includes savings, investments, land or other property (with exceptions)
- A premises occupied as a home will be **disregarded** as capital for UC
- Business assets used mainly or wholly for trade or profession are **not** included as capital. Life insurance policies are also **not** included as capital

Issues within FR Proceedings

- Many cases involving UC being claimed are modest asset cases.
- Limited ability to look elsewhere for capital or increased spousal maintenance payment to make up for the impact of PPs on UC income.
- Will the paying spouse be able to make up for the loss of UC by sufficient PPs?
- If there is a home owned or significant pension provisions, these may be key.

Once UC has been fully rolled out:

- Variation claims once moved onto UC and benefits have reduced? Particularly in cases where spousal PPs are being received or a large lump sum had been transferred and more than £16,000 remains.
- Likely increased reliance on ex-spouses for longer, should state assistance through benefits be cut off owing to maintenance or capital caps.
- Significant impact on the most economically vulnerable.

Solutions...

- Increase in quantum of PP or capital transfer to negate the loss in UC received?
- Payments made directly to receiving party's landlord, creditors etc.?
- Global Maintenance payments?
- Increase child maintenance in place of CMS?
- Pensions?

Questions

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