

Benefits Bulletin

Managed Migration

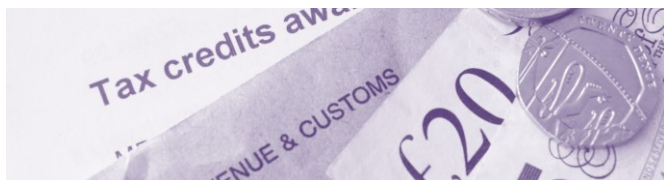
25th January 2024Issue **1** [2024]

Introduction

We now know that 'managed migration' is to be launched in Wolverhampton starting with tax credit only claimants from Monday **19th February 2024** - the original date was 4th March 2024, but things have been brought forward. Claimants of other 'legacy benefit' will then follow shortly after this.

This means that from this date we will see people who are getting 'legacy benefits' being sent 'migration notices' by the Department of Work and Pensions advising them that they need to apply for Universal Credit in place of their 'legacy benefits'.

We understand that the process will initially affect those claimants who are receiving CTC and/or WTC without any other legacy benefits. It will then be extended to those getting other 'legacy benefits' (excluding those who receive Income-related ESA or Income-related ESA and Housing Benefit without any tax credits) between April 2024 and the end of 2025.

Legacy
BenefitsManaged
MigrationUniversal
Credit

The '**legacy benefits**' are Child Tax Credit (CTC), Working Tax Credit (WTC), Income-based Jobseeker's Allowance (JSA), Income-related Employment and Support Allowance (ESA), Income Support (IS) and Housing Benefit (HB).

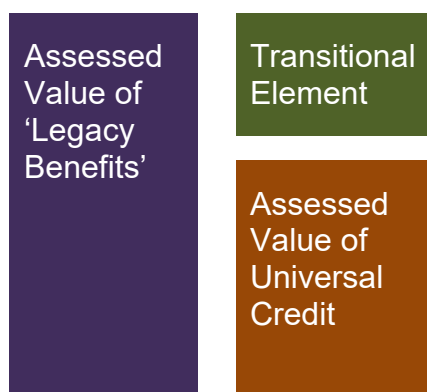


When to claim...

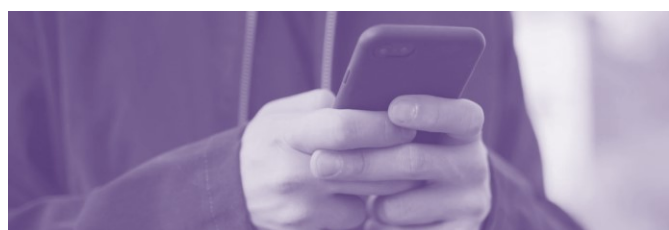
Those getting 'legacy benefits' should not seek to apply for Universal Credit until they receive a 'migration notice' unless they are required to do so under 'natural migration' or they are sure that they would be 'better off' on Universal Credit (e.g. because the value of their Universal Credit entitlement would be greater than the value of the 'legacy benefits' they are receiving).

This is most important because a person could end up losing out if they apply for Universal Credit before they receive a 'migration notice'.

This is because it is only when a person moves on to Universal Credit under 'managed migration' that the Department for Work and Pensions (DWP) will seek to bridge the gap between the value of any former 'legacy benefits' and the value of their Universal Credit entitlement (should this prove lower) by including a 'transitional element' into the calculation of their new Universal Credit entitlement.



There is no equivalent 'transitional element' allowance under 'natural migration' or for situations where a person elects to make the move onto Universal Credit voluntarily.



To be awarded transitional protection, a person should apply for Universal Credit before their 'deadline day', which will be stated on their migration notice.

Once a person applies for Universal Credit any 'legacy benefit' entitlement will normally end. However, in the case of Income-based JSA, Income-related ESA, Income Support and/or Housing Benefit this will be after a two-week run-on period.

If a person fails to apply for Universal Credit before their 'deadline day', their tax credits will stop on the day before their 'deadline day' and other legacy benefits will stop after a two-week run-on payment period similar to that described above.



Claimants will have a 'final deadline day', which is one month minus a day after their 'deadline day'. If they make a Universal Credit claim after their 'deadline day', but before their 'final deadline day', they will still be entitled to the 'transitional element' if the value of their Universal Credit is less than the value of their 'legacy benefits'.

If a person does not apply for Universal Credit by the 'final deadline day', then it does not mean that they can never apply for Universal Credit. They can apply but would be treated as a new claimant and would not ordinarily be eligible to any possible 'transitional element'.

If a person (or their partner) has poor health or a disability that may affect their ability to work, then they should make this clear when they apply for Universal Credit. In such cases the person should be assessed under the Work Capability Assessment to see if they may be assessed or treated as having 'limited capability for work' or 'limited capability for work-related activity'. This is important because it will establish what may be expected of them by way of their 'claimant commitment'.

it will govern whether they will be expected to engage in periodic meetings with a Work Coach from the local Job Centre. It will also determine whether they will be expected to look for work or more work as a condition of their claim. This is particularly important for people who get Working Tax Credits as a disabled worker.



People should be able to apply for Universal Credit [online](#) or by phone. In couple cases, both members of the couple would be expected to apply. Please see our [Information Guide 2: Universal Credit and Payments for more information](#) for what people need to do to make a claim for Universal Credit including couples.

Supported Accommodation: If a person is living in supported accommodation, then their Housing Benefit payments should not stop by reason of their application to Universal Credit. This is because people living in supported accommodation are able to claim Housing Benefit. They will not be entitled to help with their rent through Universal Credit. Please seek further information and advice as needed.



Whilst a claim for Universal Credit can be backdated for up to one month because of the way the rules operate, if someone applies for Universal Credit after the 'final deadline' and manages to get the claim backdated to a date prior to the 'final deadline', they may still not qualify for the 'transitional element'.

A claim for Universal Credit can be backdated where the person could not 'reasonably' have been expected to have made the claim earlier due to disability or poor health.

In the case of the latter, it must be the person's poor health that prevented them from claiming online or by phone and they will need medical evidence to support this.

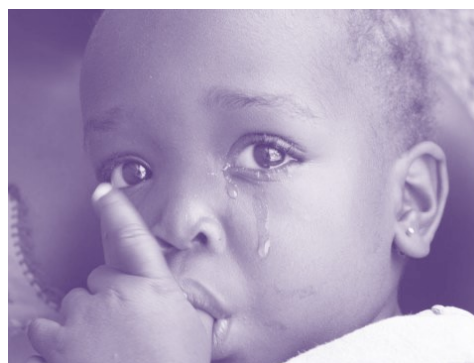
Timing...

People will have up to three months to apply for Universal Credit from the date of the 'migration notice' sent to them.

It is difficult to advise people when the best time will be for them to apply for Universal Credit. However, the common consensus appears to be that where possible people should delay claiming until after:

- 8th April, when traditionally the rates of benefits increases
- any rent increase has taken place
- any new award of Personal Independence Payment, Disability Living Allowance, Attendance Allowance has taken place
- any new award of Carer's Allowance
- completion of the Work Capability Assessment for those who have applied for Employment and Support Allowance.

If the person is receiving tax credits, then they should delay applying for Universal Credit until after they get paid.



If the person is working, then the advice is to also delay claiming until just after a payday.

The main reason for a person delaying applying for Universal Credit until after they get a tax credit payment or, if they are working, until after they are paid is because there will be a five-week period between the date when they apply for Universal Credit and when they will receive their first payment of Universal Credit.

This is all providing the person applies within the three-month window / before their 'deadline day' - the date at the end of the three-month window.

We are aware that leaflets have been sent to tax credit claimants by the DWP / HMRC (His Majesty's Revenues and Customs) advising them about the end of 'legacy benefits' and the requirement to apply for Universal Credit.



The problem is that some people have, in effect, treated this information as a 'migration notice' and applied for Universal Credit.

As a result, they have not been entitled to any possible 'transitional element' because they applied when not having been issued with a 'migration notice'.

Important: Please be aware that a 'migration notice' may be cancelled where it is in a person's 'best interests' to do so. Also, a person's 'deadline day' may be moved where there is 'good reason' for doing so. However, if a person is going to ask for their 'deadline day' to be moved they must do so before the 'deadline day' in question. It is also important to know that it is within the DWP's own power to cancel a 'migration notice' or move a 'deadline day'. The other important thing to bear in mind here is that there is no appeal right against a decision to either refuse to cancel a 'migration notice' or move a 'deadline day'.

It is understood that between 25% and 30% of tax credit claimants have not elected to claim Universal Credit following selection for 'managed migration'.

It is estimated that the average loss in income is £300 per month. It is not entirely clear why people are not claiming but some of the reasoning extends to people not wishing to:

- be subjected to the conditionality of the '[claimant commitment](#)' under which claimants of Universal Credit are expected to engage in periodic 'work-focused interviews' with a Job Centre Work Coach and look for work (or more work) and be available for work
- claim Universal Credit because they do not wish to be associated with claiming a Social Security benefit.

There is also a sense that some people are not making an application for Universal Credit because their tax credit claim was based upon fraudulent identity or income details.



One of the real dilemmas of 'managed migration' for advisers is that people will seek to rely on them for advice on when they should apply for Universal Credit and the amount (if any) of 'transitional protection' they might get.



The challenges here are compounded by the fact that many claimants are not aware of the actual make-up of benefits they are receiving nor the actual amounts in payment.

The consensus appears to be that people should seek to ensure where possible, that they are receiving their full 'legacy benefits' entitlement before they move. Then, if there is any loss of overall benefit income, for them to obtain details of how their Universal Credit entitlement (including any 'transitional element') has been calculated and then to check that the adopted assessment is correct.

Exclusions...

The DWP have announced that those getting Employment and Support Allowance without tax credits will not be expected to move on to Universal Credit until 2028/2029.

Some groups of people who are getting 'legacy benefits' should not be expected to move on to Universal Credit under 'managed migration'. This includes those who:

- are within 6 months of pension age
- are terminally ill
- have a visual impairment
- have an appointee
- would need a home visit from the DWP to make a claim.

Those who have a visual impairment should not be expected to apply for Universal Credit until such time as the 'migration notice' is in large print / Braille.



In the case of those who have an appointee or need a home visit, they should not be expected to apply for Universal Credit until the DWP has established the best way for them to apply / the best way of supporting them. The DWP are still 'designing' their 'journey'.

A person whose circumstances mean that they would have difficulty in applying for Universal Credit can ask for the DWP to cancel their 'migration notice' or for them to change the 'deadline day' by which they would otherwise be expected to apply. A request to cancel the 'migration notice' can be made at any time.



However, any request to move the 'deadline day' must be made before the actual 'deadline day'.

Wolverhampton Households: The numbers...

Constituency	Universal Credit	Legacy Benefits
North East	11,917	3,552
South East	12,982	3,614
South West	9,170	2,492
TOTAL:	34,069	9,658

This is the number as things stood in August 2023. In February 2023 the total number getting Universal Credit was 33,104 (now up 965) and the total number getting 'legacy benefits' was 11,793 9 (now down 2,135).

Statistical data as of August 2023: Please see this [LINK](#) for House of Commons Library Constituency Data on Universal Credit Rollout.

The Transitional Element...

The 'transitional element' is the amount which is included in the calculation of Universal Credit, designed to ensure that as people move over from 'legacy benefits' under 'managed migration' they are not financially worse off because the total level of their 'legacy benefits' was greater than the total amount of their Universal Credit entitlement.



There has been a great deal of concern expressed on this matter. This is because, whilst the stated aim is to ensure that people are not any worse off at the point of migration, the problem is that the method of calculation is complex and that some will invariably end up worse off.

Amongst those who could find themselves worse off are those affected by the 'benefit cap' ([Information Guide 14: The Benefit Cap](#)) and those who have been undertaking 'permitted work' whilst getting Income-related ESA.

As stated earlier the challenge in attempting to calculate any potential entitlement to a 'transitional element' is that many claimants will not necessarily be aware of the actual make-up of benefits they are receiving nor the actual amounts in payment.



In tax credit cases even if a person knows the amount of tax credits in payment to them this amount could be wrong. This is because it is only when the amount of tax credits awarded is reconciled by comparing a person's income for different tax credit years that the actual level of entitlement may be established. If someone had varying income between this year's tax year and the previous tax credit year the outcome could be that the amount they have been receiving was too great (leading to an overpayment) or too little (leading to an underpayment).

The point is that without being fully aware of a person's actual income for tax credit purposes it is not possible to say whether the amount of tax credits they are receiving is the correct amount and without this it is not possible to with any accuracy determine the level of 'transitional element' they will be entitled to.



The one thing that those who are awarded the 'transitional element' need to do is to inform themselves of how the amount can be eroded and in what circumstances entitlement to the 'transitional element' may be lost altogether.

The 'transitional element' will be 'eroded' (reduced) should their entitlement to Universal Credit be increased because, for example, they become eligible to the 'child element' because they have a child, they become entitled to the 'carer's element' because they start to care for a disabled child / person, they become eligible to the 'housing cost element' (or increase in the 'housing cost element') or they become entitled to the 'limited capability for work-related activity element' due to ill-health / disability. It will also be eroded as the amount of Universal Credit they receive increased due to any changes to the benefit rates. Changes to the 'childcare element' will not erode a person's transitional element.



The 'transitional element' will be lost altogether where, for example, the person enters into a joint claim arrangement or goes from a joint claim arrangement into claiming on their own.

Please see this [LINK](#) for more information.



Tax Credit: Overpayments

If it is considered that a person has been overpaid tax credits (Child Tax Credit and/or Working Tax Credit) then they should be sent a 'TC1131(UC)' letter notifying them of this.

When a person moves on to Universal Credit HMRC will transfer the debt on to the DWP to recover through its Debt Management team, though this team will have no information as to the circumstances which prevailed to create the overpayment.



The DWP will proceed to recover the overpayment through deductions from the ongoing Universal Credit. The amount of deduction could be as high as 25% of the standard allowance but if this level of deductions is likely to be unaffordable then the person can contact the Debt Management team on 0800 916 0647 to discuss a payment plan which they can afford.



If a person wants to obtain details about the stated overpayment in their case or they wish to dispute it, then they can contact HMRC on 0345 300 3900.

If someone has been overpaid tax credits, then they should study the [COP26](#) which outlines both which tax credit overpayments are recoverable and how people can seek to challenge an overpayment decision.

Background: Managed Migration

Since Universal Credit was first introduced the aim has been to dispose of the 'legacy benefit' system by moving those getting 'legacy benefits' on to Universal Credit.

Up until this point people have been:

- required to move on to Universal Credit from their 'legacy benefits' under a system known as 'natural migration' when they have encountered a particular change of circumstances; or
- able to voluntarily give up their 'legacy benefits' and move on to Universal Credit because, for example, they could find themselves 'better off' under Universal Credit.

However, it has always been the case that more was needed to ensure that people did not remain on 'legacy benefits' indefinitely.



The mechanism to ensure this is 'managed migration'. Under 'managed migration' any remaining 'legacy benefit' claimants will be issued with a 'migration notice' and required to apply for Universal Credit.

At this point any entitlement to previously received 'legacy benefits' will end. Should a person fail to apply then their 'legacy benefits' entitlement will end anyway.

Receiving the first Universal Credit payment

Once the person has made their application to Universal Credit (and completed the required verification stages of identity and income), they will have to wait one month plus 7 days before they will receive their first payment.

For some the 'two-week run-on' will help them bridge the financial gap between claim and first payday.

However, if a person is in financial need during the intervening period, then they can seek to apply for an 'advanced payment' of Universal Credit through their Universal Credit Journal, local Job Centre (Work Coach) or the Universal Credit Contact Centre (Telephone: 0800 328 5644).

An 'advance payment' is in effect a loan that will be recovered from the person's future Universal Credit payments.



Rent Direct / DHP

If a person is getting their Housing Benefit paid directly to their landlord, then this will end when they apply for Universal Credit. This is because any financial support towards their housing costs will instead be included in their Universal Credit payments.

However, if the person remains in rent arrears or will likely experience problems paying their rent perhaps because of e.g. substance or alcohol dependency, then an application for a 'Alternative Payment Arrangement' (APA) (see this [LINK](#)) should be considered.



If a person qualifies for an APA, then this will result in their Universal Credit housing costs being paid direct to their landlord plus, where rent arrears are present, an amount towards repaying any rent arrears.

If a person has been getting a Discretionary Housing Payment (DHP) whilst getting Housing Benefit, then these will end should their Housing Benefit end when they apply for Universal Credit. Should this happen then they should contact the council and explain that they have moved on to Universal Credit and would like the council to consider continuing this support.

If a person is receiving help through Housing Benefit for an additional bedroom, such as for an overnight carer or because their disabilities mean they and their partner cannot share a bedroom, this will not automatically transfer to Universal Credit.

When they make their Universal Credit claim, they will need to send a message via their journal asking for their 'housing costs element' to cover the second bedroom and may need to supply evidence to support this.

Please see [Benefits Bulletin Managed Migration](#) (18th September 2023 - Issue 6 [2023]) and [Universal Credit: A Quick Guide to Managed Migration](#) (1st August 2023) for more information about 'managed migration'.

Welfare Rights Service
Specialist Support Team
City of Wolverhampton Council
WRS@wolverhampton.gov.uk