

# Benefits Bulletin

# Benefits Update...

5<sup>th</sup> February 2024

Issue **2** [2024]

## 1. Introduction

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1.1: This Benefits Bulletin brings news on the key Social Security benefit related changes that have recently taken place or that are up coming. It includes information on the:

- new revised rollout date for 'managed migration' in Wolverhampton
- case law developments affecting the benefit rights of EEA Nationals
- latest Cost of Living Payment
- new Local Housing Allowance rates
- planned benefit and tax credit rates
- War Widows Recognition Payment Scheme
- special compensation payments for sick and disabled people who have claimed Income Support over Income-related ESA.

1.2: It also includes news on the increased level of the payments to be paid to people who have been getting the Severe Disability Premium and who move on to Universal Credit under 'natural migration'. Finally, we highlight the **Thursday 8<sup>th</sup> February 2024** deadline for historic claims for Windowed Parents Allowance / Bereavement Support Payment.

## 2. Managed Migration...

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2.1: We now know that 'managed migration' is being rolled out in Wolverhampton from **Monday 19<sup>th</sup> February 2024** starting with tax credit only claimants - that is to say people receiving Child Tax Credit and/or Working Tax Credit without getting any other 'legacy benefits'. It is then expected that people receiving other 'legacy benefits' will be required to apply for Universal Credit at some point shortly after this.

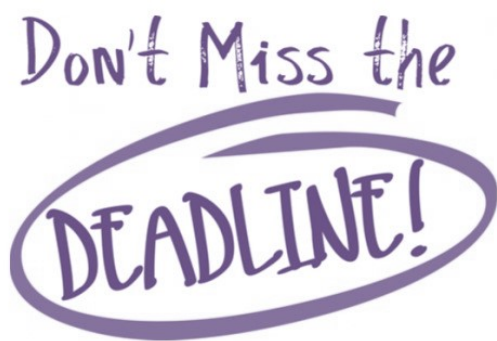


2.2: If someone receives a 'migration notice' then they will have three months in which to apply for Universal Credit.

## [Apply for Universal Credit](#)

A person may apply for Universal Credit online via this link.

2.3: It is difficult to advise when it is precisely the best time for someone to apply for Universal Credit, but the consensus is that people should, whilst seeking to apply within their three-month time limit, apply after they get paid if they are working / after they get a payment of their tax credits if they are in receipt of tax credits.



2.4: This is because they will not get their first Universal Credit payment until 5 weeks after they make their application. If someone has not got the funds to support themselves until their first payday they can apply for an [Advance Payment](#) - a form of Universal Credit loan to help them make ends meet until they get paid.

2.5: Those worried about just how much Universal Credit they will receive should know that in some cases (i.e. those who have been getting Income-related ESA and assessed as having 'limited capability for work' and 'limited capability for work-related activity'), people may find themselves 'better off'. Furthermore, built within the migration rules is a system designed to make sure that people are no worse off.

2.6: The rollout of 'managed migration' should not impact on those getting Income-related ESA, with or without any other 'legacy benefits, but without any tax credits, straightaway. This is because the DWP have decided not to expect these people to move on to Universal Credit under 'managed migration' until 2028/2029 at the earliest.

2.7: If a person will have problems applying for Universal Credit online, then they should contact the Universal Credit Migration Notice Helpline (0800 169 0328) which is open Monday to Friday between 8.00 am to 6.00 pm. They should be allowed to apply by phone.

2.8: It is important that people apply within the three-month time limit. If they fail to do so then their 'legacy benefits' entitlement will end and they will have no 'legacy benefits' or Universal Credit to help them meet the cost of their day-to-day living expenses.



If a person would need help to apply for Universal Credit, then they may contact the Citizens Advice Help to Claim service who will assist them.

2.9: A person should at the very least, study the information provided through the 'Apply for Universal Credit' link. This is because it explains what information is needed to apply.

2.10: If a person will have problems claiming within their three-month time limit, then it is important that they contact the Universal Credit Migration Notice Helpline.

2.11: This is because the DWP can extend the time limit for applying if a person has a 'good reason' for not being able to apply in time.



2.12: Please see this [LINK](#) for more information on Citizens Advice Help to Claim service.

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).

2.13: Please see our [Benefits Bulletin: Issue 1 \[2024\] Managed Migration](#) (25<sup>th</sup> January 2024) for more information.

## 3. EEA Nationals: Dignity...

3.1: The Court of Appeal in [SSWP v AT \[2023\] EWCA Civ 1307](#) (8<sup>th</sup> November 2023) has dismissed the Department for Work and Pensions (DWP) appeal against the decision of the Upper Tribunal in [SSWP v AT - \[2022\] - UKUT 330 \(AAC\)](#) (12<sup>th</sup> December 2022).



3.2: At roughly this point last year we reported in great detail the findings of the Upper Tribunal decision in [Benefits Bulletin: Issue 1 \[2023\] EEA Nationals and Benefits](#) (29<sup>th</sup> January 2023).

3.3: Put simply, the Upper Tribunal had ruled that an EEA National living in the United Kingdom with PRE-SETTLED STATUS should be able to have access to Universal Credit even if they did not have a 'qualifying right of residence' (because e.g. they were not a 'worker' or 'self-employed person' or family member of such a person) if, as a result of having no income (or a very limited income) there would be a risk of violation of their human dignity, respect for family life and/or their overall well-being.

3.4: The ruling by the Upper Tribunal was extremely important because it broadens the circumstances in which those with PRE-SETTLED STATUS may have access to Universal Credit. The same argument exists in the case of Pension Credit and EEA Nationals who have reached state pension age.

3.5: The DWP are now contesting the Court of Appeal judgement to the Supreme Court.



3.6: The fact that the DWP are appealing means that it has scope to stockpile / stay such claims (including the determination of any mandatory reconsideration requests) until the appeal to the Supreme Court is determined.

3.7: If this should take place in a particular case then please note that the [DWP Suspension and Termination](#) (dated 27.4.2015) guidance provides:

*"4053: ... If the claimant is suffering hardship, a determination on the substantive benefit issue should be made, and any payments due from that award must then be made."* [Our emphasis]

3.8: It is not known when the Supreme Court will examine the appeal by the DWP, but it seems clear that this post-Brexit saga is not going to be resolved anytime soon. In the meantime, we will seek to update you on any key developments.



3.9: Please see CPAG article '[A guide to Dignity?](#)' (CPAG Welfare Rights Bulletin 297 - December 2023) and our [Benefits Bulletin 1 \[2023\]: EEA Nationals and Benefits](#) (29<sup>th</sup> January 2023) for further information.

## 4. Cost of Living Payment...

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4.1: The Department for Work and Pensions (DWP) have announced that the next Cost of Living Payment will be for £299.00 and will be paid to those eligible between 6<sup>th</sup> February 2024 and 22<sup>nd</sup> February 2024.

4.2: To be eligible a person must have been entitled to a 'qualifying benefit' (see below) at some point between 13<sup>th</sup> November 2023 to 12<sup>th</sup> December 2023.

4.3: By 'qualifying benefit' we mean:

- Universal Credit
- Pension Credit
- Income-based Jobseeker's Allowance
- Income-related Employment and Support Allowance
- Income Support
- Child Tax Credit
- Working Tax Credit.

4.4: The Cost of Living Payment will be paid automatically and separate to any other benefit / tax credit payments. It should show in a person's account as 'DWP COL' or in the case of those getting a tax credit as 'HMRC COLS'.



4.5: A person may also qualify if they were not actually entitled to a 'qualifying benefit' between the period 13<sup>th</sup> November 2023 to 12<sup>th</sup> December 2023 but are later found to be entitled to a payment of a 'qualifying benefit' during the relevant period.

4.6: This could be the case where a person has become retrospectively entitled to a 'qualifying benefit' during the relevant period following a backdated claim, successful mandatory reconsideration or successful appeal.

4.7: Please see this [LINK](#) for further details.

## 5. Local Housing Allowance...

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5.1: In [Benefits Bulletin: Issue 7 \[2023\] Autumn Statement](#) (29<sup>th</sup> November 2023) we reported the DWP's announcement to increase the level of Local Housing Allowance to the 30<sup>th</sup> percentile of local market rents from April 2024.

5.2: We can now confirm that the DWP have reported (9<sup>th</sup> January 2024) that, based upon this, the new Local Housing Allowance levels for Wolverhampton will be as follows:

- Shared Room Rate is set to increase from £60.18 per week to £73.64 per week and from £261.50 per month to £319.98 per month
- 1 Bedroom Rate is set to increase from £91.83 per week to £113.92 per week and from £398.98 per month to £495.01 per month
- 2 Bedroom Rate is set to increase from £117.37 per week to £143.84 per week and from £510.00 per month to £625.02 per month
- 3 Bedroom Rate is set to increase from £136.93 per week to £172.60 per week and from £594.99 per month to £749.99 per month





- 4 Bedroom Rate is set to increase from £172.60 per week to £212.88 per week and from £749.99 per month to £925.01 per month.

5.3: However, do note that the above amounts are indicative levels only - what the DWP predict the rates will be. Therefore, when the final figures are set, the eventual amounts could be higher or lower than those stated.

5.4: Please see this [LINK](#) for further details.

## 6. New Benefits Uprating...

6.1: The new proposed benefit and tax credit rates for 2024/2025 (which will become payable from April 2024) have been announced.

- DWP Benefits: See this [LINK](#)
- HMRC Benefits: See this [LINK](#)

6.2: According to the proposed levels the basic rate of Pension Credit will be increasing as follows:

- Single pensioner: from 201.05 per week to £218.15 per week
- Couple pensioner: from £306.85 per week to £332.95 per week.



6.3: At the same time the basic rate of Universal Credit for those aged 25 or over will increase for single claimants from £368.74 per month to £393.45 per month and for couples from £578.82 per month to £617.60 per month.

6.4: The rate of Child Benefit will increase for the Eldest Child from £24.00 per week to £25.60 per week and for each other child from £15.90 per week to £16.95 per week.

6.5: We will update and circulate our [WRS Benefits Rates Booklet](#) and [WRS Benefit Rates Quick Guide](#) once we have confirmation of the actual levels. Watch this space.

## 7. Disabled Claimants... Win in High Court...

7.1: New rules ([The Universal Credit \(Transitional Provisions\) \(Amendment\) Regulations 2023](#)) which will be introduced from **14<sup>th</sup> February 2024** will seek to further ensure that disabled claimants who are getting 'legacy benefits' (see below) and who need to make the move on to Universal Credit under 'natural migration' (not 'managed migration'), do not disproportionately lose out financially over those who are required to apply for Universal Credit under 'managed migration'.

7.2: In [Benefits Bulletin: Issue 1 \[2021\] SDP Gateway](#) we reported how in consequence of a challenge to the rules in the High Court the Department for Work and Pensions (DWP) introduced a new 'SDP transitional protection element' (now known as the 'Transitional SDP Element') to compensate those who were getting the 'Severe Disability Premium' (SDP) within their 'legacy benefits' and who were required to move on to Universal Credit under the 'natural migration' rules.



7.3: The High Court had ruled that it was unlawful to inflict such a loss of benefit income on those getting the SDP under 'natural migration' because there was no reasonable justification for doing so.

7.4: However, whilst the 'Transitional SDP Element' aided the claimants who brought the legal challenge, it did not fully address the financial loss incurred by the move on to Universal Credit. This is because it failed to provide any compensation for the loss of the 'Enhanced Disability Premium' (EDP) which they also received.

7.5: When the issue of this lost income was examined by the High Court it was similarly held that to expect people to incur such a loss / to have no transitional protection equivalent to that offered to those moving on the Universal Credit under 'managed migration', was unlawful.

7.6: The new rules will mean that from 14<sup>th</sup> February 2024 those who have been receiving the 'Transitional SDP Element' or who are entitled to it by reason of being in entitled to the SDP before moving on to Universal Credit under 'natural migration', can receive the following additional payments:

- £84.00 per month (single people) / £120.00 per month (couples) where they were entitled to an award of Income-related ESA, Income-based JSA or Income Support that included a 'enhanced disability premium'
- £172 per month (single person) / £246.00 per month (couple) where they were entitled to an award of Income-based JSA or Income Support that included a 'disability premium'
- £177.00 per month where they were entitled to an award of Income-based JSA or Income Support that included a 'disabled child premium'
- £177.00 per month where they were entitled to an award of Child Tax Credit that included the 'disabled child element' (for a disabled child or young person) but not the 'severely disabled child element' (for a severely disabled child or young person).

7.7: To be eligible the person must have been receiving the relevant benefit premium / Child Tax Credit element at some point within the month immediately preceding the first day of their award to Universal Credit.

7.8: It must also be the case that the person continues to satisfy the conditions for the relevant benefit premium / Child Tax Credit element up to and including the first day of their award of Universal Credit.

7.9: The Regulations indicate that these rules also apply to people who were receiving the 'Transitional SDP Element' but who are no longer receiving it because it has been 'eroded' (reduced) due to other new elements being added to their UC claim.

**Note 1:** Whilst these payments should be included in the Universal Credit awards of new (i.e. from 14<sup>th</sup> February 2024) claims, it seems that those already receiving the 'Transitional SDP Element' may have to wait a while. The rules provide that the DWP have yet to decide the 'time and manner' in which these payments will be retrospectively applied.

**Note 2:** The rules surrounding the 'Transitional SDP Element' do not apply to those who were receiving Housing Benefit.

**Note 3:** The reason why Child Tax Credit claimants who get the 'severely disabled child element' (for a severely disabled child or young person) may not qualify for a payment is likely to be because the extra amount you get for a severely disabled child under Child Tax Credit is broadly the same as under Universal Credit. Whereas there is a big difference between the amounts awarded for a 'disabled child' under Child Tax Credit (£325.41 per month) compared to Universal Credit (£146.31 per month).

**Note 4:** These new payments may only be awarded to those who qualified for the SDP before being required to apply for Universal Credit under 'natural migration'. It is clear that other groups of disabled claimants or claimants with disabled children who received extra 'legacy benefit' payments, will also fare poorly under Universal Credit. We will seek to bring you news of any legal challenges concerning such groups or new rules designed to compensate them.



**Note 5:** The key reason why those receiving 'legacy benefits' can financially lose out when applying for Universal Credit under 'natural migration' as opposed to 'managed migration', is because outside of the 'Transitional SDP Element' there is no mechanism to bridge the gap between the value of their former 'legacy benefits' and new Universal Credit. This is not the case under 'managed migration' where claimants can qualify for a 'transitional element' to buffer the difference between the two amounts. Put simply, the High Court found that it was not reasonable nor lawful to treat the two sets of people (those moving on to Universal Credit under 'natural migration' vs those moving on to Universal Credit under 'managed migration') differently.

7.10: When the introduction of Universal Credit was first announced (see [Universal Credit: welfare that works - November 2010](#)), it was stated that "13. *No-one will experience a reduction in the benefit they are receiving as a result of the introduction of Universal Credit. At the point of transition onto the new system, those households whose circumstances remain unchanged and who would otherwise experience a reduction in income will receive cash protection*". It is clear that this has not proven to be the case.

7.11: See this [LINK](#) for details of the legal challenge undertaken in this instance. Posted on 21<sup>st</sup> January 2022.

## 8. Bereavement Deadline...

In [Benefits Bulletin 2 \[2023\]: Bereavement Benefits](#) (4<sup>th</sup> September 2023) we reported How the Department for Work and Pensions (DWP) had extended the eligibility to Widowed Parent's Allowance and Bereavement Support Payment to cohabiting parents. Previously only parents who were married or in a civil partnership had been able to claim.

In introducing the new rules, the DWP gave people a 12-month window in which they could seek to backdate their claims in full. That window is due to close on 8<sup>th</sup> February 2024.

People may seek to apply after this date, but the level of backdating will be limited. It is therefore advisable that people act quickly.

The following provides a guide to who may be affected:

**Widowed Parent's Allowance (WPA):** A person should investigate matters further / apply in circumstances where they were born after 30<sup>th</sup> August 1953 and their cohabiting partner died after 8<sup>th</sup> April 2001 and before 6<sup>th</sup> April 2017. It must also be the case that at the time their partner died they were entitled to Child Benefit or were pregnant resulting in the live birth of a child that was conceived by the deceased partner. In addition, the person's partner must have worked and paid National Insurance contributions or died as a result of an industrial accident / accident at work.

Please go to this [LINK](#) for more information on how people can apply for Widowed Parent's Allowance.

**Bereavement Support Payment (BSP)** A person should investigate matters further / apply where their cohabiting partner died on or after 6<sup>th</sup> April 2017. It must also be the case that at the time their partner died they were under 'state pension age' and entitled to Child Benefit or were pregnant resulting in the live birth of a child that was conceived by the deceased partner. In addition, the person's partner must have worked and paid National Insurance contributions or died as a result of an industrial accident / accident at work.



Please go to this [LINK](#) for more information on how people can apply for Bereavement Support Payment.



## 8. Compensation for War Widow(er)s...

The Ministry of Defense has announced the launch of the War Widows Recognition Payment Scheme (which is available to both War Widows and War Widowers) from 16<sup>th</sup> October 2023. Under the scheme, bereaved partners of members of the armed forces who forfeited their war widow(er)s pension prior to 2015 because they remarried or were cohabiting with a new partner (and did not have it restored due to divorce or subsequent bereavement / separation), will be eligible to a lump sum payment of £87,500 in compensation.

The payment is linked to service attributable deaths including any death that was linked to service including a death resulting from an illness or injury. It is therefore, not simply limited to deaths of personnel whilst on military operations or exercises.

It is understood that approximately 380 people may qualify for the payment. People need to apply. A payment will not be made automatically. This is because the Ministry of Defense does not hold records of those who may be eligible. Applications may be made for up to two years after the launch date.



Whilst new legislation has specifically exempt the payment from income tax (see this [LINK](#)) and National Insurance contributions (see this [LINK](#)), it is understood that the payment will count as a resource for means-tested benefits.

We have seen no introduction of new legislation to exempt this payment for benefit purposes. Those in receipt of 'means-tested benefit' should seek advice on how the payment could impact the benefits they receive. It seems sure that any award would be treated as 'capital' but it could also be treated as 'income' attributable to a past period. In the case of the latter, it could mean that where that period overlaps with the receipt of 'means-tested' benefits, that a recoverable overpayment has occurred. Do seek further information and advice as necessary.

Please see this [LINK](#) for more information and this [LINK](#) for how applications can be made / the application form.

## 9. DWP Special Payment...

The Department for Work and Pensions (DWP) are seeking to make special compensation payments to people who applied for Income Support (and were not in receipt of Incapacity Benefit or Severe Disablement Allowance at the time) on or after **31<sup>st</sup> January 2011** whilst suffering poor health / disability who were not told to apply for Income-related ESA instead which may have entitled them to more money.

It does not matter that the person may still be getting Income Support or have since moved on to Income-related ESA or Universal Credit. What matters is that they may be assessed under the Work Capability Assessment as having 'limited capability for work' and/or 'limited capability for work and work-related activity'.

Please see this [LINK](#) for more information including details of how a person can apply for the special payment.

Welfare Rights Service  
Specialist Support Team  
City of Wolverhampton Council  
[WRS@wolverhampton.gov.uk](mailto:WRS@wolverhampton.gov.uk)