



Universal Credit and Students

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What is Universal Credit?

- A single means-tested benefit
- For people of working age
 - 16/17 year olds in special circumstances
 - Below Pension Credit Age
- Paid both in and out of work
- Must satisfy the immigration requirements

The 6 benefits

- Income-based jobseeker's allowance (IB JSA)
- Income-related employment and support allowance (IR ESA)
- Income support (IS)
- Child tax credit (CTC)
- Working tax credit (WTC)
- Housing benefit (HB)

UC does NOT replace

- Contribution-based (New-Style) JSA (NS JSA)
- Contribution-based (New-Style) ESA (NS ESA)
- State Retirement Pension (SRP)
- Pension Credit (PC)
- SMP / SPA / SAP
- Child Benefit
- Disability benefits e.g. PIP / DLA / AA
- Many other contributory benefits
- UC can be claimed alongside these e.g. for housing element

Who can claim UC?

- Working age
- Satisfy presence, residence and immigration conditions
- Low enough income and savings below £16,000
- **Not 'receiving education'**

‘Receiving Education’

- Rationale for Govt policy in relation to UC & students
 - Important that Universal Credit does not duplicate support available from other sources. So most full-time students cannot usually get Universal Credit.
 - For most part-time students (includes all OU students) usually whether course compatible with work-related requirements that dictates whether or not they are able to claim UC.
 - Not excluded from claiming UC if not classed as ‘receiving education’

‘Receiving Education’

- On a full-time course of advanced education (e.g. degree / postgrad / HND)
- On another full-time course for which a loan, grant or bursary is provided for your maintenance
- QYP in non-advanced education for min 12 hours p/w (unless without ‘parental support’)
- Not in one of the above categories but on a course not compatible with your work-related requirements

YOU USUALLY CANNOT CLAIM UC, BUT SOME EXCEPTIONS APPLY...

Exceptions - students who can claim UC

- Those who are **NOT** 'receiving education'
- On advanced course & entitled to PIP/DLA and been assessed by the DWP as having limited capability for work (LCW) ***before course commenced**
- Under 22, on non-advanced course (under 21 when started course) & without 'parental support'
- Responsible for a child / young person
- Single foster parent
- Couples (with exceptions)
 - Both are FT students & one is responsible for a child or is a foster parent
 - A student who has a non-student partner who is eligible to claim UC

Exceptions - Students who can claim UC

- Those who have taken time out from their course because of illness or caring responsibilities, but the illness / responsibilities have ended, and they are waiting to rejoin their course, and they are not eligible for a loan or grant
 - Work requirements will apply during the wait
- Over pension age & partner under pension age (mixed aged couples' scenario)

Disabled students claiming UC

- Must already have a limited capability for work established in either an existing ESA or UC claim **before commencing the course**
- Loophole to claim through a credits only ESA claim circumvented by implementation of new regs in Aug 2020 then 2021 regs
- JL & Kauser v Secretary of State for Work & Pensions (2020)
- Flinn Kays v SSWP (2021)
- Disabled students are required to 'know' they will become a student in the future...

Regulations

- Regulation 14(b) of the Universal Credit Regulations 2013 has been amended so that it now reads that a disabled student should not be considered to be 'receiving education' if they:
- are entitled to AA / PIP / DLA; and
- it has been determined that they have (or may be treated as having) 'limited capability for work' under the Universal Credit rules or Employment and Support Allowance rules; and
- the determination that they have (or may be treated as having) 'limited capability for work' (LCW) was made **before** the date of the commencement of the course

What is Limited Capability for Work?

- Limited Capability for Work (LCW) / Limited Capability for Work-Related Activity (LCWRA)
- Determined by a work-capability assessment (WCA)
- Specific criteria to meet
- ESA50 / UC50 questionnaire
- 15 points / satisfy specific 'descriptors'
- LCW (WRAG) / LCWRA (SG) – extra amount of money according to the component awarded (no £ for LCW if new claim post April 2017)

Work Requirements / Conditionality

- Those students eligible for UC, for the periods student income is not included, subject to conditionality
- E.g. on p/t course classed as **not** 'receiving education' hours of course must be compatible with work requirements
- 4 groups
 - all work requirements
 - work-focused interviews
 - work preparation
 - no work requirements

Work Requirements / Conditionality

- Disabled students – no work requirements if LCWRA applies
- Work-focused interviews for those with LCW
- WRR may apply during the periods that student income is not taken into account e.g. summer vacation
- Lone parents no WRR if child under one
- Some p/t courses not compatible with WRR so classed as 'receiving education'

Case Study - Liz

- Liz is 28 years old, she is studying a Degree at her local University. She has been claiming Universal Credit on top of her student income as a lone parent. She has two children age 8 and 10. During the summer holidays she will be in the 'all work related requirements' conditionality group and will need to undertake work search and work preparation - she will negotiate exactly what she is required to do with her work coach.

Case Study – Archie

- Archie is 22 years old. He was on UC with a Limited Capability for Work, and PIP before starting his Degree course. He continued to receive UC to top-up his student income. In the summer holidays he will be in the 'work focused interview only' conditionality group.

Case Study – Ian and Reikah

- Ian and Reikah claim Universal Credit, Ian is a full time Degree student and Reikah works, they claim Universal Credit to top up their earnings and student income.
- As Ian would normally be in the 'all work related requirements' conditionality group, he will have to spend 35 hours a week during his summer holidays undertaking work related activity and looking for work.

Triggers for new UC claims

- A change in your circumstances that triggers a NEW claim for one of the six legacy benefits that UC replaces
- No change and choosing to make a claim (natural migration)
- Managed migration
- Misadvised to make a claim

Many changes do *not* lead to a UC claim

Examples

- Become a full-time student
- New PIP award or a change in PIP award
- Rent increases
- Moving tenancy within the same Local Authority
- Getting one tax credit and making a claim for the other tax credit
- Change from ESA work related activity group to Support Group

Transitional Protection & Managed Migration

- Everybody will be migrated onto UC from legacy benefits
- Transitional protection – UC matches the amounts of legacy benefits so you don't lose out upon migration (eroded over time)
- Managed migration for current TC claimants
- TC claimants who're students ordinarily not able to claim UC can under MM

Managed Migration

- All TC claimants to be migrated over 2023/24
- Transitional Elements (same as transitional protections) – eroded over time
- Wait until contacted by DWP, do NOT make claim yourself – lose protections
- Students are protected – inc. those who don't ordinarily qualify for UC
- MM delayed further for IR ESA claimants

UC and disability premiums

- UC does not include extra premiums or elements linked to a DLA or PIP award e.g. an enhanced disability premium for ESA; or severe disability premium for ESA / JSA; or disability premium for JSA (unless previously receiving SDP in legacy benefit)
- Disabled people can be significantly worse off on UC than when on legacy benefits
- Successful High Court challenge lead to protection for some until 2021 (TP and AR 2018) – gateway now ended

Students claiming HB

- May be better off staying on HB (with disabled premiums added)
- No new claims for HB unless in temp or exempt accommodation (e.g. supported accommodation / refuge) – can be paid on top of UC
- No work-related requirements (WRR)
- Couples inc. non-students & those with dependent children can be eligible for HB (if claim already exists)

UC and HB differences for disabled students

Housing Benefit	Universal Credit
Eligible without PIP E.g. if they have had LCW for 28 weeks	Must have PIP/QB and must have been assessed as having limited capability for work (before course starts) to qualify
Eligible with PIP/DLA only – if an SDP or DP would apply in HB	
No conditionality	Work-related conditions during summer vacation (if applicable)
Administered by local authority	Administered by DWP

UC and Tax Credits differences for students

Child Tax Credit and Working Tax Credit	Universal Credit
No upper capital limit	Upper limit £16,000
Student maintenance loan ignored	Student maintenance loan taken into account
Student status does not affect eligibility for WTC if working *	Student must get PIP and have LCW or must have children / other category
Assessed on annual income	Assessed monthly
70% child care costs with WTC	85% child care costs whilst working
No conditionality	Conditionality during Summer vacation
Administered by HMRC	Administered by DWP

Case Study - Michael

Michael is in his second year at University. He gets Housing Benefit to help him pay his rent. He is entitled to claim HB as a disabled student because he gets Personal Independence Payment.

When Michael receives his 'migration notice' he makes a claim for UC.

Usually, a student in Michael's situation would not be entitled to claim UC – to qualify for UC as a disabled student the claimant has to be BOTH in receipt of PIP **AND** also have been found to have a limited capability for work before their course started.

But because of the protection given by the government to students in this position, Michael will be treated as eligible to claim UC.

Transitional protection will apply.

Tax credit claimants currently being migrated - this will enable some students to claim UC who otherwise wouldn't have been eligible.

Important that HMRC have correct figures upon 'migration day'

What counts as income for UC?

- Rules on what counts as income depends on whether a student is eligible for a maintenance loan (for living costs)

If eligible for a student loan for living costs:

- Loans & bursaries for **living costs** are taken into account (subject to some disregards for course related costs)
- Post-grad loans for Masters / Doctorate – 30% included
- Grants are disregarded (except maintenance for partner/child or rent)
- Special Support Element (SSE) disregarded
- DSA not counted as income

If not eligible for a maintenance loan:

- All grants taken into account (subject to some disregards)
- Adult dependent grant

What counts as income for UC?

- Differs between Student Finance England, Scotland & Wales
- Even if student decides not to accept the loan, will be treated as having taken it – ‘notional income’
- **IB v Gravesham Borough Council and SSWP: [2023] UKUT 193 (AAC)** it was found that the appellant could not reasonably access a student loan due to his personal circumstances, i.e. he sincerely and conscientiously believed that to charge or pay interest on a loan is forbidden by his faith. Therefore, his unclaimed student loan did not count as notional income. This case may be persuasive in UC cases with similar facts.

What counts as income for UC?

- Disregarded (SFE):
 - SSE
 - DSA
 - **most** NHS Bursaries
 - Social Work Bursaries
 - Other funding
- Some hardships funds are counted as income, some are not, some as capital – depends on what it's paid for
 - if DWP feel it's been paid for the maintenance of the student or someone in their claiming household (i.e. a partner or dependent child), they could choose to take it into account as student income
 - Often hard to know what discretionary funding is paid for

UC Regs 2013 for student income

- Universal Credit Regulations 2013 – regs 68,69,70,71
- Calculation of student income

Special Support Element (SSE)

- Paid to single parents; those on certain means tested benefits or those with disabilities
- Forms part of the maintenance loan
- £4'221 in 2023/24
- Disregarded for purposes of claiming means-tested benefits e.g. UC or HB
- Intended for costs of books, travel, equipment
- Recognised as having costs due to extra needs (e.g. disability)

Maximum loan for living costs for students eligible to claim benefits 2023/24

	Special support element	Maintenance element*	Total maintenance loan
Parental home	£4'221	£5'689	£9'910
London	£4'221	£9'981	£14'202
Elsewhere	£4'221	£7'153	£11'374

*lower maintenance element in final year

How does student income affect UC?

- The annual amount is divided over the number of assessment periods in the course year
- Student income **counts** from the start of the assessment period in which the course/year begins
- Student income is **ignored** in the assessment period in which the last week of the course or the start of the long vacation falls *and*
- In any assessment periods that fall completely within the long vacation

Whole month assessments

- Monthly payment based on your circumstances and income in the previous assessment period
- PAYE earnings over whole month taken into account
- It includes whatever is reported by the last day of the MAP

Lila

- Lila is a lone parent aged 30 with one child aged 3
- Her UC assessment period runs from the 7th to the 6th of each month
- She is paid on 13th of each month
- Lila's first year at Uni started on 25th September 2023 and ends on 18 May 2024

UC Calculation (Monthly)

STEP ONE – Work out income to be taken into account

STEP TWO – Work out maximum Universal Credit entitlement

STEP THREE – Deduct the income from the maximum amount

STEP 1

WORKING OUT THE
INCOME (unearned
& earned)

How is student income calculated?

1. Step 1: Identify loans and grants that count as income
2. Step 2: Divide over the number of assessment periods
3. Step 3: Disregard £110 per assessment period

Lives in London

Lila's monthly student income

Maintenance loan	£14'202
Minus	
Support element	£4'221
= Loan to be taken into account	£9'981
Divide by 8 Assessment periods	£1'247.62
Disregard £110.00	Answer = £1'137.62 taken into account pm

Lives in Manchester

Lila's Monthly student income

Maintenance loan	£11'374
Minus	
Support element	£4'221
= Loan to be taken into account	£7'153
Divide by 8 Assessment periods	£894.12
Disregard £110.00	£784.12 taken into account each month

STEP 2

CALCULATE THE
MAXIMUM
AMOUNT OF UC

What does UC include?

Standard Allowance - £368.74 pcm (April 2023)

Child Responsibility Elements - £269.58 pcm (born after 06/04/17)

Disabled Child Elements - £146.31 / £456.89

Limited Capability for Work/Work Related Activity Element - £390.06 pcm (£0 for LCW after 2017)

Carer Element - £185.86 pcm

Child Care Cost Element – variable (up to 85% / max)

Housing Element (eligible rent or mortgage interest) – variable

MANCHESTER

Lila maximum UC

- Lone parent aged 30 with one child aged 3
- She lives in a two bedroom housing association property
- Her rent is £115 p/w

Calculate her maximum monthly UC

STEP 3

CALCULATE MONTHLY UNIVERSAL CREDIT

MAXIMUM UC

Minus

INCOME

= UNIVERSAL CREDIT

(BEFORE benefit cap, sanctions, deductions)

Lila Step by Step

Maximum UC	£1'136.32
Minus	
Student income	£784.12
Other income	£0.00
Equals UC of	£352.20

How much UC is she entitled to during the Summer?

Cost of Living Help

- Cost of Living payments to those claiming UC and/or a disability benefit (within certain periods)
- Check they have received it – lots of errors
- Energy support fund
- CT rebate / energy support
- 2023/24 CoL payments

Specific issues affecting students

- Restrictions on being able to make a claim for disabled students
- Students with children worse off
- Claiming UC over the summer
- Calculation of student income routinely incorrect
- Misinformation and wrong advice by UC work coaches and UC service centre

How to claim

- Must be online

www.gov.uk/universalcredit

Citizens Advice Help to Claim Service for those who need support to make a claim

National helpline 0800 144 8 444

Support in local jobcentres

www.citizensadvice.org.uk/helptoclaim

- **Must attend Jobcentre** interviews to agree claimant commitment and verify ID

Advance Payments

- Claim up to 100% of expected entitlement
- Must evidence “financial need” (unless transferring from legacy benefits)
- Recovered 24 months (should be 15% of monthly standard allowance)
- Can delay repayment for three months if in hardship (not at point of claim)
- <https://www.gov.uk/guidance/universal-credit-advances>

Discretionary Housing Payments (DHP)

- Available to UC claimants who have a rent liability and eligible for a housing cost element
- Available to HB claimants
- DHP can be paid to a tenant who has a managed payment to the landlord in place

When it goes wrong....

Escalation routes

- General queries - get the email address and mobile phone number of your area DWP Partnership manager
- Individual claimant escalation – local jobcentre plus work coach team leader – get the details from your partnership manager

Feedback issues & campaign request

- www.rightsnet.org.uk
- www.cpag.org.uk – early warning system, judicial reviews
- Disability Rights UK is campaigning for UC to be payable to disabled students as ESA is now
- Leigh Day law firm

Follow-up from me

For any questions post course please email me at:

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