# APAD Universal Credit Working Group NewsletterAugust 2019



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##

## Introduction

Welcome to the latest newsletter of the APAD Universal Credit working group. In this newsletter we explain the recently announced rules on compensation for the loss of the severe disability premium and identify a worrying issue about taking over an existing appointeeship within UC. We also alert you to the short window for mixed age couples to make a backdated claim for pension age benefits; also how these rules interact with the severe disability premium gateway.

**New** – from time to time members raise a benefits issue not relating to Universal Credit at the working group meetings. So we have decided to include some of these in the newsletter. In this issue we look at whether a corporate appointee can be required to attend a face to face assessment with a client.

## Compensation for loss of the severe disability premium announced

The Government has now provided for compensation for those claimants who lost money because they migrated to Universal Credit. The compensation will be paid as a monthly amount plus a lump sum to cover any arrears.

Apparently the monthly payment will be paid “alongside” the normal UC payment and will **not** be shown on the payment statement. We do not yet know if these payments will be made with a National Insurance number reference. Please let us know if you receive a payment whether or not it was made with a NINO.

The amounts still do not completely cover the loss of the whole of the severe disability and enhanced disability premiums. And there are some disappointing restrictions:

* Those who were entitled to a severe disability premium (SDP) only via Housing Benefit **will not receive any compensation at all**
* Those who stopped meeting the conditions for the severe disability premium at any point after they migrated to UC **will not receive any compensation at all**

The monthly amounts are:

1. Single claimant and limited capability for work-related activity (LCWRA) element is included in the award **£120**
2. Single claimant and LCWRA element is not included in the award **£285**
3. Joint claimants where an SDP was payable in respect of both members and no person has since become a carer for either of them **£405**
4. Joint claimants where (3) does not apply and the LCWRA element is included in the award in respect of either of them **£120**
5. Joint claimants where (3) does not apply and the LCWRA element is not included in the award in respect of either of them **£285**

## Taking over an existing appointeeship

APAD members have identified an issue which may arise where you are taking over as appointee for a client on UC with an online account, particularly if there is a safeguarding concern.

It is possible, though difficult and time consuming, to take over the online account and amend the contact and bank details. **But** you **cannot** change the answers to the security questions.

This means a previous appointee who knows the answers to the security questions (because they set them up) can use the “forgot user name or password” to get back into the account and make changes. If they change the bank details they will then receive the UC payment.

**Also – when your client forms a new couple with an existing UC claimant**

This can also happen if an existing deputyship client becomes part of a couple where the partner is already on UC with an online account which they set up. Any legacy benefits your client gets stop in these circumstances and they will have to claim UC with their new partner. If you do not become appointee for the new partner, they can access the account in the same way and make changes. We know of one case where this resulted in the entire UC payment for a month being paid into an unknown account.

We know this can happen even where UC and the jobcentre are aware there is a safeguarding issue around a former appointee or current partner.

The only solution proposed to date by DWP is for you to make a new claim for your client and request that it is linked to the previous claim. This would not be possible for a couple where you are not appointee for both unless the “non-appointee” partner consents.

We have raised this through the DWP stakeholder forum and are waiting for a response. Please check the website for updates about this.

If the DWP’s actions or lack of them, amount to discrimination or an unreasonable failure to operate their own safeguarding guidance there may a potential judicial review action. Please **seek advice** from an experienced welfare rights adviser or contact the [Public Law Project](https://publiclawproject.org.uk/) who may be able to advise or assist.

## 13 August is the last date to make backdated claims for pension age benefits for mixed age couples

The mixed age couples rules came into effect on 15 May this year. This means that most mixed age couples cannot make new claims for Pension Credit or pension age Housing Benefit and may have to claim Universal Credit.

A mixed age couple is one where one member is under and one is over state pension age. See the [previous newsletter](https://www.apad.org.uk/uc-newsletter/) (available on the APAD website) for more information generally about the mixed age couples rules.

People are usually better off on pension age benefits – they are more generous and the bedroom tax does not apply to pension age Housing Benefit.

Mixed age couples **who would have been entitled** to claim Pension Credit and/or pension age Housing Benefit on **14 May 2019** but for some reason remained on working age benefits can still make a claim for both or either provided they still meet the conditions and do so by **13 August 2019** at the latest. This is because both benefits can be backdated for up to 3 months.

## Mixed age couples and the severe disability premium gateway

As we have seen, a mixed age couple cannot usually make a new claim for Pension Credit or pension age Housing Benefit and may need to claim Universal Credit.

However, a UC claim **cannot** be made where the claimant is:

* Entitled to a severe disability premium with a working age legacy benefit;
* Or was so entitled within the previous month and continues to meet the conditions for the premium

The combination of these rules would mean some mixed age couples would not be able to claim pension age benefits, Universal Credit **or** working age legacy benefits. So the law now provides for such couples to stay on working age benefits or make a new claim for a working age benefit.

**Example**

**Tahani** gets income related Employment and Support Allowance for herself and her partner **Jason**. It includes 2 severe disability premiums as they both get PIP daily living component. They also get HB, the claim is in Tahani’s name. On 15 July Tahani turned pension age.

The income related ESA and working age HB would normally stop as soon as she turns pension age.

Tahani cannot claim Pension Credit or pension age Housing Benefit because Jason is under pension age and does not reach pension age for another 5 years – they are a mixed age couple from 15 July.

But they cannot claim Universal Credit either because of the severe disability premium entitlement.

So the law allows the income related ESA and working age Housing Benefit to continue.

Tahani’s state pension will be taken into account as income for both so their entitlement is likely to reduce or may stop altogether. This is just a consequence of the mixed age couple rules – some couples face losing over £7,000 a year.

## Does a corporate appointee have to attend a face to face assessment with a client?

No. And it is unlikely to be appropriate for you to do so. Clients may be required to have a face to face assessment for Employment and Support Allowance, Universal Credit or Personal Independence Payment (PIP).

A member recently reported that the assessment provider for PIP in their area (Atos) had insisted that a member of the deputyship team attended a face to face assessment with a client. This was despite the client having a support worker to attend with them.

Appointment letters from PIP assessment providers do state that the appointee must attend. However, generally it will be more appropriate, and better for all purposes, if the client is supported by a care worker, care manager or support worker. Any of these people will know the client personally and have an established relationship with them.

**All you need to do is to inform the assessment provider that the worker accompanying the client is acting as your agent. You may need to give them a letter of authorisation.**

## New Universal Credit pages on the website

We have added two new sections to the APAD website:

[Universal Credit – the basics](https://www.apad.org.uk/universal-credit-the-basics/) and

[Universal Credit FAQs](https://www.apad.org.uk/universal-credit-faqs/)

We will be adding to these pages over the next few weeks. If there is other UC information you would like to see on the website please let us know – see contact details below.

## Your feedback

The working group would really like to know about issues that are affecting your team with regard to Universal Credit. We would also like to hear about good practice and solutions that teams may have found that we can share with the membership.

You can email us at apadunicredit@gmail.com or via the [APAD website](https://www.apad.org.uk/contact-us/).

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**Wishing all our members a good summer!**