# APAD Universal Credit Working Group NewsletterFebruary 2020



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## Introduction

Welcome to the latest newsletter of the APAD Universal Credit working group and a belated Happy New Year to our readers. In this issue we look at an interesting point about UC housing costs for clients in a shared lives arrangement, some issues around getting a work capability assessment, mandatory reconsideration requests, benefit uprating and the latest on court action on loss of premiums.

## Work capability assessments in UC

We have come across some issues around getting a work capability assessment for clients with a new UC claim. Some clients are not being referred for an assessment even though you have been submitting fit notes for some time.

1. Internal UC process says the case manager can or should refer for an assessment after they have been unfit for work for 28 days. This could be from the date a fit note is registered on the account. **We say it is the date of claim provided the claim included a statement that the claimant has an illness or disability which limits their ability to work.** And it is only an administrative process so there is nothing to stop them making the referral straight away.

In practice the process is hit and miss. In some cases the referral is made sooner than that. In some cases the referral isn’t made even when fit notes are submitted. There are a couple of things you can try if this happens:

* Print a UC50 form (available online), get it completed and send it to your local assessment provider **at the same time** putting a request to the case manager on the Journal to refer the client for an assessment; or
* Just put a note on the client’s Journal for the case manager asking them to refer for an assessment. Give them a time limit. Only the case manager can make the referral, work coaches cannot.

The assessment provider (the private company contracted by DWP) will not process the UC50 without a referral from the UC case manager.

In either case, if the referral is not made within a reasonable time (say 7 days) you can put a further note on the Journal saying you are considering writing a pre action letter to DWP Legal if the referral is not made within 7 days. This usually works.

**NB** If the claimant is terminally ill or has a condition which means they are “automatically” treated as unfit for work no assessment is required.

## Requesting a UC mandatory reconsideration

If you want to challenge a UC decision the first stage is to request a mandatory reconsideration. This is just asking them to look at the decision again. We have had two recent examples of UC getting this wrong.

1. In one, a UC case manager advised that reconsiderations cannot be requested via the Journal because there are “further processes”.

**This is wrong**. DWP guidance is absolutely clear that you can request a mandatory reconsideration via the Journal. We will add a section to the APAD website with links to this guidance in case you need to quote it.

2. A UC helpline operator told a deputyship officer that you cannot request a reconsideration outside the time limit. The initial time limit is **one month** from the date on the decision letter. Decision letters are attached to the client’s Journal if they have an online account.

However, there is an extended time limit of **13 months** from the date on the decision letter to request a reconsideration if you have good reasons for the late request.

**But** in practice you don’t need to have any reasons for being late provided you make the request within the 13 months. An Upper Tribunal decided that if DWP refuse to accept a late reconsideration request you can appeal directly to the First Tier Tribunal.

We will add a short section to the website with further information about this.

## Benefit uprating at last

Working age benefits and Local Housing Allowance (Housing Benefit for private tenancies) rates have been frozen for 4 years. Pension and disability benefits continued to be uprated.

From April 13 this year all benefits will be uprated. Working age benefits will increase by 1.7%; disability and pension age benefits uprating varies.

There are lots of useful benefit rates charts and posters available online. For example, on the CPAG website. We will add some links to the APAD website.

## Shared Lives and UC housing costs

Most clients living in a Shared Lives arrangement have a licence agreement to occupy the carer’s home. The licence fee is usually broken down into a rent element and various service charge elements, for example, food, heat, lighting and hot water and so on.

The licence agreements are treated as private tenancies for Housing Benefit and UC and therefore the maximum payable is the appropriate Local Housing Allowance rate. This is generally the single room rate.

But, Housing Benefit only covers the rent element and not the service charge, with the client paying all or some of this from their other income.

UC does not have any provision to exclude the service charge; therefore the housing costs element covers the whole licence fee up to the LHA rate.

A rare example of UC being more generous than legacy benefits.

## Jarndyce v Jarndyce drones on - latest on compensation for loss of premiums;

Claimants who lost out when migrating to UC due to the loss of the enhanced and severe disability premiums should now be getting compensation. This is paid as a separate monthly amount to their normal UC payment.

Legal action continues to challenge the amount of the compensation because it doesn’t fully cover the amounts lost.

The Court of Appeal recently decided (in the TP, AR and SXC case) that this is unlawful and DWP should take steps to properly compensate people. However, we expect DWP to appeal the decision to the Supreme Court.

Watch this space but don’t hold your breath.

(Remember anyone with a severe disability premium in a legacy benefit is barred from claiming UC with effect from 16 January 2019. This is due to change next year.)

## 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/).