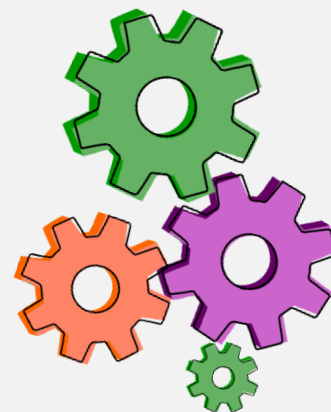


No.1 / 2022:

Transitional SDP Element

Making sure no-one is missing out!



- Do your staff know about the Transitional SDP Element? If not, your customers could miss out on £3420 extra UC a year!
- Since the SDP Gateway was closed on 26th January 2021 many UC claimants who have 'naturally' migrated onto UC have received the Transitional SDP Element in their UC award.
- The UC claiming system is set up to capture those entitled when they make their claim for UC.
- But many UC claimants are missing out.
- Many are unaware that certain changes after they have made the move onto UC can trigger an entitlement.
- Or that if they delay making a claim for UC by one week after the change, they could then be entitled to this additional element.
- And some existing 'legacy' benefit claimants may be able to secure this additional UC by claiming UC before a change in their circumstances causes the loss of the Severe Disability Premium in their 'legacy' benefit/s.

Impact:

- With the cost of living set to increase, it has never been more important to ensure claimants are not missing out.
- But there's so much to consider...

We have written this Briefing to highlight the issues and provide guidance in the areas we know claimants are missing out.

Further information about the Transitional SDP Element is available on the housing systems website.

You may also be interested in our: Transitional SDP Element E-Learning course, 'UC: For Better or for Worse online workshop' and our 'How a change will effect a TSDPE calculator. See page 18 for a full list of useful resources.

Transitional SDP Element

What is it?

Following case law the DWP was forced to introduce the 'SDP Gateway' which took effect from 16th January 2019. The SDP Gateway blocked working age people whose 'legacy' benefits included a Severe Disability Premium (SDP) from claiming Universal Credit. The block was put in place to prevent the loss in benefit income experienced by those moving onto UC who consequently lost the SDP.

The block was lifted on 27th January 2021. Since then a 'Transitional SDP Element' can be included in a UC assessment when a claimant, who is 'naturally' migrating onto UC, meets the eligibility conditions for it.

The amending regulations that introduced the Transitional SDP Element outlined in this Briefing apply where a claimant's UC award begins on or after 27th January 2021. A different set of rules apply to awards of UC where the first day of the award falls before 27th January 2021 – we shall not be considering those cases in this Briefing.

More information about how the rules work for these claimants is available on the Housing Systems website – [click here](#).

Why is it important?

The inclusion of the Transitional SDP Element in a UC claimant's award can increase their award by £120, £285 or £405 a month* – that's an extra £1440, £3420 or £4860 a year*.

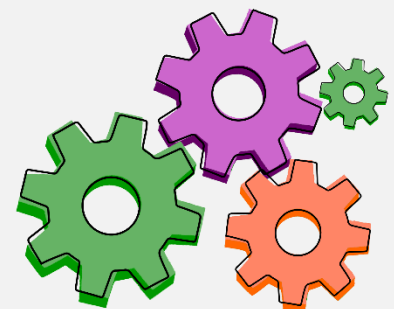
At a time when we are seeing an unprecedented increase in living costs, this extra income could make a huge difference.

However, many claimants are not receiving this extra award even though entitled. Timing of a claim for UC can make the difference between receiving it or not. This is particularly true when it is a change in circumstances that triggers the need to claim UC but also to entitlement to the Severe Disability Premium in a social security 'legacy benefit'^, such as moving home and/or separation.

In addition, although the DWP do check a UC claimant's entitlement to the Transitional SDP Element when they assess an initial claim, the claimant may become entitled to it at a later point, for example when an award for PIP is backdated to a date prior to their UC award, but nobody is picking this up.

*Can be eroded over time or lost altogether. ^Income-Related ESA, Income Support, Income-Based JSA.

TIP: Many IR-ESA, IS and IB-JSA claimants who are entitled to the Severe Disability Premium don't have it included in their award – one way to maximise their current entitlement and any future entitled to UC is to ensure this is included as soon as possible.



Who is entitled to the Transitional SDP Element?

Those UC claimants whose award starts on or after 27th January 2021 will qualify for a Transitional SDP Element if they satisfy all the following criteria:

- They are not becoming the partner of an existing UC claimant[^],
- They were on Income-Related ESA (IR-ESA), Income Support (IS), or Income-Based JSA (IB-JSA) - either as the main claimant or as the partner - which included a Severe Disability Premium (SDP) for them within the month immediately preceding the first day of their UC award (this will generally be the date they made their claim for UC[~]), and
- They continued to satisfy the conditions for the Severe Disability Premium (SDP) up to and including the first day of the UC award (see following page to find out who is entitled to the SDP).

[^] Even where their new partner's UC includes a Transitional SDP Element. The fact they are becoming a couple would end any existing Transitional SDP Element, and none would be included in their new joint UC claim.

[~]This could be a different date where the UC claim was backdated i.e. the time for claiming it has been extended to an earlier date.

TIP*: We have heard that a claimant missed out on the Transitional SDP Element when they made a telephone claim for UC - because the relevant questions were not asked - so make sure the information is given if making a telephone claim.

TIP*: We understand that where the claim for UC is being made by a single claimant who was a partner on a couple claim for Income-Related ESA, Income Support or Income-Based JSA and a Severe Disability Premium was included in that couple claim for them, then the DWP system may not be able to identify these claimants as having a Severe Disability Premium included in a claim for IR-ESA, IS or IB-JSA.

OPPORTUNITY: Where someone on IR-ESA, IS or IB-JSA is having to make a new claim for UC due to a change in their circumstances, and that change means that they would (if they stayed on the 'legacy' benefit system) have become entitled to the Severe Disability Premium in that benefit, then it may be worth them delaying making the UC claim. See page 6 for examples.

OPPORTUNITY: Where a UC claimant receives a Personal Independence Payment or an Income-Related ESA decision that goes back to a period before they claimed UC, and this means that they would have met the eligibility rules for the Transitional SDP Element at the point of making their claim for UC, they may still be able to have it included in their UC award. See pages 7 & 8 for examples.

***IMPORTANT:** When someone claims UC various checks will be carried out to work out whether they fit these eligibility criteria or not but the DWP do not always pick up on an award, therefore they should add a note to their journal as soon as they have claimed stating that they believe they are entitled to the Transitional SDP Element and why.

Who is entitled to a Severe Disability Premium?

The Severe Disability Premium (SDP) is an extra amount which should be included in the assessment for some claimants with care needs (depending on their circumstances) when their Income-Related ESA, Income Support, Income-Based JSA, (or Pension Credit and Housing Benefit) award is assessed.

It is not a separate payment, but a premium that is included in the award - but is often missed...

Entitlement to the SDP is based on three factors:

1. Receiving a 'qualifying' disability benefit ie daily living component of Personal Independence Payment, mid or high rate care component of Disability Living Allowance, Armed Forces Independence Payment, Constant Attendance Allowance or Attendance Allowance,
2. Not living with:
 - a partner who is not disabled^^, or
 - a non-dependant who is not disabled^^ or not living as a non-dependant with a tenant/home owner who is not disabled^^,

^^disabled in this context means someone who is getting a 'qualifying' disability benefit, or is certified as severely sight impaired or blind by a consultant ophthalmologist, and
3. Nobody is getting paid* Carer's Allowance or has the Carer Element# included in an award of UC for looking after the claimant.

^The Regulation actually says 'normally resides with' - so if it is not the claimant's or non-dependant's normal home (ie if they are just staying on a temporary basis) then they should not be seen as 'normally residing' there.

^^ 'qualifying' disability benefit: daily living Personal Independence Payment, mid or high rate care Disability Living Allowance, Armed Forces Independence Payment, constant Attendance Allowance or Attendance Allowance.

*Sometimes a carer may be entitled to Carers Allowance, claims it but does not receive a payment of it because of the 'overlapping benefit rules' (more information on the Housing Systems website – [click here](#)).

#Carers can get a Carer Element in a UC award even when they are not getting paid any Carers Allowance - this would still mean that the disabled person they are looking after would not qualify for the Severe Disability Premium.

Doesn't the claimant have to be living alone?

Often people talk about the claimant having to 'live alone' to be entitled to the Severe Disability Premium in an award of IR-ESA, IS, IB-JSA, (PC or HB), but this is not true – however they can't be living with anyone who it would be reasonable to expect would be caring for them.

More information available on the Housing Systems website – [click here](#).

What if they have a paid carer employed by themselves or an agency?

They would be entitled to the SDP if they meet all the eligibility criteria; having a paid carer does not make them ineligible. Where they are receiving assistance with paying for that care from the Local Authority they may find that the extra income that having the SDP included in an award of IR-ESA, IS, IB-JSA (PC) gives them is taken into account in any fairer charging assessment.

How do I know if someone has the Severe Disability Premium included in their existing benefits?

The best way of finding out whether someone has the Severe Disability Premium (SDP) included when their Income-Related ESA, Income Support, Income-Based JSA, (Pension Credit or Housing Benefit) is assessed.....is to look at their award letter.

There should be a section showing how their entitlement has been worked out - and a part outlining the allowances and premiums they are entitled to.....if the SDP has been included in the assessment this will be shown on the letter ie there will be a a disability addition worth £67.30 a week – if there is, then this will be the Severe Disability Premium.

It's often not called the Severe Disability Premium – sometimes it's recorded as 'extra money because you are disabled'.

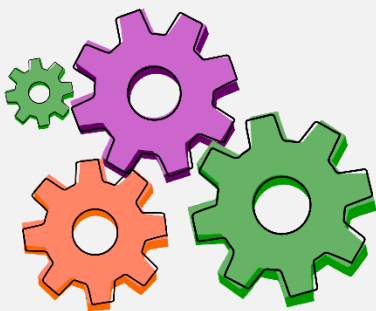
If there isn't an additional premium worth £67.30 a week, then that doesn't necessarily mean they are not entitled – many people who are entitled don't get it! So if you feel they do meet the conditions for the SDP they should be encouraged to apply for it by contacting the relevant department.

Is the Disability Income Guarantee the same as the Severe Disability Premium?

No. Another name for the Disability Income Guarantee is the Enhanced Disability Premium – but this is not the same as the Severe Disability Premium.

So having the Disability Income Guarantee in an IR-ESA, IS or IB-JSA award will NOT, on its own, mean that someone is entitled to the Transitional SDP Element when they claim UC.

If you think someone is entitled to the SDP but has not had this included in their IR-ESA, IS IB-JSA (PC or HB) award then they should seek advice from a benefits adviser.



OPPORTUNITY: Many IR-ESA, IS and IB-JSA claimants who are entitled to the Severe Disability Premium don't have it included in their award. Where it was missing from a previous IR-ESA, IS or IB-JSA award due to DWP error (eg refusing the SDP because the claimant wasn't living alone when they had a joint tenancy with a friend) then the DWP should correct that error. Where it was missing due to the claimant's error (eg claimant failed to notify the DWP that a non-dependant had moved out) then the DWP may go back and correct the error – although there are no guarantees. If the change that led to the SDP entitlement occurred within the previous 13 months, the claimant could explain the reason for the delay in reporting the changes – if the DWP accept there was a good reason they might award the SDP retrospectively. See page 9 for an example.

The change in circumstances that is triggering the claim for UC also triggers entitlement to the Severe Disability Premium

Where someone on IR-ESA, IS or IB-JSA is having to make a new claim for UC due to a change in their circumstances, and that change means that they would (if they stayed on the 'legacy' benefit system) become entitled to the Severe Disability Premium in that benefit, then it may be worth them delaying making the UC claim.

Example: Sasha has been living at home with her parents but is moving into a general needs one bedroom flat on Monday. She currently receives Income-Related ESA with no component (and no SDP), and daily living PIP. She will be living on her own and no-one gets paid Carers Allowance or a Carer Element in their UC for looking after her.

If she claims UC as soon as she moves in, her Maximum UC would be worked out by adding together: Standard Allowance, Housing Costs Element.

If she waited at least a week[^] after moving in before she claimed UC, her Maximum UC would (eventually*) be worked out by adding together: Standard Allowance, Housing Costs Element, and the Transitional SDP Element @ £285.

* What Sasha needs to do is contact the ESA Dept as soon as she moves in and request the inclusion of the SDP in her IR-ESA. Once this is sorted, she should contact the UC Dept to request the inclusion of the Transitional SDP Element in her UC award as she now meets the eligibility conditions for it.

Example: Alan has been in hospital for 14 months. He is about to be discharged and has been offered a general needs one bedroom flat. Alan's PIP daily living payments stopped when he went into hospital. Currently, his only income is Income Related ESA with a WRAG component (but no SDP). He will be living on his own and no-one gets paid Carers Allowance or a Carer Element in their UC for looking after him.

If he claims UC as soon as he moves in, his Maximum UC would be worked out by adding together: Standard Allowance, LCW Element, Housing Costs Element.

If he waited at least a week after moving in before he claimed UC, his Maximum UC would (eventually*) be worked out by adding together: Standard Allowance, LCW Element, Housing Costs Element, and the Transitional SDP Element @ £285.

* What Alan needs to do is contact the PIP Dept as soon as he leaves hospital and request that his PIP payments are reinstated. After at least one week[^], Alan should make a claim for UC. Once his PIP is back in payment, he should contact the ESA Dept and request the inclusion of the SDP in his IR-ESA award for the period from him moving out of hospital to the day his IR-ESA ended on claiming UC. Once this is sorted, he should contact the UC Dept to request the inclusion of the Transitional SDP Element in his UC award as he now meets the eligibility conditions for it.

[^]For IR-ESA a change in circumstances takes effect from the start of the benefit week in which it occurred if reported on time. A benefit week ends on the claimant's payday. So waiting a whole week ensures that the ESA Dept can include a SDP in the award.

NOTE: Delaying claiming UC could mean that the claimant misses out on one week's help with their rent, but the inclusion of the TSDPE usually makes up for that loss.

Example: Simon and Julie have been living together with their 7 year old son. Simon works and Julie gets 'old-style' Contributory ESA (she is in the Support Group) and daily living PIP. They are separating and Julie is moving out and has been offered a two bedroom house for her and her son. Julie's only income will then be her Contributory ESA, daily living PIP and Child Benefit and she will need to make a claim for UC.

If she claims UC as soon as she considers herself to be single, her Maximum UC would be worked out by adding together: Standard Allowance, LCWRA Element, Child Element, Housing Costs Element.

If she waited at least a week after moving in before she claimed UC, her Maximum UC would (eventually*) be worked out by adding together: Standard Allowance, LCWRA Element, Child Element, Housing Costs Element, and the Transitional SDP Element @ £120.

* What Julie needs to do is contact the ESA Dept and request they review her ESA award to see if she is entitled to a top up of Income-Related ESA~ – and to include of the SDP in her IR-ESA. Once this is sorted, she should contact the UC Dept to request the inclusion of the Transitional SDP Element in her UC award as she now meets the eligibility conditions for it.

~ Because Julie is getting 'old style' Contributory ESA an award of an Income-Related top up is not seen as making a new claim for IR-ESA but a review of her existing ESA award.

PIP daily living awarded from a date that pre-dates the start of the UC claim

Where a UC claimant receives a Personal Independence Payment (PIP) that goes back to a period before they claimed UC, and this means that they would have met the eligibility rules for the Transitional SDP Element at the point of claiming UC, they may still be able to have it included in their UC award.

Example: Megan made a claim for UC just after her (first) baby was born. She was previously on IR-ESA (WRAG – no component) and she also got HB. She had made a new claim for PIP 4 months prior to that – but was still waiting for a decision when she made her claim for UC.

When her UC was assessed, it included: Standard Allowance, Child Element, Housing Costs Element.

During Megan's third UC Monthly Assessment Period, she gets her PIP decision - she has been awarded the standard rate of the daily living component. She receives arrears of PIP back to the date she claimed it.

Megan needs to inform the ESA Dept about the PIP award and request a SDP be included in her IR-ESA award from the date her PIP award started to the end of the claim (being the day before she made a claim for UC). Once this is sorted, she should contact the UC Dept to request the inclusion of the Transitional SDP Element. The DWP should include this from the start of her UC award as she now meets the eligibility conditions for it.

The DWP should include the Transitional SDP Element @ £285 in her first UC Monthly Assessment Period and then re-assess her award for each MAP (up to the current MAP) taking account of any changes in her circumstances that would have eroded (or stopped it). She should receive a lump sum payment in respect of these arrears. Her on-going UC award should include any on-going amount of Transitional SDP Element (assuming it has not been totally eroded (or stopped) altogether).

Income-Related ESA awarded from a date that pre-dates the start of the UC claim

Where a UC claimant receives an Income-Related ESA decision that goes back to a period before they claimed UC, and this means that they would have met the eligibility rules for the Transitional SDP Element at the point of claiming UC, then they may still be able to have it included in their UC award.

Example: Rashid was getting Income-Related ESA (with a WRAG component and SDP), PIP daily living and HB. Following a Work Capability Assessment review Rashid only scored 6 points and his IR-ESA award was terminated. He lived off his PIP daily living for a few weeks, but when his HB also ended, he sought advice. He claimed UC and submitted a Mandatory Reconsideration of the 'found fit' decision, which failed so he submitted an appeal.

When his UC was initially assessed, it included: Standard Allowance, Housing Costs Element. As his IR-ESA had ended more than a month before the start of his UC award he was not entitled to the TSDPE.

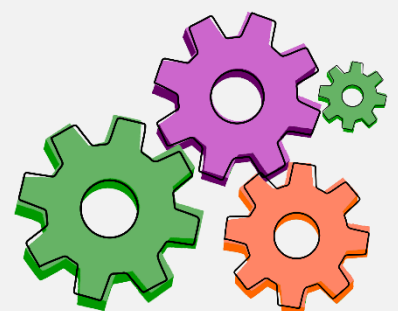
During Rashid's eighth Monthly Assessment Period he receives the decision on his IR-ESA appeal – he has been found to have a limited capability for work and his IR-ESA (including a SDP) is reinstated for the period it had been terminated up to the day before he claimed UC.

Rashid needs to inform the UC Dept about the successful re-instatement of his IR-ESA. Not only should the Work Capability Decision be transferred to his UC award meaning his UC now includes the LCW Element from the start, he is also entitled to the Transitional SDP Element.

The DWP should include the Transitional SDP Element @ £285 in his first UC Monthly Assessment Period and then re-assess his award for each MAP (up to the current MAP) taking account of any changes in his circumstances that would have eroded (or stopped it). He should receive a lump sum payment in respect of these arrears. His on-going UC award should include any on-going amount of Transitional SDP Element (assuming it has not been totally eroded or stopped altogether).

NOTE: Even if Rashid's PIP daily living has ended since his UC awarded started, he would still be entitled to the Transitional SDP Element. If Rashid has become part of a couple since moving onto UC then he would be entitled to have the Transitional SDP Element included in his UC award for the period it was a single claim.

See page 10 for more information about how certain changes can erode the Transitional SDP Element, and page 12 for the changes that would end the Transitional SDP Element.



Severe Disability Premium missing from IR-ESA, IS or IB-JSA award

Many IR-ESA, IS and IB-JSA claimants who are entitled to the Severe Disability Premium don't have it included in their award. Where it was missing from a previous IR-ESA, IS or IB-JSA award due to DWP error (eg refusing the SDP because the DWP haven't applied the 'living alone' rules correctly) then the DWP should correct that error. Where it was missing due to the claimant's error (eg claimant failed to notify the DWP that a non-dependant had moved out) then the DWP may go back and correct the error – although there are no guarantees. If the change that led to the SDP entitlement occurred within the previous 13 months, the claimant could explain the reason for the delay in reporting the changes – if the DWP accept there was a good reason they might award the SDP retrospectively.

The eligibility rules for the Severe Disability Premium are complex and often the DWP refuse to include it in a claimant's award when they are entitled to it.

If this is discovered after the claimant has moved onto UC it isn't always too late to get this sorted.

Example: Angela was living in shared accommodation before she moved into a one bedroom flat in a different Local Authority area. She had been getting Income-Related ESA since 2019 in the WRAG (no SDP), PIP daily living and HB before her move. She claimed UC when she moved as she could not make a new claim for HB.

When her UC was first assessed it includes: Standard Allowance, Housing Costs Element.

However, her IR-ESA should have included the SDP as she met all the criteria. She was getting PIP daily living, no-one was getting paid Carers Allowance or a Carer Element in a UC award for looking after her, and although she was not the only one living in her property the only other people living with her were all joint tenants.

The DWP did ask Angela about her living situation when she first claimed IR-ESA, but decided that she was not entitled to the SDP because other adults lived in the property who were not in receipt of a 'qualifying' disability benefit. Although this was the wrong decision, Angela was not aware of this at the time.

Angela should request an anytime Mandatory Reconsideration of the DWP's decision not to include the SDP in her IR-ESA award. Once the DWP have agreed that she was in fact entitled to the SDP and include it in her closed IR-ESA award, she can then ask the UC Dept to include the Transitional SDP Element in her UC award as she now meets the eligibility criteria for it.

Example: Joel was getting Income-Related ESA, PIP daily living and HB when he started work. His IR-ESA and HB ended and he made a claim for UC. His IR-ESA hadn't included a SDP even though he was entitled. This is because he failed to let the ESA Dept known that he had been awarded PIP.

Joel should report the award to the ESA Dept as soon as possible. As PIP is a 'qualifying benefit' it does not matter when Joel reports the award to the ESA Dept, they should review his IR-ESA award to take account of the PIP Daily Living award and (assuming Joel meets all the eligibility conditions) include a SDP from the date the PIP was awarded to the date his IR-ESA ended. Once this is in place Joel can then ask the UC Dept to include the Transitional SDP Element in his award as he now meets the eligibility criteria for it. More info on the 'qualifying benefit' rules on the Housing Systems website – [click here](#).

How much is the Transitional SDP Element?

For the claimant's first UC Monthly Assessment Period, the Transitional SDP Element is a set amount. It can be one of three set rates: £120, £285 or £405.

No LCWRA Element in UC award	LCWRA Element in UC award	Couple with double SDP in legacy benefit award
£285	£120	£405

Which rate a claimant is / joint claimants are entitled to depends on their circumstances – see the Housing Systems website for more information – [click here](#).

After the claimant's first Monthly Assessment Period, the Transitional SDP Element can be eroded (see below) or lost completely (see page 12).

How will a UC claimant know if they have a TSDPE included in their UC award?

This Transitional SDP Element is paid as an Element which is added together with the Standard Allowance and any other Elements to make up the claimant's 'Maximum UC' amount (the 'needs' amount before it is reduced by assessable income and deductions). So, it should be shown on the UC statement – called a 'Transitional Element' – just above 'Total before adjustments'.

Erosion

From a UC claimant's second Monthly Assessment Period onwards their Transitional SDP Element will be reduced by any new Elements included, or by increases to existing Elements, in their Universal Credit award (with the exception of the Childcare Costs Element).

IMPORTANT: This means that some claimants who take on new responsibilities – such as paying rent or having a baby – may see no increase in their UC award.

So, for example where a claimant has the Transitional SDP Element included in their UC award and:

- They become entitled to a Housing Costs Element - this would include those moving out of 'specified' or 'temporary' housing - the Transitional SDP Element will be reduced by the amount of the Housing Costs Element and could be reduced to nothing.
- They have a baby or take on responsibility for a new child, the Transitional SDP Element will be reduced by the amount of any new Child Element
- The standard rates of UC increase ie in April, the Transitional SDP Element will be reduced by the same amount.
- Their Housing Costs Element increases when their rent goes up, the Transitional SDP Element will be reduced by the same amount

BE AWARE: In April when many UC claimants see an increase in their rent, if their UC award includes a Transitional SDP Element, then their UC is likely to stay the same ie they will see no increase to help them pay their increased rent (or to take account of the yearly uprating of benefits).

Example: Izaak has been on UC since Feb 2021. His first month's award included a £285 Transitional SDP Element. In April 2021 when his rent and the benefit rates increased, this was reduced to £234.76 and he saw no increase in his UC payments. In November his daughter was awarded DLA low rate care, and the Disabled Child Element was included in his award. But he saw no increase in his UC payments, instead his Transitional SDP Element was reduced to £105.87. And this April when his rent and benefit rates increase, he will again see no overall increase in his UC payments – instead his TSDP Element will be eroded further.

Erosion cont.

WARNING: There are a couple of strange situations where a claimant can lose more than they gain:

1. If they have the Carer Element and a Transitional SDP Element in their UC assessment, they could be worse off if they become entitled to the LCWRA Element.
2. If they have the LCW Element and Transitional SDP Element in their UC assessment, they could be worse off if they become entitled to the Carer Element.

This is because the UC Regulations state that a Carer Element and LCWRA Element cannot be included in a UC award in respect of the same claimant and the Transitional Element rules state that the Transitional Element is reduced by any new Elements included, but ignoring any that are lost.

See this [Hot Topic](#) for more information.

Example: Trevor has been on UC for the past 2 months. His UC award includes a Carer Element and a Transitional SDP Element. His health has worsened (although he is still able to care for his daughter 35+ hours a week). He has been told that if he provides a fit note, requests a Work Capability Assessment and is found to have a limited capability for work related requirements, his UC award will include a LCWRA Element instead of a Carer Element and the LCWRA Element is worth more.

However, the inclusion of the LCWRA Element (£343.63) will erode his Transitional SDP Element (£285) to nil, and he will lose the Carer Element too (£163.73) ie a total loss of £448.73 and so will actually end up worse off (by £105.10 a month).

WARNING: We have heard that a claimant's Transitional SDP Element is sometimes being eroded incorrectly. This is happening where the DWP miss off an Element from the start of the claimant's UC award and add it in at a later date. This is typically a LCW / LCWRA Element or Carer Element, but could also be a Housing Costs Element (or increase to the HCE following sorting out an untidy tenancy issue), or Child Element. As this Element should have been included in the claimant's award from the first Monthly Assessment Period it cannot erode the Transitional SDP Element (which is a fixed amount for that first MAP). If the DWP have incorrectly eroded the Transitional SDP Element in such situations, the claimant should request a Mandatory Reconsideration of that decision and go on to appeal if necessary.

Example: Siobhan claimed UC 4 months ago when she moved Local Authority area. She has been on Income-Related ESA (with a WRAG Component and a SDP), Housing Benefit and PIP daily living.

When her UC was first assessed it did include a £285 Transitional SDP Element but the DWP had failed to transfer her Work Capability Decision to her UC award and so the LCW Element was missing.

She requested a Mandatory Reconsideration of the DWP's failure to include the LCW Element – which was successful – however when the DWP included the LCW Element from the start of her UC award this wrongly eroded her Transitional SDP Element.

Siobhan had to request another Mandatory Reconsideration to challenge this – which was eventually successful. Her UC award now includes a £285 Transitional SDP Element and £128.89 LCW Element.

Loss

For the claimant's first UC Monthly Assessment Period, the Transitional SDP Element is a set amount.

After the claimant's first Monthly Assessment Period, the Transitional SDP Element can be eroded (see page 10) or lost completely.

The UC Regulations state that from the claimant's second Monthly Assessment Period it is treated as if it were a standard 'managed migration' Transitional Element. This means that from that second Monthly Assessment Period, the link to the conditions for the Severe Disability Premium are lost.

Because the link with the Severe Disability Premium is lost, this means, rather surprisingly, that a claimant losing their Personal Independence Payment award, or a carer starting to paid Carers Allowance for looking after them, will not end the claimant's Transitional SDP Element.

The changes that would end the Transitional SDP Element (which from the claimant's second MAP is called a Transitional Element in the Regulations) are:

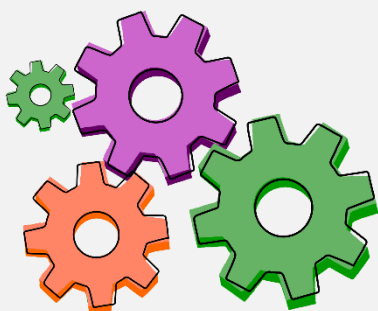
- A couple claiming UC separately.
- A single UC claimant takes on a partner*.
- They are no longer entitled to UC.^
- Due to earnings, the claimant is not entitled to any UC for 3 months or longer.
- The claimant's earnings were at or above the administrative earnings threshold (AET)^^ when they claimed UC but have been lower than the AET for more than 3 consecutive MAPs.
- When the amount of the Transitional SDP Element has been reduced to nil by erosion.

* Except in certain situations where the new partner is ineligible for UC - see website for more details.

^ Unless this is due to earnings – as per the following bullet point.

^^ AET = £345 per month for a single claimant / £552 per month for a couple

Where this happens the Transitional SDP Element will be lost from the beginning of the Monthly Assessment Period during which the change occurs.



OPPORTUNITY: Where a 'legacy' benefit claimant who has the Severe Disability Premium included in an award of Income-Related ESA, Income Support or Income-Based JSA is due to have a change that means they will lose the SDP, then they may be better off claiming UC before that change occurs if they will be entitled to the Transitional SDP Element.

See next page for an example.

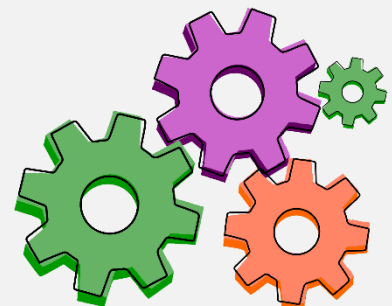
Opting to claim UC before losing the Severe Disability Premium in an award or IR-ESA, IS or IB-JSA

Where a 'legacy' benefit claimant who has the Severe Disability Premium included in an award of Income-Based ESA, Income Support or Income-Based JSA is due to have a change that means they will lose the SDP, then they may be better off claiming UC before that change happens if they will be entitled to the Transitional SDP Element.

Example: Hanna lives with her son Boris in a two bedroom house. Hanna gets Income-Related ESA, PIP daily living, CTC, HB and Child Benefit. Her Income-Related ESA currently includes a SDP because she meets the eligibility criteria – she is classed as living alone because Boris is still classed as dependent on her.

However Boris is 18 and is about to leave college and start a full time job. Not only will she lose her CTC and Child Benefit, but she will also lose her SDP.

If Hanna makes a claim for UC before Boris is due to leave college and is still dependent on her then her UC award would include a Transitional SDP Element; this would be treated as a traditional Transitional Element from her second Monthly Assessment Period and so even if Boris becomes a non-dependant she would continue to receive it.



Voluntary Moves to UC

During 2022 the DWP will be promoting UC to 'legacy' benefit claimants through their 'Move to UC' campaign.

Where someone is choosing to claim UC because they believe they will be better off, and their UC award will include a Transitional SDP Element, then they should consider whether there could be any increases to the Elements / inclusion of an Element after they have claimed. It could be that they would be better off waiting until after that change has occurred to avoid the Transitional SDP Element from being eroded.

Example: Poppy claims Income Support for herself and her two children age 5 and 2. She works a few hours a week at the local fish and chip shop. Her Income Support includes a SDP. She also gets PIP daily living and HB. Poppy has done a better off calculation and has worked out that she would be better off on UC (as all of her earnings would be disregarded).

It's February and Poppy's rent will be going up by £10 per month from April. If she claims UC more than a month before any rent increase, then the Transitional SDP Element will be reduced by the rent increase £ for £ (and the annual increase in benefits).

She may be better off waiting until the beginning of April to make her claim for UC to ensure that the higher rent (and the annual increase in benefits) is taken into account in her first UC assessment and therefore doesn't erode her Transitional SDP Element.

Where a couple is choosing to claim UC because they believe they will be better off, and their UC award will include a Transitional SDP Element, then they should consider whether a change in their circumstances could mean that they could move onto claiming UC as a single claimant in the near future (e.g. if one of the couple is due to be away from the home for 6 months or more, or is going abroad for more than a month - because they could lose their right to claim).

They may wish to stay on the 'legacy' benefit system because then they would remain entitled to the Severe Disability Premium following this change, however on UC they would lose the Transitional SDP Element altogether.

Example: Rita and Bob live in a two bedroom flat. They are currently receiving Income-Related ESA, HB – Bob is the main claimant of both. They both get daily living PIP (and get a double SDP in their IR-ESA award). They are downsizing and are wondering if this is a good time to move onto UC. Rita has done a better off calculation and worked out that because Bob's war pension would not be taken into account they will be better off on UC. But Rita is also planning on spending her redundancy payment (£5,000) to visit her sister in New Zealand for 10 weeks later in the year.

If they claim UC now, their award will initially include a £405 Transitional SDP Element. However when Rita goes to New Zealand – as she is going abroad for more than a month – her entitlement to UC will end and their claim will change to being a single claim and their Transitional SDP Element will end (and cannot be reinstated). Bob would, however, have been entitled to add her back onto his IR-ESA and HB claims when she returned. So, they may be better delaying the UC claim.

Frequently Asked Questions

What's the difference between the Transitional SDP Element and the Transitional Element a UC claimant could receive if they are 'managed migrated' onto UC?

The TSDPE is for those who had a SDP in their IR-ESA, IS or IB-JSA and who choose to claim UC, or who need apply due to a particular change in their circumstances. It is to compensate for the loss of the SDP.

The Transitional Element is for those who are manage-migrated (forced) onto UC. It is calculated based on the whole award (ie not just the SDP) and is to ensure that UC is not less than the legacy benefits the claimant had at the point of moving onto UC.

Once a 'legacy' benefit claimant has been issued with a managed migration notice, then they will no longer be entitled to a Transitional SDP Element. They will instead get a standard Transitional Element from the start of their Universal Credit claim if their total 'legacy' benefit entitlement is more than their UC award (with some exceptions).

OPPORTUNITY: Some 'legacy' benefit claimants will be entitled to a lower Transitional Element than any Transitional SDP Element they may have been entitled to, after taking their whole benefit situation into account. These claimants should look at claiming UC before being issued with a managed migration notice. It is, therefore, advisable that claimants in this situation are made aware when they become one of the groups of 'legacy' benefit claimants to come under the managed migration process.

What if someone is getting the Severe Disability Element in an award of Working Tax Credit – would they be entitled to a Transitional SDP Element if they claimed UC?

The Severe Disability Element included in a Working Tax Credit award is not the same as the Severe Disability Premium.

It is only a Severe Disability Premium included in an award of a social security 'legacy' benefit that gives rise to eligibility to the Transitional SDP Element ie Income-Related Employment and Support Allowance, Income Support and Income-Related Jobseekers Allowance.

What if someone is getting the Severe Disability Element in an award of Housing Benefit – but isn't on IR-ESA, IS or IB-JSA?

The Severe Disability Element can be included in an award of Housing Benefit. However, it is only a Severe Disability Premium included in an award of a social security 'legacy' benefit that gives rise to eligibility to the Transitional SDP Element ie Income-Related Employment and Support Allowance, Income Support and Income-Related Jobseekers Allowance.

What if someone gets an award of PIP that pre-dates their UC award and so they now meet all the eligibility conditions for the Transitional SDP Element, but they have had a change in their circumstances that would normally end the TSDPE such as becoming a couple?

The Transitional SDP Element should be included in their UC award from the start up to the Monthly Assessment Period before the one in which they became a couple.

Checklist

The first thing to check is that the claimant has to claim UC. Whilst some changes trigger a claim for UC not all do. If the claimant has to claim UC, then consider....

Lettings

Will the move mean that they will become entitled to the Severe Disability Premium in an award of Income-Related ESA, Income Support or Income-Based JSA? If the answer is 'yes' then they may be better off delaying their UC claim.

Look out for new tenants who:

- Although they are in receipt of PIP daily living and no-one gets paid Carers Allowance or a Carer Element in an award of UC for looking after them, they are not currently classed as 'living alone' but will be once they move.
- Although they are in receipt of PIP daily living and are classed as 'living alone' and will continue to be so in their new property, someone gets paid Carers Allowance or a Carer Element in an award of UC but this will stop when they move – perhaps because they are moving away from their carer.
- Are moving from hospital and although they are entitled to PIP daily living the payments have stopped and also the SDP and this can all be re-instated when they move into their new home.
- Are currently street homeless and getting PIP daily living and will be entitled to the SDP when they move to their new home.
- Are getting old-style Contributory ESA and may become entitled to an Income-Related top up that can include the Severe Disability Premium.

Separation

Are they the main claimant of Income-Related ESA, Income Support or Income-Based JSA, and will the separation mean that they will become entitled to the Severe Disability Premium? If the answer is 'yes' then they may be better off delaying their UC award.

Look out for claimants who:

- Although they are in receipt of PIP daily living and no-one gets paid Carers Allowance or a Carer Element in an award of UC for looking after them, they are not currently classed as 'living alone' but will be once they have separated.
- Are getting old-style Contributory ESA and may become entitled to an Income-Related top up that can include the Severe Disability Premium.

Change in household

Are they the main claimant of Income-Related ESA, Income Support or Income-Based JSA, and will the change mean that they will become entitled to the Severe Disability Premium? If the answer is 'yes' then they may be better off delaying their UC award.

Look out for claimants who:

- Although they are in receipt of PIP daily living and no-one gets paid Carers Allowance or a Carer Element in an award of UC for looking after them, they are not currently classed as 'living alone' but will be due to the change in household.
- Are getting old-style Contributory ESA and may become entitled to an Income-Related top up that can include the Severe Disability Premium.

