

Benefits Newsletter March 2018

1. Universal Credit

Housing Benefit run on

From 11th April 2018, claimants who naturally migrate from legacy benefits to Universal Credit and are receiving Housing Benefit at the time they migrate to UC, will be entitled to 2 extra weeks of Housing Benefit to cover the rent during the UC assessment period. Natural migration occurs in UC full service areas, when a claimant experiences a change in circumstances which means they would have to end their claim for legacy benefits and claim UC instead, e.g. someone who is found fit for work after an ESA.

Changes to housing costs for claimants in temporary accommodation

From 11th April 2018 Universal Credit claimants living in temporary accommodation will no longer receive housing costs payments as part of their UC, instead payments for the accommodation will be covered by Housing Benefit. UC claimants who are already receiving housing costs as part of their UC will not be affected unless there is a change in their rent payments. See [The Universal Credit \(Miscellaneous Amendments, Saving and Transitional Provision\) Regulations 2018](#) and [HB 2/18](#)

Free School Meals (a reminder of the changes)

[The Free School Lunches and Milk, and School and Early Years Finance \(Amendments Relating to Universal Credit\) \(England\) Regs 2018 \(S.I. No. 2018/148\)](#), have been issued that introduce a Universal Credit earnings threshold for entitlement to free school meals, from 01/04/18. To be eligible, a household must have an annual net earned income equivalent to no more than £7,400 at the point of claim. The threshold applies to earnings calculated over a 'relevant period' - which can be one, two or three UC assessment periods preceding the request for a free school meal. The amounts are £616.67 where there is earned income in a relevant period made up of one UC assessment period that immediately precedes the date of the request for a free school meal; £1,233.34 where the relevant period is two assessment periods and £1,850 where the relevant period is three assessment periods.

Transitional protection is provided, in [the Welfare Reform Act 2012 \(Commencement No. 30 and Transitory Provisions\) Order 2018 \(S.I.No. 2018/145\)](#), for those children eligible for free school meals on 31st March 2018, so that entitlement continues to the later of either 31 March 2022, or the date the child completes the stage of education the child was undertaking on 31 March 2022.

Judicial review to lack of transitional protection for universal credit migration

Leigh Day solicitors are bringing [judicial review proceedings](#) on behalf of two disabled clients who have lost disability premiums after natural migration to UC.

As part of this Leigh Day are calling for other case studies where natural migration has resulted in the loss of the severe disability and enhanced disability premiums. Please contact either Tessa Gregory tgregory@leighday.co.uk or Lucy Cadd lcadd@leighday.co.uk. and send a short summary of the client's situation which sets out how they came to be on UC and how the loss of their SDP/EDP is affecting them to

New UC Website

The DWP has a new UC website for claimants and anyone wanting to know more about UC. <https://www.understandinguniversalcredit.gov.uk/>

2. Employment and Support Allowance

Underpayment of income-related ESA

The DWP is carrying out a review of over 300,000 contributory ESA awards to check to see if the claimants who migrated from Incapacity Benefit to contributory ESA should have also been advised to claim income-related ESA. It is estimated that 70,000 claimants have been underpaid ESA as a result of this error. Eligible claimants will only be paid arrears as far back as 21 October 2014, which is the date of an Upper Tribunal decision which decided that the claims for contributory ESA and IR ESA did not have to be separate claims [CE/4181/2013](#) (reported as [2015] AACR 14).

The National Audit Office has published a [report](#) condemning the DWP for not responding to this problem when it was first identified in 2013. They estimate the average under payment will be about £5,000 and approximately 20,000 claimants who are entitled to the severe disability premium may be owed around £11,500 each - with a small number potentially owed around £20,000.

3. Support for Mortgage Interest

From 6th April 2018 the DWP the Support for Mortgage Interest, which is available as part of Income Support, income-based JSA, income-related ESA, Universal Credit and Pension Credit will change from being a benefit payment to a loan. [The Loan for Mortgage Interest Regulations 2018](#) set out how the scheme will work.

The loan for mortgage interest (LMI) will be secured to the property to be repaid when the property is sold or when the claimant and partner have both died; or the loan can be paid off earlier if the claimant returns to work and wants to repay the loan. The interest on the LMI will be set by the Secretary of State based on 'the weighted average interest rate on conventional gilts specified in the most recent report published before the start of the relevant period by the Office for Budget Responsibility under section 4(3) of the Budget Responsibility and National Audit Act 2011'. The LMI will continue as long as the claimant is entitled to the qualifying benefit, however if the claimant or their partner starts work in a job which is for more than 5 weeks, the LMI payments will stop, but some claimants will be entitled to a 4 week run on.

Only 11% of the 109,000 claimants affected by this change have so far taken up the offer of LMI to replace the SMI payment were receiving according the Parliamentary Under-Secretary of State for Work and Pensions [Kit Malthouse](#).

4. Benefit Cap

The Court of Appeal has found that the benefit cap does not unlawfully discriminate against lone parents with children under the age of two. The families have been given permission to appeal to the Supreme Court. See [DA & Orss, R \(On the Application Of\) v The Secretary of State for Work and Pensions \[2018\] EWCA Civ 504](#)

5. Bedroom Tax

The Court of Appeal has ruled in the case of the [Secretary of State for DWP vs Carmichael and others](#) that the First tier and Upper tier Tribunals do not have the right to use Human Rights Act and the European Convention of Human Rights to disapply or ignore the bedroom tax regulations. Mr and Mrs Carmichael are hoping to get permission to appeal to the Supreme Court.

6. DLA TO PIP MOTABILITY CLAIMS

Declan O'Mahony the director of Motability told MPs on the [Works and Pensions Committee and Treasury Select Committee](#) that 43% of all DLA to PIP claimants on the Motability scheme have lost their car as a result of being assessed for PIP.

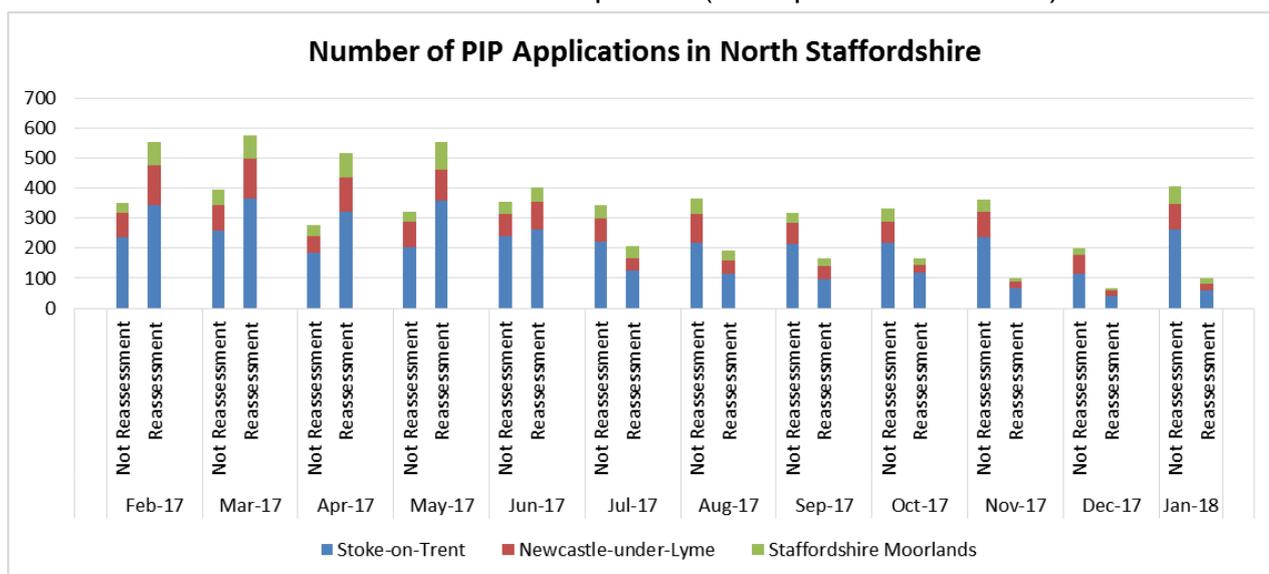
“To date we have seen about 175,000 of our current scheme customers go through the DWP’s reassessment process from DLA to PIP. In round numbers, 100,000 of those have retained higher-level mobility so, as far as the scheme is concerned, it is fine and they continue in the same place. Seventy-five thousand have lost higher rate mobility. They have either dropped to standard rate or to nil and, as a consequence, they have to leave the scheme.”

Claimants who lose their car get a one-off grant of £2,000 and most spend this on a used car. In addition, 8,500 claimants – around 11% of those who lose their vehicle - have received additional grants averaging £2,353 each because they need their cars to be specially adapted for wheelchair access.

7. Personal Independence Payments

[Latest PIP Statistics](#)

The number of people undergoing a DLA to PIP reassessment in North Staffordshire has decreased again over the last year – the numbers have decreased from 550 in February 2017 to 25 in January 2018. Whereas the number of new claims has increased from 359 to 409 in the same period. (non-special rules cases)



By the end of January 2018, 84% of new claims mandatory reconsiderations and 78% of reassessed DLA mandatory reconsiderations for normal rules resulted in no change to the award.

8. Form for requesting a Mandatory Reconsideration

The DWP has published a [new form](#) for claimants to use if they are requesting a Mandatory Reconsideration of a benefit decision. They will still accept verbal requests or letters over the phone, but the form makes easier for someone who has a representative acting for them.

9. HMRC delay transfer of tax credit debts to DWP

In February 2017, the Secretary of State for Work and Pensions stated that some HMRC tax credit debt would be transferred to DWP, who would then seek to recover it using their wider powers (including Direct Earnings Attachment). This was due to commence in April 2018. However, this has now been delayed according to the latest OBR Economic and Fiscal outlook presented to Parliament in March 2018. See page 210 of the [OBR report](#).

10. New Opening Hours for the Citizens Advice Office in Hanley

From 3rd April 2018 our offices in Cheapside Hanley will no longer be open for drop-in on Wednesdays but will be open on Thursday afternoons instead.

Monday	9.30—13.30
Tuesday	9.30—13.30
Wednesday	Limited service
Thursday	2.30pm—6.30pm
Friday	9.30—13.30