

# Issues Surrounding the Definition of a ‘Qualifying Young Person’ in a Claim for UC



## Adviser Legal Information Briefing

This legal information briefing highlights the definition of a qualifying young person for the purposes of Universal Credit and the potential issues arising from their inclusion within parental claim. The briefing below outlines the key definition of a ‘qualifying young person’ (QYP) and the potential options available to claimants who might be negatively impacted when moving to UC via the official managed migration process.

**For free, tailored advice on any of the issues discussed in this document or any other aspect of social security, please call (028) 9024 4401 and speak with our specialist social security advice team.**

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## Overview

This social security legal briefing will look at the potential issues relating to ‘qualifying young persons’ under a claim for Universal Credit, with a particular focus on the impact of 19 year olds on the managed migration process and transitional protection. Advisers can find more detailed and comprehensive guidance and information about managed migration, transitional protection and a breakdown of the transitional element calculation in our new updated guide on our website.

## End of Tax Credit Deferrals

If a claimant is moving to Universal Credit via the managed migration process, the regulations aim to ensure that they will be no worse-off at the point they transfer. However, this may not be the case for claimant’s making the transition with a 19-year old qualifying young person attached to their previous legacy benefit award.

Under Child Tax Credits, a ‘Qualifying Young Person’ (QYP) could potentially be included in a claimant’s award until they turned 20 years old. In comparison, under the Universal Credit system, the cut-off for a QYP is the 31<sup>st</sup> of August after their 19<sup>th</sup> birthday. Until recently this meant that claimants who received their migration notice, with 19 year old QYP person attached to their award – were able to defer their migration to Universal Credit until their child turned 20 years old. Therefore receiving the maximum amount of Child Tax Credit before moving to Universal Credit.

However, as the April 2025 permanent closure of the Tax Credits system approached, the Department announced in September 2024 that it was no longer allowing claimants with a QYP attached to their claim to defer their migration. The rationale for this change was to ensure all Tax Credit claimants had an opportunity to migrate to Universal Credit before the Tax Credit scheme closed.

## Who is a QYP in a claim for Universal Credit?

The meaning of a child or qualifying young person is defined in Regulation 2 of the Universal Credit (Transitional Provisions) Regulations (NI) 2016 as having the same meaning as Regulation 6 of the Universal Credit Regulations (NI) 2016 as found below:

## The Universal Credit Regulations (NI) 2016, Regulation 6

### Definition of a Qualifying Young Person for Universal Credit

6. (1) A person who has reached the age of 16 but not the age of 20 is a qualifying young person for the purposes of Part 2 of the Order and these Regulations –
- (a) up to, but not including, the 1<sup>st</sup> of September following their 16th birthday, and
  - (b) up to, but not including, the 1<sup>st</sup> of September following their 19th birthday, if they are enrolled on, or accepted for, approved training or a course of education –
    - i. which is not a course of advanced education,
    - ii. which is provided at a school or college or provided elsewhere but approved by the Department, and
    - iii. where the average time spent during term time in receiving tuition, engaging in practical work, or supervised study or taking examinations exceeds 12 hours per week.
- (2) Where the young person is aged 19, they must have started the education or training or been enrolled on or accepted for it before reaching that age.
- (3) The education or training referred to in paragraph (1) does not include education or training provided by means of a contract of employment.
- (4) “Approved training” means training provided in Northern Ireland directly or indirectly by a Training Organisation pursuant to its arrangement with the Department for Employment and Learning under the Employment and Training Act (Northern Ireland) 1950 whether that agreement is known as an operating agreement or by any other name.
- (5) A person who is receiving universal credit, an employment and support allowance or a jobseeker's allowance is not a qualifying young person.

### Why is the Definition of a Qualifying Young Person (QYP) Important?

As highlighted above, the rules for including a child or QYP differ between a claim for Child Tax Credits and Universal Credit, and this can have a significant impact on claimants making the move via managed migration and their entitlement to a transitional element. Transitional protection is designed to protect claimants circumstances **at the point of transfer** to UC under managed migration. However, it

is important to note the transitional element will not protect claimants if they experience a change in circumstances after they make a claim for Universal Credit. Transitional protection will only ensure that claimants are no worse-off at the point they transfer, and after that point, the Transitional element will be at risk of erosion, i.e. reducing due to a change in circumstances or change occurred via the annual benefit uprating. See the Law Centre NI Guide on Managed Migration that is now available on our website.

Remember, a QYP could be included in an award of Child Tax Credit up until the age of 20 and this enabled claimants to receive an additional element for a young person who was in full-time, non-advanced education. However, under a claim for Universal Credit the rules are different and a *Child Element* under UC can only be claimed until the 31<sup>st</sup> of August following the QYP 19<sup>th</sup> birthday. As a result, entitlement to a child element under Universal Credit can end sooner than it would have done under the old Child Tax Credit system. The claimant will not be able to challenge this.

### Transitional Protection Disadvantage

Transitional protection is supposed to ensure that no claimant moving to Universal Credit will be left financially worse off. However, claimants who are in receipt of an award of Child Tax Credits (CTC) which includes an element for their 19 year old child may be at a disadvantage when it comes to calculating the amount of 'Transitional Element' that will be included in their Universal Credit award.

The Department for Communities interpretation of the legislation has resulted in claimants not receiving transitional protection for the loss of the child element in their previous CTC claim for a 19-year old who falls outside the definition of a QYP under the Universal Credit Regulations.

In reality this means that a claimant who is making the move to Universal Credit under the managed migration process will be worse off at the point they migrate – as the calculation of their transitional element will take into consideration a *Child Element* for a young person that will not actually receive a *Child Element* in their actual UC award.

- **Let's look at the example of Elliot below:**

Elliot received his Managed Migration Notice in November 2024 advising him to make a claim for Universal Credit as his award of Tax Credits was ending. Elliot's award had included an additional Child Element for his 19 year old daughter, Leah who turned 19 in October.

Elliot made a successful claim for UC within the deadline; however, he noticed that his UC award was less than what he was receiving under Child Tax Credits. Elliot requested the breakdown of his calculation and noticed that the Department had included a *Child Element* in his *Indicative Universal Credit Amount* despite Leah being too old to be considered a Child/QYP under the Universal Credit Regulations.

Leaving Elliot worse off at the point of transfer to Universal Credit is contrary to the stated policy intention for transitional protection and is *arguably* because of a misinterpretation of the legislation.

- **What Should a Claimant in these Circumstances do?**

Claimants in these circumstances should submit a mandatory reconsideration request to the Department arguing that they used the wrong legislative definition and that their income prior to managed migration should be protected at the point of transfer.

Law Centre NI are assisting client's and advisers to challenge this interpretation of the legislation and have provided a template ground for Mandatory reconsideration /Appeal in the schedule at the end of this briefing - which you can find '[here](#)'.

### What About a Child who Turn 19 Post Managed Migration?

As mentioned above, under a claim for Universal Credit, a QYP can no longer be included in a claimant's award from the 31<sup>st</sup> of August following their 19<sup>th</sup> birthday. But what happens if a claimant's child turns 19 after they have made a claim for UC via the managed migration process?

Unfortunately, claimants in these circumstances are not protected by transitional protection and they will experience a decrease in the amount of award they receive. It is important to remember that claimants making the move to Universal Credit via the managed migration process will only be protected at the point they transfer. This means that any change of circumstance that occurs after they have made the move can negatively impact their claim and will not fall under the remits of transitional protection.

- **Let's look at an example of this scenario in practice:**

Marie was in receipt of CTC when she received her Managed Migration Notice in June 2024. She made the move later that move and had a *Child Element* included in her award for her 18 year old child, Kaycee. However, two months later Kaycee turned 19 in August and Marie experienced a reduction in her Universal Credit award as the *Child Element* was no longer included.

Marie has called her local advice organisation for advice as she thought her award would be protected via transitional protection and Kaycee has only just turned 19.

Unfortunately, under the Universal Credit regulations, a QYP will no longer be able to receive a *Child Element* for a QYP from the 1<sup>st</sup> of September following their 19<sup>th</sup> birthday. This means that Marie will have experienced a change in circumstances after making her official managed migration move – as this change was not relevant at the time of her transfer her circumstances will fall under the normal

entitlement criteria, and she will no longer be entitled to a *Child Element* in her UC award.

Although Marie previously would have been able to receive a *Child Element* in her Child Tax Credits award up until Kaycee turned 20, this is not the case for Universal Credit.

A client in these circumstances will not be able to challenge the reduction in their UC award and the loss of an element after they move to Universal Credit due to a change in circumstances is not protected under the rules of transitional protection.

However, Marie might want to consider whether Kaycee could make a claim in her own right for Universal Credit. We will discuss this option in more details below.

- **Children Born in July & August in Northern Ireland**

As outlined above the definition of a qualifying young person under Universal Credit enables a claim to be made for a child up to the 1<sup>st</sup> September following their 19<sup>th</sup> birthday if they are in non-advanced education or an approved training course. This enables a parent or guardian to maintain a Universal Credit claim for a child that needed to defer or repeat a year.

However, this rule has a disproportionate impact on school children in Northern Ireland. In England and Wales children normally start school on the 1<sup>st</sup> of September following their 4<sup>th</sup> birthday – which means that children who are required to repeat a year can still be included in their parent's UC claim. In contrast, children in Northern Ireland born between the 1<sup>st</sup> of July and 31<sup>st</sup> of August would normally start school from the beginning of September in the following year, i.e. a year later.

As a result, the application of Regulation 6 means that Northern Ireland based children born in July and August are disadvantaged when compared to children in England and Wales who have to repeat a year of school. Although, a child in these circumstances may be able to make a claim for Universal Credit in their own right, the household will be significantly worse-off financially as shown below.

Law Centre NI is currently progressing a test case to challenge the application of the legislation in Northern Ireland, arguing that it is a breach of Article 14 with Article 8 and A1P1. Law Centre NI has engaged with the Department for Communities and Education to highlight the unfavourable treatment of NI students and advocate for a policy solution.

This issue is not related to managed migration and has impact on any NI claimants

If you are advising a client in these circumstances you should contact Law Centre NI to receive further advice and assistance. It is important for advisers to remember that the child may be able to make a UC claim in their own right but the parent should also seek to appeal the decision to end their entitlement to the child element. As shown

below there can be a significant loss of household income where the child has to claim in their own right:

- Financial Impact on the Household

Let's consider the difference between a QYP's claim in their own right and their inclusion in a parental claim:

QYP Claim	Parental Claim
Standard Allowance (u25)	UC Eldest Child Element
£311.68	£333.33 per month

Ultimately, a household in this situation would see a **reduction** in their household income of **£21.65 per month**.

What is the difference where a disabled child/QYP makes claim in their own right?

QYP Claim	Parental Claim
Standard Allowance (u25)	UC Eldest Child Element
£311.68	£333.33
Potentially LCWRA (After 3 months)	Disabled Child Element
£416.19	£487.58

Ultimately, a household in this situation would see a **reduction** in their household income of **£93.04 per month if the QYP had LCWRA, and a reduction of £509.23** .per month if the QYP does not have LCWRA.

### How to Claim UC in Own Right

As highlighted throughout this document, the rules for identifying a qualifying young person are different under Universal Credit compared to a claim for Child Tax Credits. However, claimants who find themselves impacted by this change should consider whether the child/QYP in this situation could make a claim for Universal Credit in their own right. Below we will discuss the different situations which could lead to a QYP

making their own claim for UC and the potential financial impact that this could have on a household.

- **No longer a QYP and in non-advanced education**

Advisers should also be aware of the scenario where a young person, who is not a QYP and not in a course of advanced education could potentially make their own claim for Universal Credit. At this point it is important for advisers to remember that for the purposes of Universal Credit a young person is only a QYP if they satisfy the age requirements as outlined above and they are in full-time non-advanced education.

Advisers should be careful to note this scenario when it comes to someone who is entering their final year of school having already turned 19 years of age. In this situation, they will be too old to be considered a QYP under the rules for Universal Credit (as September following their 19<sup>th</sup> birthday will occur at the beginning of the school year). Advisers who are faced with this scenario should consider whether a claimant in these circumstances can make their own claim for Universal Credit.

Additionally, someone who is 16 years old and who's school enrolment has ended and therefore not in advanced education may be able to make a claim for Universal Credit in their own right if they satisfy one of the exceptions of entitlement:<sup>1</sup>

- they have limited capability for work or you have medical evidence and are waiting for a Work Capability Assessment
- they are a carer for a severely disabled person
- they are single and responsible for a child
- they are part of a couple who are responsible for at least one child, and their partner is eligible for Universal Credit
- they are at least 29 weeks pregnant
- they have had a child in the last 15 weeks
- they don't have parental support (for example, they don't have parents and they are not under local authority care)

- **Accessing LCWRA**

A Universal Credit claimant that has limited capability for work-related activity (LCWRA) can receive an additional element within their Universal Credit award following a successful health journey and work capability assessment. When advisers are looking at a claimant who is going through the managed migration process with a disabled child who is no longer considered a QYP under their parent's claim, should consider whether they can make a claim in their own rights and whether they could be entitled to the LCWRA element.

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<sup>1</sup> The Universal Credit Regulations (NI) 2016, Reg. 8



- **Disabled child considering full time education**

A disabled child, who is in full-time advanced education can potentially make a claim for UC in their own right. However, a child in these circumstances should try to establish LCWRA in advance of their course starting. How can they do this?

It is possible to establish a 'credits only' claim to new style Employment & Support Allowance from a child's 16<sup>th</sup> birthday. This means that if they make claim for Universal Credit in their own right, the same work capability status will be attached to their award, and they will benefit from the additional LCWRA element from the beginning of their UC claim.<sup>2</sup>

Alternatively, a young person who is entitled to claim UC can potentially be assessed as having LCWRA before the beginning of their advanced education course.

### More information about managed migration

With the roll-out process of Managed Migration continuing you can find more information about how transitional protection works, calculating the transitional element and more in the Law Centre latest 'Guide to Managed Migration for Advisers' available on our website.

### Further support & questions

For free, tailored advice on any of the issues discussed in this document, or any other aspect of social security law, please call (028) 9024 4401 to speak with the specialist advice team at the Law Centre.

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<sup>2</sup> Department for Communities, [Advice for Decision Making – G: Work Capability Assessment | LCW | LCWRA](#), G1020

## **Schedule 1**

Grounds of Appeal against decision not to award  
transitional protection for loss of child element for 19  
year old

## Grounds of Appeal against decision not to award transitional protection for loss of child element for 19 year old

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1. I would like to appeal against your decision that I am not entitled to Universal Credit for my 19 year old child.
2. I believe the Department has misinterpreted the Regulations and as a result I have been left worse off following migration to Universal Credit. This is something that the government had intended to avoid.
3. The reason for this misinterpretation is because a child element was included in the calculation of my indicative UC amount despite the fact that my child does not meet the definition of a *child or qualifying young person*. *The meaning of a child or qualifying young person* is defined in regulation 2 of the Universal Credit (Transitional Provisions) Regulations (NI) 2016 as having the same meaning as in the Universal Credit Regulations. The meaning provided for in the Universal Credit Regulations (NI) 2016 is:

### Interpretation

2.—(1) In these regulations—

- i. “qualifying young person” has the meaning in regulation 6;

...

### Meaning of “qualifying young person”

6.—(1) A person who has reached the age of 16 but not the age of 20 is a qualifying young person for the purposes of Part 2 of the Order and these Regulations—

(a) up to, but not including, the 1st September following their 16th birthday, and

(b) up to, but not including, the 1st September following their 19th birthday, if they are enrolled on, or accepted for, approved training or a course of education—

(i) which is not a course of advanced education,

(ii) which is provided at a school or college or provided elsewhere but approved by the Department, and

(iii) where the average time spent during term time in receiving tuition, engaging in practical work, or supervised study or taking examinations exceeds 12 hours per week.

(2) Where the young person is aged 19, they must have started the education or training or been enrolled on or accepted for it before reaching that age.

(3) The education or training referred to in paragraph (1) does not include education or training provided by means of a contract of employment.

(4) "Approved training" means training provided in Northern Ireland directly or indirectly by a Training Organisation pursuant to its arrangement with the Department for Employment and Learning under the Employment and Training Act (Northern Ireland) 1950 whether that agreement is known as an operating agreement or by any other name.

(5) A person who is receiving universal credit, an employment and support allowance or a jobseeker's allowance is not a qualifying young person.

4. Because my child has reached the 1 September following their 19<sup>th</sup> birthday they do not meet the definition of a qualifying child or young person under the UC Regulations.
5. Regulation 53 The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2016 provides for the calculation of the transitional element in managed migration cases:

#### **The transitional element**

53.—(1) A transitional element is to be included in the calculation of an award if the total amount of any awards of existing benefits determined in accordance with regulation 54 ("the total legacy amount") is greater than the amount of an award of universal credit determined in accordance with regulation 55 ("the indicative UC amount").

6. Regulation 55 provides for the calculation of the indicative UC amount with an assumption made that a child element (Reg 25 UC Regs (NI) 2016) being included for the relevant *child or qualifying young person*:

#### **The transitional element - indicative UC amount**

55.—(1) The indicative UC amount is the amount to which a claimant would be entitled if an award of universal credit were calculated in accordance with Article 13 of the Order by reference to the claimant's circumstances on the migration day, applying the assumptions in paragraph (2).

(2) The assumptions are— (a) if the claimant is entitled to an award of child tax credit, the claimant is responsible for any **child or qualifying young person** in respect of whom the individual element of child tax credit is payable;

[Emphasis Added]

7. At present DfC are interpreting *child or qualifying young person* in the above provision based on the interpretation provided in the Child Tax Credit Regulations. This results in my *indicative* UC amount calculation including a child element for my 19 year old child, but not including a child element for my 19 year old child in my *actual* Universal Credit entitlement calculation. The outcome of this interpretation is that people in my circumstances are worse off as a result of the migration to Universal Credit.
8. As I am not responsible for a any *child or qualifying young person (as defined the UC Regulations (NI) 2016)*, in respect of whom the individual element of child tax credit is payable, then this child should not have been included in the calculation of my indicative UC amount. To include my 19 year old child is contrary to the policy intention and the correct reading of the legislation.
9. I therefore request that the indicative UC amount is recalculated by excluding my 19 year old child as they do not meet the definition of a child or qualifying young person as provided for in the UC Regulations (NI) 2016.
10. I have received assistance to draft my ground of appeal by Law Centre NI who are assisting multiple appellants in these circumstances. Should DfC not revise this decision prior to hearing, they should provide a comprehensive appeal submission addressing the arguments raised here.