Housing Systems Briefing

No.3 / 2024:

State Pension Age Tax Credit claimants – what's happening?

The Tax Credit service is scheduled to close in April 2025. This means that payments cannot continue beyond this date and anyone currently claiming Tax Credits must be notified of this and offered an alternative.

Whilst the majority of Tax Credit recipients are of working age, it is estimated that around 28,000 awards include a claimant who is State Pension age (i.e. age 66 or over).

The new legislation which took effect from 8th June 2024, states that State Pension age^ Tax Credit claimants will either be sent a Tax Credit Closure Notice (telling them that their Tax Credits will end but they can stay on, or make a new claim for, Pension Credit) or a Migration Notice (inviting them to claim Universal Credit instead – although they could still choose to make a claim for Pension Credit).

The Regulations also outline when a claimant will be entitled to Transitional Protection if worse off on the benefit they have been offered.
^Note – these Regulations do not apply to 'unprotected' Mixed Age Couples, who will receive a Migration Notice in line with the legacy benefits they are receiving - see timetable here.

This Briefing investigates the new legislation and what it means for State Pension age Tax Credit recipients.

The information in this Briefing

The information in this briefing is based on our understanding of the Regulations and DWP guidance.

The new Regulations are the Social Security (State Pension Age Claimants: Closure of Tax Credits) (Amendment) Regulations 2024 - **click here**.

This briefing is based on our current understanding of how the process works. If our understanding changes, we will update our website, this briefing and announce this in our newsletter (to subscribe to our newsletter please email info@ucnotes.co.uk).

IMPORTANT: This Briefing was first published on 22nd July 2024 based on the Guidance and information available at that time. It will be updated as we learn more and is subject to change.

State Pension age Tax Credit claimants

Key Points:

Already on Pension Credit?

- Will be sent a Tax Credit Closure Notice (TCCN) (see page 6).
- Will remain on Pension Credit which will be automatically reassessed when their Tax Credits end two months after the TCCN was issued.
- If they would be financially worse off (e.g., if getting Low Disabled Child Element), they could be entitled to a Transitional Additional Amount in their Pension Credit (see page 9).

Entitled to Working Tax Credit and not getting Pension Credit?

(includes where nil WTC award but CTC is in payment)

- Will be sent a Migration Notice and invited to claim Universal Credit (see page 17) – normal Managed Migration rules apply - could be entitled to a Transitional Element if worse off (see page 21).
- Single State Pension age claimants and couples who are both State Pension age will be able to claim UC due to new age 'waiver' (see page 18) if they receive a Migration Notice and claim by their final Deadline Day. These claimants will not be affected by the Benefit Cap on UC.
- The age 'waiver' ends in any of the circumstances that Transitional Protection ends (see page 19).
- 'Protected' Mixed Age Couples who make a claim for UC can retain their 'protection' (see page 5).
- A claim for UC will end any Housing Benefit^ that is in payment – claimants will be entitled to the Housing Costs Element of UC instead and could be affected by the Bedroom Tax (although if already on HB, the UC Transitional Element should account for any loss).
- If they fail to claim Universal Credit by their Deadline Day (and have not claimed Pension Credit), their Tax Credits (and any Housing Benefit) will end. However, if they claim within one month, their Universal Credit entitlement will begin on their Deadline Day.
- If they choose to claim Universal Credit, they must do so by their Final Deadline Day.
- Claimants who are eligible can choose to make a claim for Pension Credit instead of Universal Credit, but they will not be entitled to any Transitional Protection if they are worse off. Normal three-month backdating rule applies – but cannot go back beyond Deadline Day.

^unless living in 'specified' or 'temporary' accommodation.

Entitled to Child Tax Credit and not getting Pension Credit or Working Tax Credit?

- If they are a Mixed Age Couple who are not 'protected', they will come under the normal Managed Migration Process (see page 6).
- All other State Pension age claimants will be sent a Tax Credit Closure Notice (TCCN) and invited to claim Pension Credit.
- If they receive a TCCN and make a claim for Pension Credit within one month after their Deadline Day, they could be entitled to a Transitional Additional Amount if worse off (see page 9)
- If they miss their deadline, their Child Tax Credit will end on the day before their Deadline Day (and Housing Benefit continues although will be reassessed).
- If they make a claim for Pension Credit within three months after Deadline Day, their claim can be backdated to Deadline Day so there's no gap in entitlements (i.e., normal three-month backdating rule applies – but cannot go back beyond Deadline Day).

Introduction

As Tax Credits cannot be renewed beyond April 2025[1], all current Tax Credit claimants need to be migrated onto a different benefit. Most Tax Credit claimants are working age and will therefore be part of the Managed Migration process. However, there are roughly 28,000 Tax Credit awards being paid to someone who is State Pension age[a]. This could include Mixed Age Couples (where one member is State Pension age and one member is working age), single State Pension age claimants and couples who are both State Pension age. Based on their circumstances, the DWP will either send them a Tax Credit Closure Notice (TCCN) inviting them to stay on, or make a new claim for, Pension Credit, or a Migration Notice inviting them to make a claim for Universal Credit. This briefing investigates what claimants need to do after being sent a TCCN or Migration Notice – and whether they have options.

Why would someone who is State Pension age be on Tax Credits?

There are no age rules for Tax Credits – pensioners were able to make new claims for Tax Credits (until they were replaced by Universal Credit), and a claimant's existing Tax Credit award does not automatically end when they turn State Pension age.

Working Tax Credit

Pensioners have been able to work into retirement since 2011. If they work 16 hours or more a week and have a low income, they could be entitled to Working Tax Credit.

Where a State Pension age claimant on WTC is also receiving Pension Credit, they will be sent a Tax Credit Closure Notice (see page 6). Otherwise, they will be sent a Migration Notice (see page 17).

Child Tax Credit

Pension Credit could not include any amount for children until 2018 – before this the only option for pensioners who were responsible for children or Qualifying Young People was Child Tax Credit. After this date where a claimant was already receiving Child Tax Credit when they made a claim for Pension Credit, they were not entitled to the Child Addition in Pension Credit – instead they have continued to receive support through Child Tax Credit.

Where a State Pension age Claimant receiving CTC is also receiving Pension Credit, they will be sent a Tax Credit Closure Notice (see page 6). Where they are not receiving Pension Credit but meet the entitlement conditions for Working Tax Credit, they will be sent a Migration Notice (see page 17). Where they are not receiving Pension Credit and do not meet the entitlement conditions for WTC, they will be sent a Tax Credit Closure Notice (see page 6).

What about Mixed Aged Couples?

Since 2019, most Mixed Aged Couples have been unable to make new claims for pension age benefits (i.e., Pension Credit and State Pension age Housing Benefit). However, some Mixed Age Couples are 'protected' and able to stay on / make a new claim for Pension Credit or Housing Benefit. (see page 4)

IMPORTANT

Mixed Aged Couples should always seek expert advice in relation to means-tested benefits – and especially before making a claim for Universal Credit. The next section of this briefing discusses issues arising for Mixed Age Couples in the Managed Migration Process.

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[a] Child and Working Tax Credit Statistics: Provisional Awards – April 2024

‘Protected’ Mixed Aged Couples

'Protected' Mixed Age Couples are able to make a new claim for Pension Credit – and therefore are treated the same as single State Pension age claimants or couples who are both State Pension age. As such, they will be sent a Tax Credit Closure Notice or Migration Notice in line with their circumstances as detailed in this briefing.

If they are a Mixed Aged Couple who are not ‘protected’, they are not able to make a claim for Pension Credit and will come under the normal Managed Migration process. They will receive a Migration Notice in line with the legacy benefits they are receiving - see **timetable** here.

EXAMPLE: Petra (69) and Steve (64) receive Income-Related ESA, Child Tax Credit and Housing Benefit. They are not a ‘protected’ Mixed Aged Couple so they will come under the normal Managed Migration process and will be sent a Migration Notice.

EXAMPLE: Viresh (72) and Dani (65) are a ‘protected’ Mixed Age Couple receiving Child Tax Credit and Housing Benefit. They will be sent a Tax Credit Closure Notice in line with the new process for State Pension age Tax Credit claimants.

Who is a 'protected' Mixed Age Couple?

To be a 'protected' Mixed Age Couple, the couple must[2]:

- be currently getting either Pension Credit or Housing Benefit that is being assessed under the State Pension age Regulations, and
- have been getting either Pension Credit or Housing Benefit (under the State Pension age Regulations) on 14th May 2019 as a Mixed Age Couple, and
- have been on one of these benefits ever since i.e. no gaps when neither Pension Credit nor Housing Benefit (under the State Pension age Regulations) was being paid, and
- have been a Mixed Age Couple on 14th May 2019 and have been in the same couple ever since.

If a Mixed Age Couple are on Tax Credits and Housing Benefit - does this mean they are a 'protected' Mixed Age Couple?

If they are also getting Income-Related ESA, Income Support, Income-Based JSA, then they are not a ‘protected’ Mixed Age Couple.

If they are not getting any of these benefits, then it is more likely that they are a ‘protected’ Mixed Age Couple. However, not all Mixed Age Couples that get Housing Benefit under the State Pension age Regulations are protected - see list below - so you are always best running through the eligibility criteria outlined above.

A Mixed Age Couple could be getting State Pension age HB but would not be 'protected' where:

- There has been a gap where they were not entitled to Housing Benefit (and they were not getting Pension Credit). This can happen when the HB Office close off a HB claim for a period in the past - called a 'closed period supersession', and sometimes when someone moves home and makes an advance claim for HB.
- They have been allowed to make a new claim/continue receiving HB because they are living in 'specified' or 'temporary' accommodation, and there is a period before this (but after 14th May 2019) when they were not on State Pension age HB or Pension Credit.
- They were allowed to make a new claim for HB due to the SDP Gateway that was in place between Jan 2019 and Jan 2021 - in which case their HB would be being assessed under the working age HB Regulations.

Example: Otto (75) and Anna (64) are a Mixed Aged Couple. They're getting Child Tax Credit and State Pension age Housing Benefit. They claimed HB in 2022 whilst in 'temporary' accommodation and were able to take this claim with them when they moved within the LA area. Although they are getting State Pension age Housing Benefit, they are not a 'protected' Mixed Age Couple. Otto and Anna will be sent a UC Migration Notice rather than a Tax Credit Closure Notice.

If a Mixed Age Couple claim UC, won't they lose this protection?
Normally, a Mixed Age Couple making a claim for Universal Credit would end their 'protection' (because it ends their entitlement to State Pension age Housing Benefit and/or Pension Credit). However, some 'protected' Mixed Age Couple receiving Working Tax Credit will be invited to claim UC, but this does not mean that they will automatically lose this protection.

New rules[3] - that take effect from 8th June 2024 - mean that a 'protected' Mixed Age Couple can make a new claim for Housing Benefit where they have:

- Been issued with a Migration Notice, and
- Make a claim for HB within 3 months of:
    - either: the day after their UC award terminated if they were entitled to UC because they made a claim before their Final Deadline Day
    - or: the day after their previous award of HB terminated if they failed to claim UC by their Final Deadline Day, or they did but were not entitled, and
- They met the conditions for HB on the day mentioned in bullet point 2 above.

Example: Rob (77) and Paula (60) are a 'protected' Mixed Aged Couple. They were receiving Working Tax Credit and State Pension age Housing Benefit when they received a Migration Notice and made a claim for Universal Credit. The new Regulations allow them to make a claim for State Pension age Housing Benefit and/or Pension Credit in the future as long as they make their claim within three months of their UC ending.

What if they claim Universal Credit after their Final Deadline Day?
As they are a Mixed Age Couple, they are able to make a claim for UC if they are entitled. However, to retain their 'protected' Mixed Age Couple status whilst on UC, they must claim after receiving a Migration Notice and *before* their Final Deadline Day. If they make a claim for UC after their Final Deadline Day, they will no longer be a 'protected' Mixed Age Couple^ and they will not be able to make a claim for Pension Credit or State Pension age Housing Benefit until the younger member of the couple is State Pension age – even if they attempt to make a claim for HB within three months of their HB ending.
^IMPORTANT: Most 'protected' Mixed Age Couple who miss their Final Deadline Day would be better off making a new claim for HB. But they must do this within 3 months of their HB ending as outlined above.

What if they claim Universal Credit, but would prefer to be on Pension Credit (and HB)?
Where a 'protected' Mixed Age Couple has made a claim for Universal Credit after receiving a Migration Notice then decides that they would rather claim Pension Credit (and HB), then they can choose to terminate their UC award and would be able to make a new claim for Housing Benefit due to the new rules explained above.

WARNING: Mixed Aged Couples will lose their 'protection' if they claim UC before receiving a Migration Notice, after their Final Deadline Day (i.e., over one month after their Managed Migration deadline) or after receiving a Tax Credit Closure Notice

Tax Credit Closure Notice

A Tax Credit Closure Notice is a letter, sent to a State Pension age Tax Credit recipient, notifying them that their Tax Credit award is due to end on a certain date - their Deadline Day.

A Tax Credit Closure Notice will be sent to:

- Those already getting Pension Credit, who also get Child Tax Credit and / or Working Tax Credit.
- Single State Pension age claimants, couples who are both State Pension age and 'protected' Mixed Age Couples who are getting Child Tax Credit but not entitled to Working Tax Credit (i.e., they receive Child Tax Credit and are not working enough hours to be entitled to Working Tax Credit).

This will inform them that their Tax Credits are coming to an end.

For couples, both members will receive a Tax Credit Closure Notice.

The Tax Credit Closure Notice can be cancelled if sent in error or where the DWP "*considers it necessary to do so in the interests of the person, or any class of person, or to safeguard the efficient administration of Universal Credit.*"[4].

If a Migration Notice has been sent instead in error, the Regulations[5] allow that Migration Notice to be treated as if it were a Tax Credit Closure Notice. Claimants should have this confirmed by the Migration Notice helpline and request confirmation in writing.

The Deadline Day given in the Notice can be extended in certain circumstances if the DWP agree that this is necessary.

Already on Pension Credit?

For claimants already in receipt of Pension Credit, their Tax Credit Closure Notice will give them the date that their Tax Credit award will end (their Deadline Day). This should be two months and a day from the date the Notice was issued[6].

They do not need to do anything. Their Tax Credits will be closed down the day before their Deadline Day and their Pension Credit reassessed from Deadline Day. If they are worse off, they may be entitled to a Transitional Additional Amount (see page 9).

As soon as the Tax Credits end HMRC will start the Tax Credit finalisation process. They will work out whether the claimant/s has been under or overpaid from the start of the tax year up to this termination date.

TOP TIP: Make sure Tax Credits are correct

Entitlement to the Transitional Additional Amount is calculated using the information held by HMRC so it is important that this is correct. If they are awaiting a decision on a claim for, or review or appeal on, a disability benefit for a dependent child (i.e., DLA/CDP or PIP/ADP), see page 15.

IMPORTANT: We are aware that some State Pension age claimants were sent a Tax Credit renewal letter with a section implying that they will be asked to make a claim for Universal Credit in the near future. Where they are already on Pension Credit, or are not entitled to Working Tax Credit, they will be sent a Tax Credit Closure Notice and will not need to claim Universal Credit.

Not on Pension Credit and sent a Tax Credit Closure Notice?

For those not already on Pension Credit the Tax Credit Closure Notice will give them the date that they need to claim Pension Credit by (the Deadline Day) to ensure there is no gap between their Tax Credits ending and Pension Credit starting, and to protect their current level of benefit entitlement (i.e. to receive any Transitional Additional Amount they may be entitled to). This Deadline Day should be three months and a day after the TCCN was issued[7].

If the claimant feels they have ‘good reason’ for not being able to make a claim for Pension Credit by the Deadline Day given in their TCCN, they can call the Migration Notice helpline and ask to have their Deadline extended. This decision is discretionary, and Regulations do not outline what should be considered ‘good reason’.

If no claim has been made and it is getting close to the Deadline Day, then it is assumed that reminders will be sent.

These claimants will need to make a claim for Pension Credit. What happens to their Tax Credits depends on when they make their claim for Pension Credit as outline below.

NOTE: As this is a Tax Credit Closure Notice, it is only giving notice of the end to their Tax Credit award. Any existing HB can stay in payment, although may be reassessed.

Claim made on or before Deadline Day

Provided that the claimant/s makes a Pension Credit claim on or before the Deadline Day specified in their Tax Credit Closure Notice (or if this has been extended, by the new Deadline Day), then their Pension Credit entitlement will usually start on the day they made their claim^ and -

- Tax Credits are terminated the day before the date of that claim for Pension Credit[8].
- The normal Pension Credit backdating rules do not apply, but a part-week payment can be made to bridge any gap between the Tax Credits ending and Pension Credit starting[9].

^Pension Credit is paid weekly on a set day determined by when their State Pension is paid or the last two digits of their NI Number (i.e., it is not based on the date they make their claim). The Regulations allow for a part-week payment of Pension Credit to be made where this is needed to bridge a gap between the claimant’s Tax Credit entitlement ending and their first weekly payment of Pension Credit.

Example: Bobby (age 74) and Anne (age 67) have been claiming Child Tax Credit and Housing Benefit. They receive a letter - their Tax Credit Closure Notice - on 13th July informing them that their Tax Credits will be brought to an end, inviting them to claim Pension Credit and giving them a Deadline Day of 14th October. They make their claims for Pension Credit on 20th July, and so their Tax Credit entitlement is brought to an end on 19th July. Their entitlement to Pension Credit begins on 20th July and their award could include a Transitional Additional Amount if they are worse off.

Example: Ghita (age 69) has been claiming Child Tax Credit. She received her Tax Credit Closure Notice - informing her that her Tax Credits were due to end and inviting her to make a claim for PC instead. She wasn't able to make the claim by her Deadline Day as she had a massive heart attack and ended up in hospital two weeks before. Her oldest daughter arranged with the DWP an extension and so she was issued with a 'new deadline day' - being 20th November. Ghita makes her claim for Pension Credit on 15th November and so her Child Tax Credit entitlement is brought to an end on 14th November. Her entitlement to Pension Credit begins on 15th November and her award could include a Transitional Additional Amount if she is worse off.

Claim made within one month after their Deadline Day

If the claimant/s does not make a Pension Credit claim by their Deadline Day (or if this has been extended, by their new Deadline Day) then -

- Tax Credits are terminated on the day before their Deadline Day[10], and we assume that they will receive a letter informing them of this.

If the claimant then makes a successful claim for Pension Credit within one month of their Deadline Day, their Pension Credit claim will automatically start from their Deadline Day (because Pension Credit can be backdated by 3 months but not beyond Deadline Day)^ and a Transitional Additional Amount will be applied to the PC award if applicable. Their Migration Day will be the day before their Deadline Day.

^Pension Credit is paid weekly on a set day determined by when their State Pension is paid or the last two digits of their NI Number (i.e., it is not based on the date they make their claim). The Regulations allow for a part-week payment of Pension Credit to be made where this is needed to bridge a gap between the claimant's Tax Credit entitlement ending and their first weekly payment of Pension Credit.

NOTE: Any Housing Benefit in payment is unaffected by a Tax Credit Closure Notice i.e. cannot be brought to an end (but may change if the claimant is awarded Pension Credit).

Example: Lilly (73) received her Tax Credit Closure Notice informing her that her Tax Credits were due to end and inviting her to make a claim for Pension Credit instead. She didn't make the claim by her Deadline Day - 23rd October - and so her Child Tax Credits ended on 22nd October. Lilly did go on to make a claim for Pension Credit on 11th November (i.e. within one month of her Deadline Day) and so her PC entitlement started on 23rd October and there was no gap in her benefit entitlement.

If no claim is made

It is expected that the Pension Service/DWP will ensure that every effort is made to assist someone to make a claim for PC. If someone needs more time, they can ask for an extension of their Deadline Day.

However, if no PC claim is made, their Tax Credits will end from the day before their Deadline Day.

NOTE: Any Housing Benefit is payment is unaffected by a Tax Credit Closure Notice i.e. cannot be brought to an end (but may change when the claimant is awarded Pension Credit).

The claimant can still go on to make a claim for PC, but if they claim more than one month after their Deadline Day, it will be treated as a 'normal' claim i.e., it can be backdated by up to 3 months (although not beyond Deadline Day) and cannot include Transitional Protection.

Example: Owen (68) had been claiming Child Tax Credit when he received his Tax Credit Closure Notice informing him that his Tax Credits were due to end and inviting him to make a claim for Pension Credit instead. He didn't make the claim for Pension Credit by his Deadline Day - 5th September - and so his Tax Credits stopped on 4th September. Owen did go on to make a claim for Pension Credit but not until 21st October (more than one month after his Deadline Day). This was backdated to 5th September, but the Pension Service did not look to see if he was entitled to a Transitional Additional Amount.

TOP TIP: Be prepared but don't jump too early

State Pension age claimants who are receiving Child Tax Credit but not Pension Credit or WTC should be prepared to make a claim for Pension Credit. BUT if they do so before their Tax Credit Closure Notice is issued, they will miss out on any Transitional Additional Amount they could have received.

The Transitional Additional Amount

Where a Tax Credit recipient has been issued with a Tax Credit Closure Notice and either was already on Pension Credit or makes a claim for Pension Credit within a month of their Deadline Day, then their Pension Credit award may include a Transitional Additional Amount.

IMPORTANT: There may be some State Pension age Tax Credit recipients who would not normally have an entitlement to Pension Credit (i.e. their income would normally be too high).

They may use an online benefits calculator that shows this 'nil' award.

However, the Transitional Additional Amount would mean that they are entitled to some Pension Credit – so, they need to make sure they make their claim for Pension Credit after receiving a Tax Credit Closure Notice and within a month after the Deadline Day given (or extended Deadline Day).

Who will get a Transitional Additional Amount?

Already on Pension Credit when they receive their Tax Credit Closure Notice
A Pension Credit claimant will have a Transitional Additional Amount included in their Pension Credit assessment after their Tax Credit award is terminated if they[11]:

- have received a Tax Credit Closure Notice, and
- were getting Pension Credit on the date this Notice was issued, and
- were getting Child Tax Credit on their Migration Day (the day before their Deadline Day, and
- are in the same claiming unit i.e. if they were a single claimant when they were sent the Notice, they are still a single claimant on their Migration Day, or if they were a couple when they were sent their Notices, then they are in the same couple on their Migration Day, and
- are calculated as being entitled to one.

Example: Sue (age 67) and Bob (age 69) were receiving Pension Credit and Child Tax Credit for their three grandchildren. They received a Tax Credit Closure Notice informing them that their Child Tax Credit would be brought to an end on a certain date.

On this date their Pension Credit was re-assessed to include three Child Elements. And because they were receiving Pension Credit when the Notice was issued and have not separated since, the Pension Service will work out whether that award should also include a Transitional Additional Amount.

Example: Beryl (70) was receiving Pension Credit and Child Tax Credit for her grandson. She received a Tax Credit Closure Notice informing her that her Child Tax Credit would be brought to an end on a certain date.

However, a few weeks after receiving the TCCN, Beryl moved in with her partner. This will have ended her Child Tax Credit entitlement. Her new partner is State Pension age so they can make a claim for Pension Credit, but this will not include a Transitional Additional Amount because Beryl has had a change in claiming unit.

TOP TIP: Check Pension Credit
These claimants do not have to request that their entitlement to the Transitional Additional Amount is assessed – but where a claimant should be entitled to one, it is worth checking that it had been included correctly once their Tax Credit entitlement has ended.

Making a new claim for Pension Credit after receiving their Tax Credit Closure Notice

A Pension Credit claimant will have a Transitional Additional Amount included in their Pension Credit assessment where they are making a new claim for Pension Credit if they[12]:

- have made a new claim for Pension Credit after receiving a Tax Credit Closure Notice, and
- made their Pension Credit claim either before their Deadline Day (in that Notice or extended Deadline Day) - or within a calendar month after that Deadline Day, and
- were getting Child Tax Credit on their Migration Day (the day before their Pension Credit award starts), and
- are in the same claiming unit i.e. if they were a single claimant when they were sent the Notice, they make their claim for Pension Credit as a single claimant, or if they were a couple when they were sent their Notices, then they make their claim for Pension Credit in that same couple, and
- are calculated as being entitled to one.

Example: Salma (age 68) gets Child Tax Credit for her two grandchildren. She also gets a State Pension, a works pension and a small amount of Housing Benefit.

In July she is sent a Tax Credit Closure Notice. This informs her that her Child Tax Credit is coming to an end and that she needs to make a new claim for Pension Credit if she wishes to continue to receive this financial support and gives her a Deadline Date.

Salma isn't very good with dealing with letters and so ignores it. She fails to claim by her Deadline Day and so her Child Tax Credit award is brought to an end. When she receives notice of this, she talks to a Benefits Adviser who helps her make a claim for Pension Credit. She makes her claim within a month of the Deadline Day in the Notice.

This means that the Pension Service will work out whether her Pension Credit award should include a Transitional Additional Amount.

As Salma has been awarded Guarantee Pension Credit, her HB will be reassessed, as she is now 'passported' to full HB it will increase.

WARNING

The Transitional Additional Amount can be eroded or lost completely (see page 15).

IMPORTANT

Claimants will only be entitled to a Transitional Additional Amount if they claim PC after receiving a Tax Credit Closure Notice. Claimants who receive a Migration Notice, can choose to claim Pension Credit if they are entitled – but any award would not include a Transitional Additional Amount and they could be worse off.

How is the Transitional Additional Amount worked out?

To work out entitlement to the Transitional Additional Amount, the Pension Service will usually compare two amounts – the 'representative weekly amount of Child Tax Credit' (which will be added to any Pension Credit that is in payment) and the 'Indicative State Pension Credit Amount'. Both are based on the claimant's circumstances on Migration Day[13].

Definitions

Representative weekly amount of Child Tax Credit[14]
The DWP will take the 'daily rate' of the Tax Credit award and multiply it by 7.

HMRC will give DWP this 'daily rate' based on the information they hold about the claimant's personal circumstances on their Migration Day.

HMRC will have worked this out by looking at the claimant's current total entitlement during the 'relevant period'^ for Tax Credits and dividing this by the number of days it covers to produce a 'daily rate' of Tax Credits.

To get a good estimate, a Benefits Adviser can look at the claimant's latest Tax Credit award letter. This will show how much Tax Credits the claimant has been awarded for their current 'relevant period' that includes their Migration Day, and how many days this covers. Divide the entitlement by the number of days.

Or, where the claimant's annual taxable income is less that £19,995 (and they do not qualify for Working Tax Credit), the adviser could add together all the Child Tax Credit Elements the claimant is entitled to based on their circumstances on their Migration Day and divide by 365 to get the daily rate.

NOTE: This could be very different to the amount of Tax Credit in payment (which could be affected by in-year adjustments and/or repaying overpayments from a previous tax year).

^The 'relevant period' is the days since the rate of Tax Credits they are entitled to last changed (i.e., the beginning of a new tax year, or the date they became entitled to / lost entitlement to an Element). Changes in income do not trigger a new relevant period.

EXAMPLE: Sue (age 67) and Bob (age 69) were receiving Child Tax Credit and Pension Credit. When the Pension Service come to work out their entitlement to the Transitional Additional Amount, they will look at the 'daily rate' of Tax Credit entitlement sent to them by HMRC. For Sue and Bob this is £39.43. The Pension Service will multiply this by 7 to get a weekly amount of £276.01.

Existing Pension Credit award
The Pension Service will look at the amount the claimant is entitled to before any deductions for debts or repaying an overpayment.

EXAMPLE: Sue (age 67) and Bob (age 69) were receiving Child Tax Credit and Pension Credit. The Pension Service know that they are entitled to £17.65 Pension Credit each week.

TOP TIP: Check Tax Credits
To maximise their Pension Credit award, a State Pension age Tax Credit claimant should check their Tax Credit award includes any Disabled Child Elements they are entitled to.

If it doesn't, they should contact HMRC and ensure their records are updated before they make their claim for Pension Credit, or their Deadline Day.

Indicative Pension Credit Amount[15]
The Pension Service will look at the claimant's circumstances on their Migration Day and work out how much Pension Credit they would have been entitled to based on those circumstances together with some assumptions as outlined below.

Assumptions:
Child Additions
When working out a claimant's Indicative Pension Credit Amount, the Pension Service will assume that the claimant is responsible for any child / Qualifying Young Person included in their Child Tax Credit award^. Where the claimant has been affected by the Two Child Limit, then the Indicative Pension Credit Amount will also include an amount for any child / Qualifying Young Person for whom the claimant is treated as responsible for under Pension Credit rules.

^NOTE: A Child Addition will be included in the Indicative PC Amount for any child / Qualifying Young Person for whom a Child Element has been included in the Child Tax Credit award, even where no Child Addition would normally be included in a Pension Credit award e.g., for a child living abroad or in LA care.

Earnings
When working out a claimant's Indicative Pension Credit Amount, the Pension Service will use the amount of earned income used to calculate the Child Tax Credit award, adjusted for tax and National Insurance where applicable. HMRC should send this figure to the Pension Service.

Extra Information:
Deferred pension
For those State Pension age claimants making a new claim for Pension Credit after receiving a Tax Credit Closure Notice, if they have not yet claimed a state or non-state pension, then the usual 'notional income' rules will not apply for the first 52 weeks of the Pension Credit award, or until that award ends or the pension income is claimed, if sooner[16]. As such, it will not affect the Indicative Pension Credit Amount.

Working Tax Credit
Any Working Tax Credit that the claimant is entitled to is ignored for this calculation (i.e., it is not included in their ‘representative weekly amount’ and it does not reduce their Indicative Pension Credit amount.

Savings/capital
Whilst Tax Credits only consider taxable income from savings/capital the Pension Service will consider all savings/capital unless disregarded under the Pension Credit Regulations.

EXAMPLE: Sue (age 67) and Bob (age 69) were receiving Child Tax Credit and Pension Credit. The Pension Service will work out their Indicative SPC Amount by looking at what they would be entitled to on their Migration Day applying the given assumptions.

They have three children included in their CTC and they are not responsible for any others, so they will have three Child Additions included in their ISPCA. Additionally, they receive a Low Disabled Child Addition in their CTC so their ISPCA will include a Low Disabled Child Addition.

Neither Sue nor Bob have any earned income but they do both receive the State Pension – the Pension Service will have access to the amount they are being paid and will reduce their ISPCA accordingly.

Their Indicative SPC Amount will be £262.95.

Calculating the Transitional Additional Amount

The method used to calculate the Transitional Additional Amount will depend on whether or not the Guarantee part of the Indicative Pension Credit amount is nil.

If the Indicative Guarantee Pension Credit entitlement is not nil (i.e., they would be entitled to some GPC if they claimed normally), then the Transitional Additional Amount will be the amount by which the representative amount of Child Tax Credit (plus any Pension Credit that is in payment), exceeds the total Indicative Pension Credit amount[17].

EXAMPLE: Sue and Bob's Indicative Guarantee State Pension Credit is above £nil so the Pension Service will calculate their entitlement to the Transitional Additional Amount as follows –

Representative Weekly Amount of Child Tax Credit (£276.01) + weekly Pension Credit (£17.65) = £293.72

Indicative State Pension Credit Amount =
£262.95

£293.72 - £262.95 = £30.77 = Transitional Additional Amount

If the Indicative Guarantee Pension Credit is nil (i.e., there is either no Pension Credit entitlement at all, or else entitlement to Savings Credit only), then the weekly Transitional Additional Amount is instead calculated as follows[18] (note – all the amounts are explained in more detail below):

Step 1. Take the claimant's Representative Child Tax Credit figure.

Step 2: Work out the claimants 'excess income' i.e. the amount by which their Indicative Assessable Income exceeds their Indicative Guarantee Pension Credit.

Step 3: Add together the Representative Child Tax Credit and this excess income.

Step 4. Does the claimant either have Savings Credit within their indicative Pension Credit Amount, or would do so but for the fact that their retirement provision is too high?

> If No: their Transitional Appropriate Amount is the figure worked out in Step 3.
>
> If Yes: their Transitional Appropriate Amount is the figure worked out in Step 3 minus the amount of maximum Savings Credit (£17.01 per week for a single person, or £19.04 for a couple.

TOP TIP: Use our manual calculation sheet!

We have produced a manual calculation sheet to help you calculate the Transitional Additional Amount.

Click here for the sheet (and our Transitional Element Manual Calculation sheet).

WARNING

The Transitional Additional Amount can be eroded or lost completely (see page 15).

Why would someone be worse off on Pension Credit?

Child on a Disability Benefit

Where a child or Qualifying Young Person is getting DLA/CDP (at any rate other than high-rate care) or PIP/ADP (other than enhanced rate daily living), then the addition in Child Tax Credit is £4,170 per annum (£80 pw), whereas in Pension Credit it is just £35.93 a week.

TOP TIP: Waiting for the outcome of a DLA/CDP/PIP/ADP claim?
See page 15 to ensure claimants don't miss out.

Not on Pension Credit and capital/savings above £10,000

Whilst neither Tax Credits nor Pension Credit have an upper savings limit, the way a claimant's capital/savings affect their award is different.

For Tax Credits, HMRC are interested in the taxable income that is generated by a claimant's savings. So, any tax-free savings are ignored. If the claimant receives less than £300 in income from their savings a year, it doesn't affect their Tax Credit award. If the claimant receives more than £300 in income from those savings, then the first £300 a year of this income (and any income from pensions) is ignored.

Whereas the Pension Service will assume that for each £500 (or part of £500) a claimant has in savings over £10,000, it generates a £1 a week income and reduces their Pension Credit award accordingly.

Not on Pension Credit and has earnings / other income

Tax Credits and Pension Credit treat earnings/income differently.

Where someone is on Child Tax Credit (and is not entitled to Working Tax Credit) then any taxable income under the 'threshold' (currently £19,995) is ignored. Where someone is entitled to both Child Tax Credit and Working Tax Credit, the current 'threshold' is £7,955.

Where someone is on Pension Credit, then any net earnings above a weekly earnings disregard reduce the Pension Credit award £1 for £1. The earnings disregard is either £20 a week (for lone parents, where the award includes a Carer Addition, where the claimant (or partner) gets AA, PIP/ADP, DLA or AFIP, and some other more obscure situations). Where the £20 disregard does not apply, then for single claimants it is £5 and for couples £10 a week.

And all assessable income reduces the Pension Credit award £1 for £1.

Retrospective Changes

When calculating a claimant's Transitional Additional Amount, the Pension Service will use the information that is available to them at the time. In some cases, that information could be incorrect or change.

However, the Regulations only allow the Pension Service to go back and recalculate the claimant's Transitional Additional Amount in limited circumstances. Whether the Pension Service will reassess a claimant's Additional Amount or not depends on why the recalculation would be needed.

The Pension Service can revise the amount of the Transitional Additional Amount where the information used to work out the claimant's Transitional Additional Amount later turns out to be inaccurate or incomplete and this was due to:

- a misrepresentation by the claimant, or
- a failure by the claimant to report information and that failure was advantageous to the claimant i.e. they receive a higher amount of Transitional Additional Amount than they should have done, or
- official error.

The Pension Service can also reassess a claimant's Transitional Additional Amount if the claimant:

- was awaiting the decision to revise or supersede a decision in relation to an award of Tax Credits (including reporting a change in circumstances), or
- was awaiting the outcome of an appeal in relation to an award of Tax Credits

and this affects their entitlement to the Transitional Additional Amount.

TOP TIP: Waiting for the outcome of a DLA/CDP/PIP/ADP claim?
If a State Pension age claimant is waiting to hear about an award of DLA/CDP or PIP/ADP for a child they are responsible for, then they should let HMRC know - they should explain that they are seeking a supersession of their Tax Credit award even though they don't have the outcome of the disability benefit claim or dispute yet. This will ensure they come under these Regulations.

Erosion and Loss

The Transitional Additional Addition is initially a fixed amount, however it can be eroded or lost due to certain changes in the claimant's circumstances.

Erosion
The Transitional Additional Amount will be 'eroded' when a claimant becomes entitled to a new Addition in their Pension Credit Appropriate Amount, or where their Standard Minimum Guarantee or an Additional Amount increases.

For instance, a claimant's Transitional Additional Amount will be eroded where they become entitled to a Carer Addition, or due to the April uprating of benefits, or where an existing Housing Addition (eg for leaseholder costs) increases due to an increase in their service charges.

EXAMPLE: Tina and Dave are initially entitled to a Transitional Additional Amount of £90.

This remains unchanged until the April uprating of benefits which increases the Standard Minimum Guarantee, and other Additions in their award. In total, these increases amount to £49.40. This will 'erode' their TAA to £40.60 (90 – 49.40).

Loss

There are several changes that would result in the loss of the Transitional Additional Amount[19].

The changes that would end the Additional Element are:

- When the amount of the Transitional Additional Amount has been reduced to nil by erosion.
- When they are no longer responsible for all of the children/ Qualifying Young People that they were responsible for when they were issued with their Tax Credit Closure Notice.
- A couple claiming Pension Credit separate or one partner becomes a single claimant (including where one dies or moves permanently into a care home).
- A single Pension Credit claimant takes on a partner.
- They are no longer entitled to Pension Credit.

EXAMPLE: Tina and Dave are receiving a Transitional Additional Amount of £40.60.

Tina has made claim for Carer's Allowance and when awarded a Carer Addition is added to their Pension Credit award. As this is worth more than their TAA, the TAA is 'eroded' to £nil and they no longer receive it.

EXAMPLE: Sue and Bob are receiving a Transitional Additional Amount of £30.77. Their granddaughters move in with their dad, so Sue and Bob are no longer entitled to any Child Additions. They will also lose entitlement to the Transitional Additional Amount as they are no longer responsible for any of the children / Qualifying Young People that they were responsible for when their TCCN was issued.

IMPORTANT

Claimants who will be entitled to a Transitional Additional Amount should be aware that the amount of Pension Credit they receive may not increase when they expect it to (e.g., due to the annual uprating of benefits). Additionally, a change could reduce their Pension Credit entitlement more than they expect it to if it means they lose their TAA (e.g., they cease being responsible for a child / Qualifying Young Person and are no longer responsible for any of the children / QYPs that they were responsible for when they were issued with their TCCN).

Migration Notice

A Migration Notice is a letter, sent to a legacy benefit claimant, notifying them that their legacy benefits are due to end on a certain date - their Deadline Day - and inviting them to claim Universal Credit.

Which State Pension age claimants will get a Migration Notice?

A Migration Notice will be sent to claimants getting Working Tax Credit, or Child Tax Credit with a nil Working Tax Credit award who are not also getting Pension Credit. This includes –

- Single State Pension age claimants
- Couples, who are both State Pension age
- 'Protected' Mixed Age Couples

The Migration Notice will give them a date - which will be three months and a day from the date on the letter - that their legacy benefits will end (this includes any HB^ – even if a 'protected' Mixed Age Couple). ^unless living in 'specified' or 'temporary' accommodation.

Note – the Deadline Day can be extended if appropriate.

The letter will say that if they wish to continue to receive financial support, that they should make a claim for Universal Credit. However, there is nothing stopping them from making a claim for Pension Credit instead (although they would not be entitled to a Transitional Additional Amount if they did).

Note: Mixed Aged Couples who are not 'protected' will also be sent Migration Notices, but they are not the focus of this briefing.

If a Tax Credit Closure Notice has been sent instead in error, the Regulations[20] allow that Tax Credit Closure Notice to be treated as if it were a Migration Notice. Claimants should have this confirmed by the Migration Notice helpline and request confirmation in writing.

Why are some claimants who can claim Pension Credit being sent a Migration Notice and directed to claim Universal Credit instead?

Those reaching retirement age have been able to work into retirement since 2011. Although Pension Credit is designed for the needs of most pensioners, it is not intended to provide support for those who work / incentivise work.

The DWP believe that working pensioner households currently receiving Working Tax Credit, or Working Tax Credit and Child Tax Credit (including those with a nil WTC award), will be better off on Universal Credit than on Pension Credit.

This is because when someone is on Pension Credit, any net earnings above a weekly earnings disregard reduce their Pension Credit award £1 for £1. The earnings disregard is either £20 a week (for lone parents, where the award includes a Carer Addition, where the claimant (or partner) get AA, PIP/ADP, DLA or AFIP, and some other more obscure situations). Where the £20 disregard does not apply, then for single claimants it is £5 and for couples £10 a week.

Whereas on Universal Credit, any net earnings above any Work Allowance reduce the claimant's UC award by 55p in the £1. Claimants will be entitled to a Work Allowance if they are responsible for a child / Qualifying Young Person, or if they (either member of a couple) have a Limited Capability for Work. The weekly equivalent of the Work Allowances is £93 (or £155 for those whose UC award does not include a Housing Costs Element unless the reason is because they live in 'temporary' accommodation).

Additionally, they could also be entitled to help with their childcare costs if they meet the conditions for the Childcare Costs Element. Whereas Pension Credit does not help with childcare costs.

The DWP have therefore decided that these pensioners should be given the opportunity to claim Universal Credit (we guess that had they been forced onto Pension Credit that could have acted as a disincentive to work - something the DWP would want to avoid).

These Tax Credit claimants will, therefore, be sent a Migration Notice and will be able to claim Universal Credit (although they are still able to claim Pension Credit if they would prefer but would not receive any Transitional Protection if worse off - remember Transitional Protection is linked to the benefit that has been offered).

Does this mean a non-working State Pension age partner will be expected to work?

No. A Universal Credit claimant who is State Pension age is automatically placed in the No Work Related Requirements Group[21].

Note – the working age partner in a Mixed Aged Couple will be subject to work related requirements as normal and so could be expected to look for work.

How can someone who is State Pension age (and not in a Mixed Age Couple) claim UC?

The UC Regulations have been changed from 8th June 2024 to allow certain State Pension age claimants to claim UC if they have been sent a Migration Notice as they have introduced a new age 'waiver'.

Age 'waiver'

To be entitled to the age 'waiver' claimants must have[22]:

- received a Migration Notice (meaning they were entitled to Working Tax Credit and were not receiving Pension Credit), and
- been State Pension age when the Notice was issued (where they are a couple this applies to both members), and
- made a 'qualifying claim' for Universal Credit (i.e., they made their claim for UC before their Final Deadline Day – which is one month after their Deadline Day).

Although they would normally be too old to claim, this age 'waiver' allows them to do so as it removes the upper age limit for these claimants. However, the age 'waiver' will be lost in any of the circumstances in which Transitional Protection is lost (see page 19). If this happens, their entitlement to UC will end and they will need to make a claim for Pension Credit if they are entitled.

Claimants who are able to claim UC due to the age 'waiver' are excluded from the Benefit Cap on UC[23].

WARNING

If someone who is State Pension age misses their Final Deadline Day (i.e., they do not make a claim for UC within a month of the Deadline Day in their Migration Notice, or their extended Deadline Day), they will be unable to make a claim for UC as the age 'waiver' cannot apply to their claim. These claimants can make a claim for Pension Credit at any point – but it will not include a Transitional Additional Amount if they are worse off.

How long does this waiver last?

There are several changes that would result in the loss of this 'waiver'.

IMPORTANT: As soon as the waiver ends, entitlement to UC will also end.

The waiver will end if[24]:

- They make a claim for Pension Credit.
- A couple claiming UC separate or one partner becomes a single claimant (including where one member dies or goes permanently into a care home).
- A single UC claimant takes on a partner^.
- They are no longer entitled to UC (unless due to earnings).
- Due to earnings, the claimant has a 'nil' entitlement to UC for three consecutive MAPs.
- The claimant's earnings have been lower than the monthly equivalent of 16 hours x minimum wage for three consecutive Monthly Assessment Periods (MAPs)^^.

^Except in certain situations where the new partner in ineligible for UC e.g. is a person from abroad who cannot claim.

Note – if a single State Pension age claimant takes on a working age partner, they will be a Mixed Age couple who are not 'protected' and so they can stay on UC as a couple (although any Transitional Element they were receiving would end).

^^There is a 12 month grace period[25] i.e. this rule cannot affect a claimant in the first 12 months after claiming UC. This means that the DWP will only start looking at this rule from the 13th MAP when the claimant's income in the 10th, 11th and 12th MAPs will be considered.

EXAMPLE: Parveen (age 69) and Mo (age 67) claimed Universal Credit after receiving a Migration Notice and before their Final Deadline Day and so the age 'waiver' applies to their ongoing UC awards.

However, 16 months later Mo has a stroke and so his earnings drop to just Statutory Sick Pay and so below the 16 hours x minimum wage threshold. This continues for several months. Once his earnings have been lower than this for more than three consecutive Monthly Assessment periods, the age waiver ends and so does their Universal Credit.

What if they decide to finish work after being on UC for a few months?

Most State Pension age claimants who are not working will be better off on Pension Credit than Universal Credit. Assuming they are entitled to Pension Credit, they can choose to make a claim for it at any time. However, if they continue receiving UC, they may not realise that they would be better off making a claim for PC. A drop in earnings will not end their UC entitlement until the 13th MAP (i.e., after the 12 month grace period) – so a claimant who finishes work soon after claiming UC could miss out if they are not advised to claim Pension Credit which could be the better option on finishing work if this is a long-term decision (i.e., they do not intend on returning to work). As soon as they finish work, they should speak to a Benefits Adviser.

WARNING: The DWP will not tell claimants if they have a change in their circumstances which means they would be better off on Pension Credit (e.g., they finish working for good). Claimants on UC who could be entitled to Pension Credit should talk to a Benefits Adviser about their entitlements regularly to make sure they are still on the best benefit. However, once they make a claim for Pension Credit, they will not be able to get back onto UC (unless they are a Mixed Aged Couple), so they should make sure that this is the best option for them long term.

What happens when the waiver ends?

When the waiver ends, entitlement to UC will also end. The UC will end from the beginning of the Monthly Assessment Period in which the change that ends the waiver occurred.

If they are entitled, a claim for Pension Credit and/or Housing Benefit can be made instead. These can be automatically backdated up to three months, so there should be no gap between their UC ending and PC and/or HB starting if they claim PC within three months of their UC ending.

Once lost, there is no way back for the claimant/s onto UC (unless they become part of a Mixed Age Couple!).

Making a claim for UC

If someone who receives a Migration Notice chooses to make a claim for UC, they will need to do so as normal (i.e., they will need to provide all the necessary information and sign a Claimant Commitment).

If they make their claim for Universal Credit on or before their Deadline Day, then their Tax Credit award will end from the day before the day they made their claim for Universal Credit (and any Housing Benefit will end two weeks later). Assuming their claim is successful, their UC entitlement will begin on the day they made their claim, and they could be entitled to Transitional Protection.

If they fail to make their claim for Universal Credit by their Deadline Day, then their Tax Credit award will end the day before their Deadline Day (and any Housing Benefit will end two weeks later)[26].

If they make their claim for Universal Credit after their Deadline Day but before their Final Deadline Day (i.e., within one month after Deadline Day), then their UC entitlement will begin on Deadline Day[27] and they could be entitled to Transitional Protection[28].
In all cases, HMRC will start the Tax Credit finalisation process. They will work out whether the claimant/s has been under or overpaid from the start of the tax year up to this termination date.

IMPORTANT: Claimants must claim before their Final Deadline Day.

If they are a single State Pension age claimant or a State Pension age couple, they will not be able to claim UC if they miss their Final Deadline Day as they will not be entitled to the age 'waiver'.

If they are a 'protected' Mixed Age Couple, they will be able to make a claim for UC after their Final Deadline Day but this would end their 'protection'.

REMEMBER: A 'protected' Mixed Age Couple will not lose their 'protection' if they claim Universal Credit after receiving a Migration Notice and before their Final Deadline Day even though their Housing Benefit will end. See page 5.

Who will get a Transitional Element?

A Universal Credit claimant will have a Transitional Element included in their Universal Credit assessment where their Tax Credit award is terminated if they[29]:

- Have received a Migration Notice, and
- They are getting some legacy benefits i.e. Tax Credits (and Housing Benefit) on their Migration Day i.e. the day before their UC award starts, and
- Are in the same claiming unit i.e. if they were a single claimant when they were sent the Notice, they claim Universal Credit as a single claimant, or if they were a couple when they were sent their Notices, then they are in the same couple when they make their claim for Universal Credit, and
- Have an Indicative Universal Credit Amount that is less than their Total Legacy Amount (both based on their circumstances on Migration Day).

Please see out briefing on the Transitional Element for more detail.

WARNING: The Transitional Element can be 'eroded' or lost. Claimants who will be entitled to it should be aware that the amount of Universal Credit they receive may not increase when they expect it to (e.g., due to the annual uprating of benefits). Additionally, a change could reduce their UC entitlement unexpectedly (e.g., if their earnings reduce their UC to £nil for three consecutive MAPs). If their TE is eroded or lost, they should consider whether they are still better off on UC than Pension

Are there any differences between how Managed Migration works for working age claimants and how it will work for these State Pension age claimants?

Excluded from the Benefit Cap

An extra exclusion - State Pension age claimants getting UC because of the age 'waiver' was added to the list of exclusions to the Benefit Cap from 8th June 2024[30].

NOTE: the Benefit Cap will still apply to Mixed Aged Couples (unless otherwise exempt), as the working age claimant can be expected to work. However, if they are working enough hours to be entitled to Working Tax Credit, they should be earning enough to be excluded from it – unless they are self-employed and their earnings are under National Minimum Wage.

Also worth noting:

No conditionality for anyone State Pension age.

So, if State Pension age and self-employed, they will not be affected by the gainful self-employment test i.e. no minimum income floor even after 12 months on UC.

If they make a claim for Universal Credit after receiving a Migration Notice and on or before their Final Deadline Day, then any notional income from a deferred pension will be ignored for their first 12 MAPs.

Universal Credit or Pension Credit?

State Pension age claimants who are not already getting Pension Credit but are entitled to Working Tax Credit (or Child Tax Credit with a nil Working Tax Credit award) will be sent a Migration Notice and invited to claim Universal Credit. So, they could claim UC. But they could claim Pension Credit instead if they are:

- Single and State Pension Age, or
- A couple who are both State Pension Age, or
- A 'protected' Mixed Age Couple.

IMPORTANT: Although these claimants have a choice (i.e., they can claim either Universal Credit or Pension Credit), they will only receive Transitional Protection if they claim Universal Credit – as this is the benefit they have been offered. Additionally, if they are deferring a pension, the notional income will only be ignored on UC. This should be factored in when making a decision about which benefit to claim.

So, should those invited to claim UC always do so?

When deciding which benefit would be preferable to claim there are various factors to take into account. These include:

- Council Tax Reduction for a UC claimant comes under the working-age rules, which are often significantly less generous than the pension-age rules. This will depend on the exact rules of the particular scheme that the Local Authority has adopted.
- On UC they could be affected by the Bedroom Tax, on HB they will not (however, if they are receiving Housing Benefit on their Migration Day, the Transitional Element should take this into account).
- UC has restrictions on certain passported help, such as earnings limits for free school meals and help with health costs, which don't apply to Pension Credit.
- The Two Child Limit does not apply to Pension Credit Child Elements.
- Working UC claimants can get help with childcare costs (if they meet the rules) regardless of the number of hours they work.
- If the claimant is getting DLA/CDP at Low or Middle Rate Care, or Standard Rate Daily Living PIP in their CTC award, they could only be entitled to a Transitional Element to account for this loss if they make a claim for Universal Credit.

So, it is always best if the claimant considers how much Universal Credit (with any Transitional Protection), Council Tax Reduction and passported help they will get, and compares this to how much Pension Credit (without any Transitional Protection), Housing Benefit, Council Tax Reduction and passported help they will get. Is there a better option for them?

BUT REMEMBER: If they choose to make a claim for Universal Credit, then they can swap over onto Pension Credit at any time, but if they make a claim for Pension Credit then they will not be able to swap to Universal Credit in the future - this is a one-time opportunity.

IMPORTANT: Where a claimant is sent a Migration Notice, this is a notice that their legacy benefits will end on their Deadline Day. If the claimant decides to claim Pension Credit, their existing legacy benefits i.e. Tax Credits and HB will continue in payment until the claimant's Deadline Day. So their Pension Credit assessment will take into account any Working Tax Credit up until that day, and will then be re-assessed.
More importantly, their HB will end, even if they are a 'protected' Mixed Age Couple, and thev will have to make a new claim.

EXAMPLE: Barry (71) and Bernie (63) are a 'protected' Mixed Age Couple receiving £50.37 Working Tax Credit, £143.08 Child Tax Credit and £120 Housing Benefit a week. Barry gets a State Pension of £169.50 a week, and Bernie gets standard rate daily living PIP (and is classed as a disabled worker for Tax Credit purposes)

They are responsible for their two granddaughters aged 14 and 12. Bernie works and currently earns £285 gross a week. They receive Migration Notices.

If they claim Universal Credit, they will be entitled to £1358.28 a month (including a Transitional Element of £790.98). As their entitlement to Council Tax Reduction would be assessed under the working age rules, they would not be entitled and would have £134.12 Council Tax to pay each month. They are earning too much to be passported to any 'extras' – although they could get a Warm Home Discount if their property has a high energy cost score.

If they chose to claim Pension Credit instead, their Housing Benefit would still end (as they have received a Migration Notice) but they could make a new claim and they would be entitled to a total of £752.31 a month in Pension Credit and HB. As their entitlement to Council Tax Reduction would be assessed under the pension age rules, they would not have any Council Tax to pay. Additionally, as they would be receiving Guarantee Pension Credit, they could be entitled to a Warm Home Discount, Cold Weather Payments, free NHS dental treatment, help with NHS travel costs, and Free School Meals.

Because they received a Migration Notice, they will only receive transitional protection if they claim Universal Credit. With this Transitional Protection, UC is their better option.

However, when ever they have a change in their circumstances they should double check that UC is still their best option.

IMPORTANT: The normal loss of Transitional Element rules will apply to them, so when Bernie finishes work, as her wages were below the couple AET at the point they made their claim for UC, her finishing work would not end their Transitional Element.

EXAMPLE: It is August 2024. Marcus rents, works part time and is responsible for his four children aged 17, 15, 6 and 5. His CTC is affected by the Two Child Limit and so he receives £143.08 per week. He gets a further £79.37 in WTC for 16 hours work based on £190pw wage. He is State Pension age, which meant that (due to the change in the rules from 8th June 2024) his HB award was reassessed to include elements for 4 children, so it increased to maximum, and now covers his £180pw rent. While he is working, he has decided to defer his state pension, to avoid paying income tax, and because he was told that his Tax Credits would reduce if he received it. As a WTC recipient, he has now received a UC Migration Notice.

Marcus' legacy amount of existing benefits on his Migration Day is equivalent to £222.45 per week of Tax Credits plus £180 of HB = £402.45 per week i.e. £1743.95 pcm.

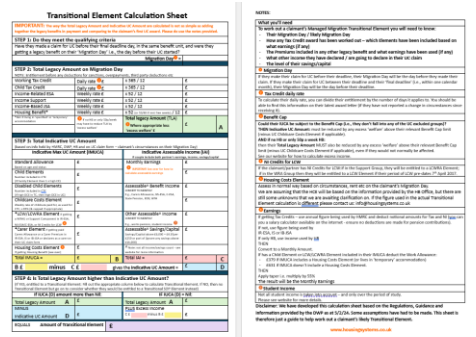
As part of his migration to UC, DWP work out that his IUCA is £1564.07. He therefore qualifies for a UC Transitional Element of £41.54pw / £179.88 pcm, in order to bring him up to his previous legacy amount, though this is subject to erosion.

If Marcus had been advised to claim Pension Credit instead, he would get 4 full child elements in his Pension Credit for a total of £323.81 PC + £180 HB = £503.81 i.e. £2,183.18 pcm

He is not made immediately worse off at the point of UC migration, but Marcus would be better off at any stage had he claimed Pension Credit instead of working age benefits. Note that this is not just because of the £439.23 pcm difference between Pension Credit and working age benefits, but also, he will get full Council Tax Reduction if on Pension Credit, but likely has little or no CTR entitlement while on working age benefits. While on UC, Marcus is under the earnings limit to get help with certain health costs, but is earning too much to claim free school meals (which he would get on Pension Credit).

Useful Resources

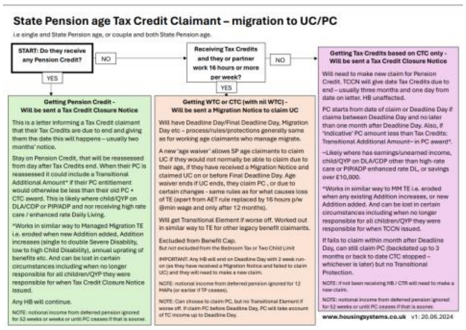
Transitional Additional Amount Calculation Sheet / Transitional Element Calculation Sheet


Transitional Element Calculation Sheet

Available on the HS ucnotes website - [click here.]()

Email: julia@ucnotes.co.uk if you would like a copy

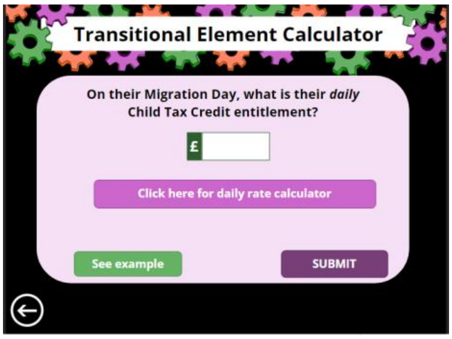
State Pension age Tax Credit claimants – what's happening flowcharts


State Pension age Tax Credit Claimant – migration to UC/PC

Available on the HS ucnotes website - [click here.]()

Email: julia@ucnotes.co.uk if you would like a copy

Transitional Element Calculator



This calculator (for subscribers only) works out a claimant's entitlement to the UC Transitional Element – based on our current understanding of the Regulations and Guidance.

Please let us know what you think:
Email: rachel@ucnotes.co.uk

[Click here]()

Online Workshops

Watch out for our Managed Migration workshops – just £85+vat per delegate. [Click here]() for details

Or book an in-house session - from just £645+vat

Interested? Email us: training@ucnotes.co.uk

[1] Social Security and Universal Credit (Migration of Tax Credit Claimants and Miscellaneous Amendments) Regulations 2024
[2] The Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019
[3] The Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions) (Amendment) Order 2024
[4] 3A(8) The Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019
[5] 44(5A) The Universal Credit (Transitional Provisions) Regulations 2014
[6] Para 19 DMG Memo 04-24: Closure of Tax Credits for State Pension Age Claimants and Transfer to Universal Credit and Pension Credit
[7] 3A(3) The Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019
[8] 3B(9) The Welfare Reform Act 2012 (commencement No. 32 and Savings and Transitional Provisions) Order 2019
[9] 5 The Social Security (State Pension Age Claimants: Closure of Tax Credits) (Amendment) Regulations 2024
[10] 3A(1)(b) The Welfare Reform Act 2012 (commencement No. 32 and Savings and Transitional Provisions) Order 2019
[11] Schedule IIB Regulation 2 The State Pension Credit Regulations 2002
[12] As above
[13] Schedule IIB Regulation 1 The State Pension Credit Regulations 2002
[14] Schedule IIB Regulation 4 The State Pension Credit Regulations 2002
[15] Schedule IIB Regulation 5 The State Pension Credit Regulations 2002
[16] 18(5A) The State Pension Credit Regulations 2002
[17] Schedule IIB Regulation 6(a) The State Pension Credit Regulations 2002
[18] Schedule IIB Regulation 6(b) The State Pension Credit Regulations 2002
[19] Schedule IIB Regulation 8 The State Pension Credit Regulations 2002
[20] 3A(9) The Welfare Reform Act 2012 (commencement No. 32 and Savings and Transitional Provisions) Order 2019
[21] 89(1)(a) The Universal Credit Regulations 2013
[22] 60A(1) The Universal Credit (Transitional Provisions) Regulations 2014
[23] 60C The Universal Credit (Transitional Provisions) Regulations 2014
[24] 60A(3) The Universal Credit (Transitional Provisions) Regulations 2014
[25] 56(3A) The Universal Credit (Transitional Provisions) Regulations 2014
[26] 46(1) The Universal Credit (Transitional Provisions) Regulations 2014
[27] 46(3) The Universal Credit (Transitional Provisions) Regulations 2014
[28] 48 The Universal Credit (Transitional Provisions) Regulations 2014
[29] 50The Universal Credit (Transitional Provisions) Regulations 2014
[30] 60C The Universal Credit (Transitional Provisions) Regulations 2014