

Fostering and Universal Credit - the details

Introduction

The following information has been put together to explain in more detail the special rules which apply to foster carers who are claiming Universal Credit. Sometimes a foster carer may experience problems with the Department for Work and Pensions (DWP), who administer Universal Credit, and the local job centre (via their work coach) who may not understand the special rules which apply to foster carers because fostering is such a niche area.

The rules about Universal Credit are written within legal acts, regulations and explained in guidance for DWP decision makers called Advice for Decision Making (ADM). It can get really complicated and confusing, but these are useful references you might need to show to your work coach who is managing your Universal Credit claim to support the special rules which are in place for foster carers.

What are the 'special rules' for foster carers who are claiming Universal Credit?

- **Fostering is not treated as being in work nor self-employment.**
The DWP view is that foster carers are providing a service and are neither employed nor self-employed as foster carers.
Reference for this is - Policy Briefing Note 8 - paragraph 5b
- **All fostering payments are disregarded as income.**
Universal Credit is based on a list of income that is fully or partly counted. If a source of income is not on that list, then it is disregarded. Payments for fostering are not on that list and are, therefore, disregarded as income.
References for this are:
 - The Welfare Reform Act 2012 - Section 8(3)
 - The Universal Credit Regulations 2013 - Regulation 66
 - The Policy Briefing Note 8 - paragraph 3b
- **Single foster carers caring for a foster child aged under one have no work related requirements whatsoever.**
References for this are:
 - The Universal Credit Regulations 2013 - regulation 85
 - The Universal Credit Regulations 2013 - regulation 89 (1)(f)
 - ADM J2036
 - ADM J2063

- **Single foster carers with a child aged one, but under 16, are only required to attend 'work focused interviews'.**

They do not have any other work related requirements until the child reaches 16. They will then be required to look for, and be available for, work.

References for this are:

- The Universal Credit Regulations 2013 - regulation 91
- The Welfare Reform Act 2012 - section 20
- ADM J2036 and J2037
- ADM J2063
- ADM J2108

- **A child** is defined as, 'A child is a person who has not attained the age of 16 years' (HMRC use this definition for Child Benefit (which remember foster carers can't claim Child Benefit for any foster child they are caring for) and the DWP has adopted the same definition).

- **Foster carer couples must nominate a 'lead carer'.**

The lead foster carer in a household is not generally required to look for work as a condition of getting benefit, in all cases where the child is under 16 and in some cases up to their 18th birthday.

References for this are:

- The Universal Credit General Regulations - regulations 85 and 86
- ADM J2036
- ADM J2037
- ADM J2063

- **The other foster carer has all the work related requirements that apply in his/her circumstance**

i.e. look for work if unemployed, prove that they have limited capacity for work if unable to work due to ill-health.

References for this are:

- ADM J2111
- ADM J2120
- ADM J2021

- **A single or lead foster carer (if part of a couple) between placements is allowed a continuous and unbroken period of eight weeks before full work search and availability requirements are applied** as long as they show evidence of an intention to continue fostering.

References for this are:

- The Universal Credit Regulations 2013 - regulation 91
- ADM J2108(5)(5.1)(5.2)

- **When a foster carer is caring for a foster child who is 16 or 17 and needs full-time care**

In exceptional circumstances and where there is evidence* the foster carer is only required to participate in work focused interviews and no other work related requirements until the child reaches 18 or the placement ends, whichever comes first.

References for this are:

- The Universal Credit Regulations 2013 - regulation 91(2)(b)
- ADM J2108(3)

- A **'qualifying young person'** is defined as 'a person who is aged 16 or over but under 20 years old and is in full time non advanced education' (HMRC use this definition for Child Benefit (which remember foster carers can't claim Child Benefit for any foster young person they are caring for) and the DWP has adopted the same definition).

- **When a foster carer couple are caring for a foster child or children who need full-time care by both foster carers**

In exceptional circumstances and where there is evidence* both foster carers are only required to participate in work focused interviews and no other work related requirements.

References for this are:

- The Universal Credit Regulations 2013 - regulation 91(2)©
- ADM J2108(3.2)

** There is no definitive list of **evidence** which is deemed acceptable, this allows there is to be flexibility rather than it being restrictive. A DWP decision maker will use the available evidence (as provided by the foster carer) to decide whether the carer has shown sufficient evidence that care needs are such that it would be unreasonable to expect the foster carer to be able to carry out work related requirements. A key piece of evidence a foster carer could provide is something in writing from their fostering service which states the carer cannot work together with the reasons.*

Please see the legal Act, regulations and ADM guidance references in full at the end of this information sheet.

What are work focused interviews?

Many single foster carers, or a 'lead carer' if part of a couple, who are making a claim for Universal Credit are likely to fall under the category where they are only required to attend occasional 'work focused interviews' (WFI) and do not have any other work related requirements.

In the case of these foster carers, the occasional work focused interviews are more of a formality, a bit of a tick box exercise. The Job Centre wants to maintain contact with the foster carer and not have them completely drop off their radar, in case their fostering ends and to help prepare them for work, but it's not like 'signing-on' as unemployed. If your Job Centre work coach is telling you that you have to look for other work whilst you have a child in placement, they are wrong!

DWP Job Centre staff are used to dealing with parents who are expected to look for work when the youngest of their own dependent child(ren) reaches three years old and may not realise or grasp the concept of the special rules which apply to foster carers, whereby it is only once their youngest foster child reaches 16 years of age (or possibly even older if in exceptional circumstances (as listed at above) are they required to look for work.

What happens if my foster placement ends, would I then have to look for work?

If your foster placement ends and you do not have any further foster children in placement under the age of 16 years, or any of your own dependent children under the age of three years old, you would then be subject to work search requirements. However, a special rule which applies to foster carers is that you are allowed **a period of 8 weeks** from when your placement has ended whereby you will not be subject to work search requirements. This 8 week window takes into consideration that the foster carer is waiting for another placement. If after the 8 weeks you still do not have a new placement, you will be subject to work search requirements.

What can I do if I am being told I have to look for other work whilst I have a foster child in placement or I am between placements (up to 8 weeks)?

We would advise you to talk to your Universal Credit work coach about this, and you may need to quote fully from the regulations and ADM guidance. It might be easier for you to show them this information sheet.

Do I have to declare my fostering payments on any Universal Credit claim form, given that they are to be fully disregarded as income/earnings?

Yes, you still need to declare all of the fostering payments you are getting from your fostering service on any Universal Credit form/claim, but they must be fully disregarded when calculating the amount of Universal Credit award you will get.

What can I do if my fostering payments are not being correctly disregarded as income/earnings?

If the DWP are incorrectly taking your fostering payments into consideration as income/earnings, you will need to put this in your journal so that you can raise it with your work coach who will look at this. You may find it useful to show them this information sheet.

Where can I get further specialist advice on Universal Credit?

Although Fosterline Wales understands about the special rules for foster carers, we are not specialist welfare benefit advisers. You may find it useful to contact the following places for more information:

Universal Credit helpline on **0800 328 5644**, open Monday to Friday, 8am to 6pm

Citizens Advice Universal Credit Help to claim line for Wales: [08000 241 220](tel:08000241220)
available 8am to 6pm, Monday to Friday
<https://www.citizensadvice.org.uk/about-us/contact-us/contact-us/help-to-claim/>

The Help to Claim advisers can help you with the early stages of your Universal Credit claim. You can talk to them on the phone, online over chat or face-to-face.

Their advisers can help you:

- work out if you can get Universal Credit
- fill in the Universal Credit application

- prepare for your first Jobcentre appointment
- check your first payment is correct

Advice

Fosterline Wales funded by Welsh Government, provides a free public advice line, providing information about all aspects of foster care, including tax and national insurance, benefits, allowances and insurance. It also offers confidential support, including to those who face an allegation, or who may be concerned about a care plan, or who are unclear about the legislation and guidance related to foster care in Wales.

- Call us on **0800 316 7664** from **9.30am - 12.30pm** Monday to Friday.
If you call outside this time, please leave a message and someone will call you back as soon as possible.
- You can email us at fosterlinewales@fostering.net

Turn2Us is a charity that provides information about benefits (but not individual benefits advice) **0808 802 2000**

They also have a dedicated section for foster carers:

<https://www.turn2us.org.uk/Benefit-guides/Foster-carers-and-benefits/What-is-a-foster-carer>

Additional Information: Acts, regulations and ADM guidance

Advice for Decision Makers (ADM)

<https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide>

J2036

Responsible foster parent

In relation to a child, a responsible foster parent means:

1. a person who is the only foster parent of that child or
2. a person who is a member of a couple where
 - 2.1 the couple are foster parents in relation to that child and
 - 2.2 the person has been nominated by the couple jointly as the responsible foster parent.

J2037

Responsible carer and responsible foster parent – couples and nominations

Joint claimants can nominate which one of them can be regarded as either the:

1. responsible carer, or
2. responsible foster parent.

(UC Regs, reg 86(1))

J2063

Foster parents

Work related requirements cannot be placed on a claimant who is the responsible foster parent of a child aged less than one year old. (UC Regs, reg 89(1)(f)).

J2108

Who is subject to a work focused interview requirement only?

Claimants who

1. are the responsible carer for a child aged one (1), or
2. are the responsible foster parent of a child aged at least one (2), or
3. are the responsible foster parent of a qualifying young person and it would be unreasonable for the claimant to comply with a
 - 3.1 work search requirement, or
 - 3.2 work availability requirement because that young person has care needs (3), or
4. are a foster parent (but not the responsible foster parent) of a child or qualifying young person and it would be unreasonable for the claimant to comply with a
 - 4.1 work search requirement, or
 - 4.2 work availability requirement because that child or young person has care needs (4), or
5. are a foster parent who
 - 5.1 does not have a child or qualifying young person placed with them but intend to and
 - 5.2 are within eight weeks of having fallen within 2., 3. or 4. (5), or
6. have become a friend or family carer in relation to a child
 - 6.1 within the last 12 months and
 - 6.2 are the responsible carer for that child (6)
are subject to a work focused interview only.

Note: In 3. and 4. this includes where the work search and work availability requirement would be limited (7).

1. WR Act 12, s 20(1)(a)
2. reg 91(2)(a)
3. WR Act 12, s 17(4) & 18(3); UC Regs, reg 91(2)(b)
4. WR Act 12, s 17(4) & 18(3); UC Regs, reg 91(2)(c)
5. reg 91(2)(d)
6. reg 91(2)(e)
7. reg 91(2)(b) & (c)

J2111

Claimants subject to work preparation requirement and work focused interview

Claimants

1. who do not fall into the:
 - 1.1 no work related requirements group, or
 - 1.2 work focused interview requirement only group and
2. who:
 - 2.1 have LCW (WR Act 12, s 21(1)), or
 - 2.2 are the responsible carer for a child aged two
are subject to a work preparation requirement (WR Act 12, s 21(1)(aa))

Note: For guidance on what must be specified for a work preparation requirement to be validly imposed, see the guidance in ADM Chapter K1 (Sanctions – general principles), in particular, the guidance on the public law principles of fairness at K1151 et seq.

J2108

Who is subject to a work focused interview requirement only?

Claimants who:

1. are a foster parent who:
 - 1.1 does not have a child or qualifying young person placed with them but intend to, and
 - 2.2 are within eight weeks of having fallen within 2., 3. or 4 (reg 91(2)(d))

J2120

Claimants subject to all work related requirements

A claimant who does not fall into the:

1. no work related requirements group, or
2. work focused interview requirements only group, or
3. work focused interview and work preparation group falls into all the work related requirements group (WR Act 12, s 22(1))

The Welfare Reform Act 2012

<https://www.legislation.gov.uk/ukpga/2012/5/section/8>

Section 8(3):

(3) The amounts to be deducted are:

- (a) an amount in respect of earned income calculated in the prescribed manner (which may include multiplying some or all earned income by a prescribed percentage), and
- (b) an amount in respect of unearned income calculated in the prescribed manner (which may include multiplying some or all unearned income by a prescribed percentage).

(Section 8 sets out how the amount of Universal Credit a claimant receives will be calculated. For each claimant there is a “maximum amount” made up of the different elements (set out at greater length in sections 9 to 12). Sums may then be deducted from this maximum amount in respect of a claimant’s earned income, such as wages, and unearned income, such as pension income. Regulations will prescribe how income is calculated and taken into account for Universal Credit. Paragraph 4 of Schedule 1 contains further provisions about the calculation of income and capital. Under Universal Credit earned and unearned income will be treated differently.)

Section 20 Claimants subject to work focused interview requirement only:

(1) A claimant falls within this section if

- (a) the claimant is the responsible carer for a child who is aged at least 1 and is under a prescribed age (which may not be less than 3), or
- (b) the claimant is of a prescribed description.

(2) The Secretary of State may, subject to this Part, impose a work focused interview requirement on a claimant falling within this section.

(3) The Secretary of State may not impose any other work related requirement on a claimant falling within this section (and, where a claimant falls within this section, any other work related requirement previously applying to the claimant ceases to have effect).

The Universal Credit Regulations 2013

<https://www.legislation.gov.uk/uksi/2013/376/contents/made>

- **Regulation 66**

What is included in unearned income?

- 66. (1) A person's unearned income is any of their income, including income the person is treated as having by virtue of regulation 74 (notional unearned income), falling within the following descriptions... a number of descriptions are then listed. Payments for fostering are not on that list and are therefore disregarded as income).

- **Regulation 85**

Meaning of terms relating to carers

85. In this Chapter

'relevant carer' means:

- (a) a parent of a child who is not the responsible carer, but has caring responsibilities for the child, or
 - (b) a person who has caring responsibilities for a person who has a physical or mental impairment, and
- 'responsible foster parent' in relation to a child means a person who is the only foster parent in relation to that child or, in the case of a couple both members of which are foster parents in relation to that child, the member who is nominated by them in accordance with regulation 86.

- **Regulation 86**

Nomination of responsible carer and responsible foster parent.

- (1) This regulation makes provision for the nomination of the responsible carer or the responsible foster parent in relation to a child.
- (2) Only one of joint claimants may be nominated as a responsible carer or a responsible foster parent.
- (3) The nomination applies to all the children, where there is more than one, for whom either of the joint claimants is responsible.
- (4) Joint claimants may change which member is nominated:
 - (a) once in a 12 month period, starting from the date of the previous nomination, or
 - (b) on any occasion where the Secretary of State considers that there has been a change of circumstances which is relevant to the nomination.

- **Regulation 89**

Claimants subject to no work related requirements.

- (1) A claimant falls within section 19 of the Act (claimants subject to no work related requirements) if
 - (f) the claimant is the responsible foster parent of a child under the age of 1.

- **Regulation 91**

Claimants subject to work focused interview requirement only.

- (1) For the purposes of section 20(1)(a) of the Act (claimant is the responsible carer for a child aged at least 1 and under a prescribed age) the prescribed age is 5.

- (2) A claimant falls within section 20 of the Act if:
- (a) **the claimant is the responsible foster parent in relation to a child aged at least 1**
 - (b) **the claimant is the responsible foster parent in relation to a qualifying young person, and the Secretary of State is satisfied that the qualifying young person has care needs which would make it unreasonable to require the claimant to comply with a work search requirement or a work availability requirement, including if such a requirement were limited in accordance with section 17(4) or 18(3) of the Act**
 - (c) **the claimant is a foster parent, but not the responsible foster parent, in relation to a child or qualifying young person, and the Secretary of State is satisfied that the child or qualifying young person has care needs which would make it unreasonable to require the claimant to comply with a work search requirement or a work availability requirement, including if such a requirement were limited in accordance with section 17(4) or 18(3) of the Act**
 - (d) **the claimant has fallen within sub-paragraph (a), (b) or (c) within the past 8 weeks and has no child or qualifying young person currently placed with them, but expects to resume being a foster parent, or**
 - (e) the claimant has become a friend or family carer in relation to a child within the past 12 months and is also the responsible carer in relation to that child.
- (3) In paragraph (2)(e) 'friend or family carer' means a person who is responsible for a child, but is not the child's parent or step-parent, and has undertaken the care of the child in the following circumstances:
- (a) the child has no parent or has parents who are unable to care for the child, or
 - (b) it is likely that the child would otherwise be looked after by a local authority because of concerns in relation to the child's welfare.

Universal Credit Policy Briefing Note 8 Foster carers

1. Core objectives

- a) The benefit system should offer appropriate support to foster carers to allow them to fulfil a particular socially valuable role. This role is different both to that of claimants who are parents and to those who are engaged in the labour market – and consequently, it is right that foster carers are treated differently to these groups. This applies where a claimant is legally approved as a foster carer and is providing foster care by arrangement with a local authority or a voluntary organisation.
- b) The introduction of Universal Credit offers the opportunity to create a system which takes account of the diverse and complex needs of foster carers – and which is also fair and consistent. We believe that this system should also reflect the key principle of Universal Credit, that claimants should be required to take up work where their circumstances allow.

2. History

- a) The treatment of foster carers in the benefit system is complex. Foster carers can choose:
 - i) Either to be treated as self-employed and claim Working Tax Credits, generally until their youngest foster child reaches the age of 18. Any income paid in respect of fostering (up to a maximum of £10,000 per residence, plus £200 a week for each child under 11 and £250 a week for each child aged 11 or over) is disregarded for the purposes of calculating entitlement, and claimants need not fulfil any work related conditions.
 - ii) To claim out-of-work benefits paid by DWP. Again, any income paid in respect of fostering is disregarded. However, depending on their circumstances and the age of the child they are caring for, a foster carer may be entitled to Income Support, Employment and Support Allowance, or Jobseeker's Allowance – each of which has a different conditionality regime.
- b) Lone foster carers may claim Income Support, but are treated differently to lone parents. While lone parents have been subject to changes which require them to be available for work at a progressively earlier time, lone foster carers, including those who are also lone parents, remain entitled to IS until the foster child they are caring for reaches 16.

3. Key policy proposals: Universal Credit award and treatment of income

- a) In the current benefits system, the allowances and fees received by foster carers in return for fostering are fully disregarded for the purposes of calculating entitlement to benefits paid by both DWP and HMRC. For the purposes of calculating income-related benefits, foster children are not included in the benefit assessment.
- b) The same principles will apply within Universal Credit. There are no plans to change this disregard of fostering allowances and fees when Universal Credit is introduced. These payments will not be taken into account as earnings or income, and whether or not a foster carer receives such payments will not affect the amount of Universal Credit they are entitled to.

4. Key policy proposals: conditionality

- a) However, in order to meet our core objectives, we are proposing a series of changes to the conditionality regime under Universal Credit.
- b) Regulations under Universal Credit will provide that:
 - i) While they have a child in placement, a single foster carer will fall into the group subject to a work focused interview requirement only, until the foster child in their care reaches the age of 16. A fostering couple will be required to nominate a lead carer, who will be treated in the same way.
 - ii) The other member of a fostering couple will fall into the group subject to all work related requirements, with work search and availability requirements imposed according to that person's individual capability for work.
 - iii) In exceptional circumstances, where there is evidence that a foster child aged 16-17 has proven care needs such that they require fulltime care, then a single or nominated foster carer will only be required to participate in work

focused interviews, until the child leaves care (either reaches 18, or the placement ends).

iv) In exceptional circumstances, where there is evidence that a foster child has proven care needs such that they require full-time care by two adults, then both members of a fostering couple will only be required to participate in work focused interviews, until the child leaves care.

v) Where a single or nominated foster carer is between placements, then so long as they show evidence of an intention to continue fostering, they will be allowed a continuous and unbroken period of 8 weeks to find another placement, before full work search and availability requirements are applied.

5. In practice, how will this differ from now?

a) We intend that these changes will create a clearer and simpler position – by treating all foster carers in a consistent way. Crucially, the new system should reduce current complexities, removing dual treatment and the need for foster carers to make a 'better off' comparison between claiming Working Tax Credits or DWP benefits.

b) Under Universal Credit, we do not intend to treat foster carers as either self-employed or remunerative work. These provisions exist in the current system in order to allow foster carers to be entitled to benefits which they would otherwise not qualify for (i.e. Working Tax Credits require a person to be in work). Since Universal Credit is paid on the basis of low income, whether the claimant is in or out of work, it is not necessary to take these rules forward.

c) The provisions under Universal Credit should also avoid single or nominated foster carers being required to look and be available for work, when they experience short-term gaps between placements or whilst awaiting the arrival of a new foster child. Under the current system, single foster carers claiming Income Support are disentitled as soon as their fostering placement ends and are required to look and be available for work in order to claim Jobseekers Allowance.

d) Whilst the system will be simpler and allow appropriate easements for foster carers, it will also help foster carers move towards self-sufficiency. Where a foster carer or fostering couple's circumstances allow, we will expect them to take reasonable action to move into work.

e) So, in Universal Credit, other than in exceptional cases, we will require foster carers to look and be available for work when their youngest foster child reaches 16. At present, foster carers may continue to claim Working Tax Credits until their youngest child is 18.

f) Equally, other than in exceptional cases, where a fostering couple do not have substantial earnings from employment, then one member of the couple will be subject to conditionality. This will mean being required to look and be available for work. Currently, a fostering couple may choose to be treated as self-employed on the basis of their caring responsibilities. They can then claim Working Tax Credits, and neither member of the couple is required to meet work related requirements.

How The Fostering Network can help

The Fostering Network offers advice, information and support. Our expertise and knowledge are always up-to-date and available through our vital member helplines, publications, training and consultancy.

Advice: see [Fosterline Wales](#) on page 5 above.

Support and resources

Our website is an essential source of information, while our online community brings together foster carers for peer support and advice. Members can log in to share their experience and get advice from other foster carers. Our online community is a safe and secure area to discuss foster care matters.

thefosteringnetwork.org.uk

Training and consultancy

Wherever you are in your fostering career, as a foster carer, social worker or manager, The Fostering Network has a range of [training](#) designed to meet your development needs. For more information please email wales@fostering.net for more information.

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