

# Equality Analysis for The Social Security (Coronavirus) (Further Measures) Regulations 2020

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Completed by:

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# Introduction

1. This document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.
2. The PSED requires the Minister to pay due regard to the need to:
  - a. eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - b. advance equality of opportunity between people who share a protected characteristic and those who do not; and
  - c. foster good relations between people who share a protected characteristic and those who do not.
3. The Protected characteristics are:
  - age
  - disability
  - gender reassignment
  - pregnancy and maternity
  - race
  - religion or belief
  - sex
  - sexual orientation; and
  - marriage and civil partnership
4. In undertaking the analysis that underpins this document, where applicable, the Department has also taken into account the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>1</sup>, and in particular the three parts of Article 19 which recognise the equal right of all disabled people to live in the community, with choices equal to others, and that the Department should take effective and appropriate measures to facilitate full enjoyment by disabled people of this right and their full inclusion and participation in the community.
5. The Department has also taken account of the United Nations Convention on the Rights of the Child (UNCRC)<sup>2</sup>, in particular Article 3 which requires the best interests of children to be a primary consideration and at the forefront of a decision-maker's mind when making a decision which may have an impact on children; ensure the child such protection and care as is necessary for his or her well-being; and that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities.

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<sup>1</sup> United Nations Convention on the Rights of Persons with Disabilities:  
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

<sup>2</sup> United Nations Convention on the Rights of the Child, [https://downloads.unicef.org.uk/wp-content/uploads/2010/05/UNCRC\\_PRESS200910web.pdf?\\_ga=2.240544259.1404983385.1521469020-2144911637.1521469020](https://downloads.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_PRESS200910web.pdf?_ga=2.240544259.1404983385.1521469020-2144911637.1521469020)

6. The Department has paid due regard to the 'Family Test' in assessing the potential impacts on children and families.

## Brief outline of policy or service

7. Following *The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020 (2020/289)* that came into force on 13 March 2020, the aim of these further regulations is to provide additional temporary support to people affected by the Covid-19 public health emergency. This is part of a wider Government response to the outbreak, supporting individuals and the wider economy to weather the financial impacts. They are also designed to reduce incentives for people to ignore public health guidance by continuing to work and/or choosing not to self-isolate as directed, by ensuring that any appropriate support is available as quickly as possible.

8. These further regulations provide for:
- Disapplication of the Minimum Income Floor (MIF) for self-employed Universal Credit (UC) claimants affected by the Coronavirus, including discretion to postpone the gainful self-employment (GSE) test, to determine a claimant not to be GSE for a temporary period and discretion to extend the start-up period for affected GSE UC claimants in their start up period;
  - Increasing the UC Standard Allowances by £20 per week for the whole of the tax year 2020/21
  - For those who have moved to UC as part of the managed migration pilot in Harrogate (now paused), provision to ensure that any who have been awarded transitional protection will not be adversely affected by this increase
  - Increasing the Local Housing Allowance (LHA) to the 30th percentile of private rented sector rents
  - Increasing the additional earnings disregard in Housing Benefit by £20 from £17.10 to £37.10 to offset the increase of £20 to Working Tax Credit rates, which are treated as income in the calculation of Housing Benefit
  - Suspending the requirement for UC and Jobseeker's Allowance (JSA) (both contributory and the income-based) claimants to seek and be available for work, for an initial period of three months
  - Increasing the period of permissible sickness for JSA claimants affected by Covid-19
  - The suspension of the conditions for what constitutes a 'temporary absence' where a person in receipt of Carer's Allowance ceases to provide care due to Covid-19, either related to the illness itself, or because of adherence to government guidance.
  - Modifying provision contained in *The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020* so that UC claimants who have Covid-19, are in isolation or who are looking after a child/qualifying young person who is infected or in isolation will not automatically be treated as having Limited Capability for Work (LCW).

9. These measures are intended to be temporary and the majority of the provisions are covered by a sunset clause to disapply them eight months after 12

March 2020. The increase to the UC standard allowance and the additional earnings disregard in Housing Benefit apply for the 2020/21 tax year. No time restriction is placed on the LHA provision, although this is generally reviewed annually. There is also an explicit requirement that the Secretary of State keep the operation of the Regulations under review.

### Policy description

10. *The Social Security (Coronavirus) (Further Measures) Regulations 2020* will provide as follows:

11. Building on provision for self-employed UC claimants contained in *The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020*, Secretary of State may disapply the application of the Minimum Income Floor (MIF) to UC claimants. This may be achieved in a number of ways, including lowering the level to zero or treating claimants as not in GSE. Self-employed claimants will still be required to report earnings in the normal way.

12. Additionally, Secretary of State has discretion to delay the determination of whether a claimant is GSE, to treat claimants as not being GSE, and to extend the MIF start-up period for existing UC claimants that are already within it.

13. The UC Standard Allowance rates will be increased by £20 per week for the period set out in the Regulations. Similar provision for Working Tax Credit (WTC) is being made via the Coronavirus Bill. This will benefit around 2.5 million UC claimants from 6 April, as well as new claimants who subsequently become unemployed or whose earnings or work hours decrease because of the outbreak.

	20/21 original	20/21 with additional £20 p/w
Single claimant under 25	£256.05	£342.72
Single claimant 25 and over	£323.22	£409.89
Joint claimants, both under 25	£401.92	£488.59
Joint claimants, either/both 25 and over	£507.37	£594.04

14. There is a small number of claimants that have been awarded transitional protection after moving to UC from legacy benefits as part of the Managed Migration pilot (now paused). Provision has been included in these regulations to ensure that their transitional protection is not subsumed by the increased standard allowance.
15. Increased support for private renters for the fiscal year 2020-21 will be provided by increasing Local Housing Allowance rates (including Shared Accommodation Rates) to the 30<sup>th</sup> percentile for private renters claiming the UC Housing Costs Element or Housing Benefit. Rates will be set in line with the 30<sup>th</sup> percentile of market rents in a local area for each bedroom size up to a maximum of four bedrooms, and subject to the maximum caps which will continue to apply to the rates in central and inner London.
16. WTC is treated as income when calculating entitlement to Housing Benefit and to offset this people entitled to WTC are given an additional earnings disregard i.e. in addition to other earnings disregards they are entitled to. HMRC have announced that they are increasing WTC by £20 per week and therefore the additional earnings disregard in Housing Benefit needs to be increased by the same amount to ensure that claimants don't see a reduction in their Housing Benefit award. This change will only apply to the 2020/2021 Tax Year in line with the changes to WTC.
17. For a period of three months, that the Secretary of State may extend, the work search requirement for UC and new style JSA claimants will be suspended. Equivalent provision will also be made in respect of old style JSA claimants as regards the requirement to be available for and actively seeking work. This is to enable claimants to follow government advice without risk of sanction, and to enable the Department's staff to work where they are most needed during the current emergency.
18. The maximum permissible period of allowable sickness for JSA claimants will be adjusted for people who have Coronavirus, are in isolation because of it, or are caring for a child or qualifying young person for those reasons.
19. The Carer's Allowance (CA) amendment extends the period during which a carer can 'temporarily' cease to provide care to a severely disabled person, but still retain entitlement to CA. This supports those where the allowable 'break in care' period is extended due to Covid-19, either related to the illness itself, or adherence to government advice, on the part of the carer or the disabled person. Should the carer lose entitlement to CA because an alternative carer has had to step in who also wants to claim CA (or UC with the carer element), then the original carer will still be able to apply for means-tested financial support.
20. *The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020* made provision to treat as having LCW any UC or Employment and Support Allowance (ESA) claimant who has Covid-19, is in isolation, or is caring for a child/qualifying young person who has the disease or is in isolation. This provision will now only apply to ESA claimants, since other measures in these further regulations – notably the UC Standard Allowance increase, suspension of the work search requirement and disapplication of the MIF - will provide support for UC claimants. UC claimants will therefore no longer automatically gain access to a work

allowance or childcare costs by virtue of being treated as having LCW. However, the other measures in this package of support will provide support for UC claimants.

## Evidence and analysis

### Groups affected

21. The provisions will apply to all citizens who are either currently claiming support, or who do so while the Regulations are in force.

### Age

22. As the provisions affect working age benefits, most claimants who benefit are likely to be below state pension age or have a partner who is below state pension age (be in a mixed age couple (MAC)). For those in a MAC, the member of the couple who is over state pension age is likely to be younger in comparison to all pensioners.

23. Overall, those that are older are more likely to be affected by Covid-19 and therefore are more likely to benefit from the JSA measures on periods of sickness and the Carer's Allowance provision.

24. The £20 flat-rate increase across all UC Standard Allowance rates means that those over 25, whether single or part of a couple will benefit proportionally less than a single person under 25.

25. Older people may also be more likely to qualify for the Severe Disability Premium (SDP) in legacy benefits, and thus would be barred from claiming UC for the duration of these regulations. No increase is being made in the standard allowances of Income Support, JSA or Employment and Support Allowance (IS/JSA/ESA). Thus anyone who needs to make a new claim for support via these benefits will not benefit from the £20 standard allowance increase. While a similar increase is being implemented in Working Tax Credit, these claimants could not benefit from that because WTC and IS/ESA/JSA are mutually exclusive benefits.

26. Unlike UC, increases to IS/JSA/ESA standard allowances could not be quickly and effectively operationalised because they are administered on different and obsolescent platforms. The Department is experiencing significant increased demand and the Government has to prioritise the safety and stability of the benefits system overall, and in a way that quickly benefits as many disadvantaged families/households as possible.

27. Under the LHA scheme there are no age restrictions for adults claiming housing support in the private rented sector (PRS), although different rules and amounts apply for those who are single without dependents and are under 35 years of age. The impact of the increase may however indirectly affect some individuals more than others because of their age. The highest proportion of housing claimants in the PRS with a shortfall are in the 35 to 64 age group and so they benefit to a greater extent, but there is no evidence that the other age groups are disadvantaged by this policy.

28. The policy changes will not discriminate on the basis of age and will be equally available to all. However, in practice, some age groups (particularly older age groups) may benefit more.

29. If we had continued to treat those sick or isolating due to Covid-19 as having LCW, it is possible that a small number of 16 and 17 year old claimants would qualify for UC by virtue of no longer being in full time education. However, 16/17 year olds are required to be in some form of education or development in England and Wales, and it is also unlikely that these groups would be treated as having LCW for long periods of time as they are less likely to be severely impacted by the virus. By removing the provision to treat as having LCW, these claimants may not now qualify for UC in their own right. They may however continue to be provided for as a child or qualifying young person in the claim of those who have responsibility for them. It was not an intention of the LCW provision to provide access to UC for this group, therefore removing the provision returns to the usual policy position with regards to this group.

### **Disability**

30. Those who have an underlying medical condition or disability are on average more likely to experience more severe effects if they are affected by Covid-19. This has the potential to increase the proportion of people self-isolating who are disabled.

31. Disabled people with existing legacy benefit claims are significantly more likely to qualify for a SDP, and thus would be barred from claiming UC for the duration of these regulations. Since the standard allowance is not being increased for IS/JSA/ESA, disabled people are therefore more likely not to benefit from the increase. For example, a disabled person who had been claiming WTC with a HB award that included a SDP, and who lost work or fell ill because of the Coronavirus, would claim old style IS/JSA/ESA instead of UC and therefore would not benefit from the £20 increase.

32. Unlike UC, increases to IS/JSA/ESA standard allowances could not be quickly and effectively operationalised because they are administered on different and obsolescent platforms. The Department is experiencing significant increased demand and the Government has to prioritise the safety and stability of the benefits system overall, and in a way that quickly benefits as many disadvantaged families/households as possible.

33. Increasing LHA rates to the 30<sup>th</sup> percentile may potentially affect everyone in the PRS claiming HB or UC under the LHA rules whose support is not capped and who has a shortfall between their rent and their LHA rate, regardless of disability. However, this measure may have a greater positive impact on claimants who are disabled or have disabled children because of the potentially limited opportunity to overcome the difficulties of trying to secure suitable, alternative accommodation if facing a shortfall.

34. Some disabled people who claim UC rather than ESA will not automatically be treated as having LCW. However, they will benefit from the increase in the UC standard allowance, the disapplication of the MIF if applicable and the disapplication of the work search requirement. We believe that these further measures will instead provide the required support, delivering a similar outcome.

35. UC claimants who are not treated as LCW will not benefit from the associated work allowance and support for childcare costs available in UC (but not ESA). However, we believe this is justified in weighing the balance of the support that people need during the pandemic.

### **Marriage/civil partnership**

36. The £20 flat-rate increase in the UC Standard Allowance will benefit couples proportionally less than single claimants, as the rate applies to awards, rather than individual claimants.

37. The increase is not a targeted increase delivered only where it is needed, but is a flat rate amount that intends to help support the economy (as well as households), taking into account what can be delivered in the urgent timescales.

38. The reason that the increase is a flat rate rather than a proportional increase to all standard allowances is the need to secure a single, clear message to deliver economic stability. Providing a clear figure announced for everyone which can be easily understood helps to provide reassurance.

39. The strategy worked, as the announcement of the message was delivered by the Chancellor of the Exchequer on Friday 20<sup>th</sup> and a single, coherent message was understood and widely reported nationwide.

### **Pregnancy and maternity**

40. As regards UC claimants not being automatically treated as having LCW, we believe that the further measures to increase the UC standard allowance, disapply the MIF as appropriate and to disapply the work search requirement will provide the additional support that pregnant women or those with a new child need.

### **Gender reassignment**

34. The provisions will be equally available to all. We have no reason to anticipate these changes having a disproportionate impact on the basis of the characteristic of gender reassignment.

### **Race**

41. There may be some impacts in relation to race, but given the urgency we consider any impacts to be justified.

### **Religion or belief**

42. The provisions will be equally available to all. We have no reason to anticipate these changes having a disproportionate impact on the basis of the religion or belief.

### **Sex**

43. There may be some impacts in relation to sex, but given the urgency we consider any impacts to be justified.

## **Family Test**

44. Consideration has also been given to the impact of the limitations on families, specifically:

- What kinds of impact might the policy have on family formation?
- What kind of impact will the policy have on families going through key transitions such as becoming parents, getting married, fostering or adopting, bereavement, redundancy, new caring responsibilities or the onset of a long-term health condition?
- What impacts will the policy have on all family members' ability to play a full role in family life, including with respect to parenting and other caring responsibilities?
- How does the policy impact families before, during and after couple separation?
- How does the policy impact those families most at risk of deterioration of relationship quality and breakdown, including in circumstances of domestic abuse?

45. All of the measures in the Regulations are intended as support over and above that which would normally have been available to help all working age households during the Coronavirus emergency. The Department's assessment is that this extra support will only have a positive impact on families.

## Decision making

46. The Department for Work and Pensions has concluded that no benefit recipient with a protected characteristic will be adversely affected by any of the proposed legislative changes because there are no adverse or disproportionate negative impacts; all of the changes are positive. Insofar as some groups with protected characteristics may benefit to a lesser extent from these changes than other groups, the Department considers any differential impact to be justified due to the aims of the measures and their importance. These aims are preventing the spread of Covid-19 and preventing current claimants or those who need to make a new claim suffering financial loss as a result of co-operating with government in its efforts to contain the Covid-19 virus. As mentioned above, we also need clear, simple and consistent messaging to provide reassurance to the public. We also need to ensure any changes to the system can be implemented safely within the urgent timescales.

## Monitoring and evaluation

47. The Department is firmly committed to evaluating and monitoring the impact of its policies. These regulations are being made urgently, in order to provide immediate support in response to the continuing and escalating public health emergency. The Department will review the policy and its impacts and consider whether further changes are required in line with changing Chief Medical Officer guidance.

48. Accordingly, the regulations include a provision to require the Secretary of State to keep the operation of the regulations under review. The regulations are temporary and include a sunset provision so that they will cease to be in force after 8 months.

# When will the potential impacts be reviewed?

49. The Regulations include provision requiring the Secretary of State to keep the operation of the regulations under review. The Department will constantly review and consider whether further changes are required in line with Chief Medical Officer guidance while the Covid-19 outbreak continues.

## Sign off

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Thérèse Coffey – Secretary of State for the Department for Work and Pensions