



SPICe Briefing

Pàipear-ullachaidh SPICe

Housing element of Universal Credit for 18-21 year olds

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This briefing provides an overview of the UK Government's policy of removing entitlement to the housing costs element of Universal Credit for some 18-21 year olds. It provides background to the policy and detail of the regulations implementing the change. It also provides information on the likely impact of the policy and how the Scottish Government is seeking to mitigate the impact of the measure in Scotland.



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Executive Summary

From April 2017, some 18-21 year olds are no longer entitled to the housing costs element in Universal Credit (UC) to pay for rented accommodation. This policy is implemented through the [Universal Credit \(Housing Costs Element for claimants aged 18 to 21\) \(Amendment\) Regulations 2017](#) made by the UK Government.

The policy only applies to new UC claims from single jobseekers in areas where UC has been fully rolled out. These are known as “full service areas”. At May 2017, the UC full service is only operating in five areas in Scotland. It is expected to be rolled out to another 15 areas in Scotland before April 2018.

UK Government rationale for the policy

The UK Government’s rationale for the policy is to, “...ensure young people in the benefits system face the same choices as young people who work and who may not be able to afford to leave home.” Those affected by the policy are expected to return home or to enter employment. The new Youth Obligation for 18-21 year olds on UC (in full service areas) is expected to help young adults move quickly into work.

Exemptions from the regulations

There are a number of exemptions in the new regulations to ensure that vulnerable people are protected from the changes. For example, the policy will not apply to those who are responsible for caring for a child, those living in temporary accommodation or those who cannot return to the parental home.

Impact of the policy

The UK Government estimates that, GB wide, around 1,000 people will be affected by the policy in the first year, rising to 11,000 when UC is fully rolled out. In Scotland, it estimates a few hundred people will be affected in 2017-18 and that this is expected to rise to around 1,000 people each year when UC is fully rolled out.

The UK Government has estimated that the policy will save around £65m over the three year period to 2019-20. Of these savings, around £6.5m could be made in Scotland (assuming Scotland's share of savings is around 10%).

The Scottish Government has argued that there will be a disproportionate impact in Scotland because of differences in homelessness legislation. Organisations, including Shelter Scotland, have argued that the policy removes what they describe as a “safety net” for young adults.

Scottish Government reaction to the policy

The Scottish Government opposes the policy. The Communities, Social Security and Equalities Secretary, Angela Constance MSP, has called the policy “shameful” and has argued that it will lead to increased homelessness amongst 18-21 year olds.

In its Manifesto for the 2016 Scottish Parliamentary elections, the SNP made a commitment to restore Housing Benefit for 18-21 year olds.

The Scottish Government had asked the DWP to make the changes in such a way that the Scottish Ministers could use powers devolved by the Scotland Act 2016 to vary the housing costs element of UC. This would have allowed the Scottish Government to not apply the measure in Scotland. However, the way in which the DWP has framed the regulations means that this has not been possible.

An alternative request from the Scottish Government to add UC claimants in Scotland as an exemption to the regulations was also denied. The UK Government argued that it could not make an exemption on a geographic basis alone.

The Scottish Government has expressed their disappointment about the failure to agree to a solution before the policy was implemented. As an interim measure, the Scottish Government has announced that the Scottish Welfare Fund can be used to help those affected by the policy. Scottish Government guidance on how the Scottish Welfare Fund can be used to support those affected by the measures will be available in the next few weeks.

In the longer term, the Scottish Government will seek a permanent solution and will raise the matter with the UK Government again after the UK General Election.

The Universal Credit (Housing Costs Element for claimants aged 18 to 21) (Amendment) Regulations 2017

The Universal Credit (Housing Costs Element for claimants aged 18 to 21) (Amendment) Regulations 2017 (SI.No.252/2017) ¹ remove entitlement to the housing costs element (for rented accommodation) in Universal Credit (UC) for some 18-21 year olds. The regulations have been in force since 1 April 2017.

The regulations apply to single claimants (or a member of a couple claiming as a single person) who are subject to all work-related requirements, i.e. those that are required to look for, and be available for, full-time work.

The regulations only apply to **new UC claims made after 1 April 2017 in areas where UC has been fully rolled out**. These are known as “full service areas.” Existing housing benefit or UC claimants will not be affected until they make a new claim in a UC full service area.

As at May 2017, the UC full service is only operating in five areas of Scotland:

- **the area around Inverness;**
- **East Lothian;**
- **areas of:**
 - **East Dunbartonshire and**
 - **Inverclyde;**
- **Midlothian.**

Further roll out of UC is expected in another 15 local authority areas in Scotland before April 2018.ⁱ

ⁱ See SPICe Briefing [The Introduction of Universal Credit](#)

UK Government's policy rationale

In response to a parliamentary question on 7 March 2017, Caroline Nokes, Under Secretary of State for Welfare Delivery, explained the Government's rationale for restricting the support available to some 18 to 21 year olds for housing costs. She stated:

“ This policy removes a perverse incentive for young adults to leave the family home and pass the cost on to the taxpayer. This is about stopping young people slipping straight into a life on benefits, and it brings parity with young people who are in work but who may not be able to leave the family home, while an unemployed young person can do so. ² ”

The idea of restricting support for housing costs for young people has had a relatively long history.ⁱⁱ It was first raised by the then Prime Minister David Cameron in 2012, although at that time reference was made to removing housing benefit entitlement for 18-24 year olds.

By January 2015, the proposal had been modified to cover people aged 18-21 years old on Jobseeker's Allowance. In 2015, the Conservative Party Manifesto stated,

“ It is also not fair that taxpayers should have to pay for 18-21 year-olds on Jobseeker's Allowance to claim Housing Benefit in order to leave home. We will ensure that they no longer have an automatic entitlement to Housing Benefit.”

The Summer Budget of 2015 confirmed the introduction of the policy, although it was clarified that the measure would just apply to new UC claimants.

Young adults affected by the policy will be expected to return to the parental home or enter employment. The UK Government envisages that the new Youth Obligation will help young people into work. From April 2017, a Youth Obligation has been introduced for 18-21 year olds claiming UC in full service areas. This provides intensive employment support. After six months under the Youth Obligation, claimants who have not found sufficient work will be required to apply for an apprenticeship, traineeship or undertake a work placement.

ii The House of Commons Library Briefing [Housing cost element of Universal Credit: withdrawing entitlement from 18-21 year olds](#) provides useful background to the introduction of the policy.

Impact of the policy

The UK Government expects a relatively small number of people to be affected by the policy in the short term. The [Explanatory Memorandum](#) to the regulations states that the UK Government has made a revised impact assessment. Across GB:

“ The provision is expected to affect 1,000 young people in the first year rising to 11,000 in steady state. ”

Explanatory Memorandum to the Universal Credit (Housing Costs Element for Claimants aged 18-21) (Amendment) Regulations 2017, 2017³

The DWP's [Equality Analysis](#)⁴ considers the impact of the policy on individuals with protected characteristics under the Equality Act 2010. In some cases, it notes the difficulties of preparing robust estimates because of small sample sizes. The DWP accepts that the policy does still adversely affect some 18 to 21 year-olds, but states:

“ ...we consider that the exemptions and mitigations provide adequate and proportionate safeguards; and the new entitlement rules and policy exemptions strengthen work incentives and achieve fairness for taxpayers while also ensuring there is a reasonable safety net of support for the most vulnerable.”

DWP, n.d.⁴

Estimated savings from the policy

The Spring Budget 2017⁵ estimated that the policy would save £65m up to 2019-20. This figure has been revised downwards from previous estimates of around £100m, made in the Budget 2016.⁶

Savings from ending automatic entitlement to housing support for out-of-work 18-21 year olds, £ms

	2017-18	2018-19	2019-20	2020-21	2021-22
Budget 2016	25	35	40	40	
Budget 2017	5	25	35	35	40

The [Explanatory Memorandum](#) to the regulations states that, “Any losses at the individual level will be largely notional.”⁷ This is because it is expected that anyone affected will either return to work or return to the parental home.

For those that don't return to work or the parental home how much this loss would equate to would depend on how much rent the claimant was liable to pay. In Scotland, average housing benefit payments for the 18-21 age group are around £82-100 a week (information obtained from [Stat-Xplore](#)).

While the policy is expected to save money, it has been suggested that it may result in increased expenditure in other areas. For example, Leishman and Young, writing for Centrepont, suggest that costs might rise due to an increase in homelessness. The costs of homelessness have been described as including the additional costs of health and support services arising from a deterioration in health from people becoming homeless, the costs to criminal justice and policing of additional offending and costs to local authorities arising from statutory homelessness functions and prevention.⁸

Impact of the policy in Scotland

The DWP has estimated that a few hundred people in Scotland will be affected by the policy in the first year, rising to around 1,000 a year when UC is fully implemented.

Assuming that around 10% of the cost savings accrue in Scotland, this would amount to around £6.5m over the next three years. To put this in context, around £1.7bn was spent on housing benefit in Scotland in 2015-16.⁹

The Scottish Government has argued that the impact of the policy will be greater in Scotland because of differences in homelessness legislation. Speaking to the Joint Social Security Committee and Scottish Affairs Committee Meeting in March 2017, Angela Constance MSP, the Cabinet Secretary for Communities, Social Security and Equalities told the committee:

“ There is a disproportionate impact on young people in Scotland. That is primarily due to our different housing legislation, whereby people have the right to be put in temporary accommodation if they are unintentionally homeless. Housing legislation is quite different in Scotland. We will have to look at how that interacts or does not interact as well as it could with the existing DWP system.¹⁰ ”

Shelter Scotland builds on the point being made by the Cabinet Secretary. Although those living in temporary homeless accommodation will be exempt from the regulations, there could be further impacts when young people move on from temporary accommodation:

“ In Scotland, 28% of homeless applications in 2015-16 were made by young people aged 18-24. Although the new regulations exempt young people who are in temporary accommodation, there is a risk that when these young people are offered permanent accommodation, they will struggle to afford it and ultimately be unable to sustain the tenancy, thus falling back into a spiral of homelessness. When we take into account the other welfare changes which disproportionately affect the same age group, such as the shared room rate of LHA, we can begin to understand the challenges faced by young people as they attempt to progress with their life. This measure does not do much more than place additional financial barriers on young people as they try to attain qualifications and seek work, often without the support of the regular familial networks and environments that the ministers who crafted this policy more than likely benefitted from.”

Deery, 2017¹¹

Exemptions from the Universal Credit (Housing Costs Element for claimants aged 18 to 21) (Amendment) Regulations 2017

The regulations set out a fairly wide range of exemptions. The exemptions have been developed to support vulnerable young adults. As Caroline Noakes, the Parliamentary Under-Secretary for Welfare Delivery said:

“ We have always been clear that this policy will have a comprehensive set of exemptions, to make sure that the most vulnerable continue to have the housing support that they need, so the policy will affect only those who have no barriers to work and who are able to return safely to their parental home.”

House of Commons Hansard Vol 622, 2017²

This means that, in certain circumstances, 18-21 year olds will still be able to receive the housing costs element of Universal Credit. This includes where :

- the young person is **responsible for a child**;
- the young person is **in temporary accommodation** provided by a local authority to meet their homelessness duties;
- the young person gets the **care component of Disability Living Allowance at the middle or highest rate**;
- the young person is **an orphan or their parents live abroad**;
- the young person **was a care leaver before the age of 18**;
- the young person is **a victim of domestic violence**;
- the young person is **part of a couple where both partners are eligible for Universal Credit**;
- the **Secretary of State considers it inappropriate to expect them to live with their parents**, for example where there would be a serious risk to the young person's physical or mental health, if the young person was to return home ;
- the young person is **working** (subject to a minimum earnings rule); and
- the young person **has recently left work**, subject to a minimum earnings rule (in this case the help is available for a limited period).

Those already receiving housing benefit or the housing element of UC will not be affected and will still be able to receive support for housing costs (if they meet all the other eligibility criteria).

Information on the categories of 18 to 21 year olds claiming UC who will still be able to get help with their housing costs is available on the DWP [website](#).¹²

Development of the regulations

The [exemptions](#) to the [regulations](#) were developed by the DWP in consultation with stakeholders. The Social Security Advisory Committee commended the DWP's approach to working with stakeholders on developing the exemptions. However, they were of the view that the department, "had been less assiduous as far as health issues are concerned." On this point, they suggested that further contact with stakeholders with a special interest in physical and mental health issues would be useful.¹³

The [Explanatory Memorandum](#) to the regulations states, "having followed up with the contacts which the Committee provided, no further issues were raised."³

Exemptions to the [regulations](#) in practice

Some commentators have suggested that, in practice, the operation of the [exemptions](#) in practice may prove difficult to manage. For example, Cole et al argue that:

"Vulnerability is a dynamic, not a fixed, state. It is affected by many factors, which make someone's life more or less difficult over time. Any system of exemptions is going to find it extremely difficult to keep pace with changes in circumstances: young people may have to move in and out of work or training; their relationships with their parents can fluctuate and be prone to sporadic crises or reconciliations; their emotional state and mental health may be fragile. Tracking all this over time will not only be difficult - it will also be very expensive to administer."

Cole, 2015¹⁴

Particular comment has been made about the evidence a young adult would have to provide to be entitled to an exemption on the basis that it was inappropriate for them to live with their parents.¹⁵ In response to comments from Shelter, made to the [House of Lords Secondary Legislation Scrutiny Committee](#),¹⁶ the DWP said:

"A key provision is that a young adult unable to safely return to their parental home will remain eligible for support. This provision is similar to one that applies with respect to 16 and 17 year olds who are estranged from their parents, so DWP staff are familiar with the issues and the sensitivities involved. In addition, a statement from an appropriate third party (such as a social worker or a homelessness charity) will be sufficient to access this exemption."

DWP, 2017¹⁷

Some organisations have raised what has been described as a "Catch 22" situation. For example, a young person may wish to rent a property but may only be able to afford the rent if they are exempt from the regulations and are entitled to the housing element of UC. However, they will not know that that they will be eligible to have their housing costs paid until they have a tenancy agreement. If they were to sign a tenancy agreement, and therefore be liable to pay rent, there may be a risk that they will not be entitled to an exemption which may leave them being unable to afford the rent.¹⁸

DWP guidance on the regulations

The DWP has published [guidance](#)¹⁹ for decision makers on the regulations. This gives examples of the situations in which it may be deemed inappropriate for young people to live with their parents, and therefore still be eligible for the housing costs element of UC. This includes (this is not an exhaustive list - see the guidance for further examples):

- where the **parents have been or are in the process of being evicted;**
- where the **parents are in prison or where parents are prevented from entering the country;**
- the **remoteness of the parental home presents a serious barrier to finding work;**
- where the **parental home would be overcrowded as a result of the young person living there; or**
- where there has been an **irretrievable breakdown in the relationship with the parents.**

The guidance advises that decision makers should accept the evidence from the person or their representative unless there is stronger evidence to the contrary or the evidence is self contradictory. The supporting evidence may also come from the local housing authority or an appropriate third party organisation working in the local area.

A geographic exemption for Scotland?

The Scottish Government had asked the UK Government to make an exemption to the regulations for 18-21 year olds living in Scotland. During the Social Security Committee [meeting](#) on 2 March, Jeane Freeman, the Scottish Government's Social Security Minister said that the UK Government had:

“ ..refused so far to commit to our alternative solution, which is to add 18 to 21-year-olds living in Scotland to what is already a long list of exceptions that it has made to its own policy”

Social Security Committee 02 March 2017 [Draft], The Minister for Social Security (Jeane Freeman), contrib. 3²⁰

In a joint meeting of the Social Security Committee and the Scottish Affairs Committee, the convener of the Social Security Committee, Sandra White MSP, asked the Secretary of State, Damien Green, to look at exempting all 18-21 year olds in Scotland. He said that it, “is difficult to justify a purely geographical exemption from a reserved benefit. We have to apply fairness across the board”,¹⁰ and that:

“ “The exemptions boil down to whether it is possible for you to return to the parental home. There could be a number of reasons why that could not be the case—threats of violence, the refusal of parents to have you and that kind of thing. As I say, there are 22 exemptions, and they will all apply in Scotland, England and Wales. There is no geographical nature to the exemptions that are in the regulations.””

House of Commons Scottish Affairs Committee, 2017¹⁰

Following the joint meeting, the Secretary of State sent a letter to the Convenor of the Social Security Committee on 29th March 2017. The letter repeated the Secretary of State's view that, "...we expect the impact in Scotland to be relatively low and proportionate to those affected across Great Britain." ²¹

Scottish Government response to the changes to the housing element of UC for 18-21 year olds

The Scottish Government is opposed to the changes to the housing costs element of the UC to those aged 18-21. In its Manifesto for the 2016 Scottish Parliamentary elections, the SNP made a commitment to, “restore Housing Benefit for 18-21 year olds.”²²

The Scottish Government has been in discussion with the UK Government about how it can ensure that the change to the housing element of UC does not apply in Scotland.

However, the Scottish Government has been unhappy about the UK Government's short timescale for the changes. The Scottish Government said that the removal of the housing costs element of UC for 18-21 year olds was discussed at the Joint Ministerial Working Group on Welfare's meeting on [Monday 20th February](#). At that meeting, UK Government Ministers were unable to provide an answer on when the regulations would be laid, only to confirm two days later they would be laid on 2 March 2017.

The Cabinet Secretary for Communities, Social Security and Equalities, Angela Constance has expressed her anger at this short timescale for change. In a letter sent to Damien Green, Secretary of State for Work and Pensions, on 25 February 2017 she said:

“ It now appears that the DWP is completely disregarding the discussions at the JMWGW and any commitment to work collaboratively regarding HB for 18-21s. This is completely unacceptable. I should not have to stress that the devolution of social security powers – and indeed devolution arrangements more widely – requires both governments to work jointly, give advanced notice of plans and openly share information that has a bearing on each other’s decision making processes.”

Scottish Government, 2017²³

As an interim measure, the Scottish Government has said that the [Scottish Welfare Fund](#) can be used to help young people in this situation with their housing costs. In the longer term, the Scottish Government says that it will continue to seek a solution that will allow all 18-21 year olds to receive housing costs through UC subject to the same criteria and eligibility as claimants aged 22 and over. It will raise this issue with the incoming UK Government after the election period.²⁴

Use of the Scottish Welfare Fund to mitigate the changes to the housing costs element of UC for 18-21 year olds

On 26th March 2017, the Scottish Government [announced](#) that they they were working with COSLA to extend the [Scottish Welfare Fund](#) to help young people not able to receive UC to help pay their rent.²⁵

This will be an interim solution. Announcing the the extension of the Scottish Welfare Fund, Angela Constance said,

“ ..this is not a long-term solution and I’m determined to continue to press the UK Government to agree a way forward that is suitable for Scotland.”

Scottish Government, 2017²⁵

Inside Housing reported that a Scottish Government spokesperson, “...could not say how long the interim period will last or the extra cost to the government of helping more people.” ²⁶

The Scottish Welfare Fund

The Scottish Welfare Fund is a discretionary fund administered by local authorities. It consists of:

- **Community Care Grants** to help vulnerable people set up home, or continue to live independently within their community
- **Crisis Grants** to help people facing a disaster or emergency

In 2017-18, the Scottish Government is providing local authorities with £35m to make grants under the fund.

The fund is governed by provisions in the Welfare Funds (Scotland) Act 2015 and associated regulations. Local authorities must also take account of Scottish Government guidance.

In April 2017, new Scottish Welfare Fund [guidance](#) was published. It says:

“ 1.5 A separate advice note called “Scottish Welfare Fund: Assistance with Housing Costs: 18-21 year olds” will be available from the end of April 2017 on the Scottish Government website. It is our intention to test out this advice note with local authorities, refine it and then incorporate it into the statutory SWF guidance at a later date.”

Scottish Government, 2017²⁷

Further on, the guidance suggests that a person affected by the UK Government's changes to entitlement to housing costs within UC for 18-21 year olds could be judged to be under exceptional pressures, and therefore entitled to support from the fund.

The advice note is expected to be published in the next few weeks and will be available on this section of the Scottish Government's website: <http://www.gov.scot/Topics/People/fairerscotland/scottishwelfarefund/socialfund>

UC takes at least 6 weeks to process, so those making a new claim in April would not usually expect payments for housing costs to be made until mid-May. ²⁸

Scottish Government powers under the Scotland Act 2016 to mitigate the impact of the regulations in Scotland

The Scotland Act 2016 devolves various social security powers to Scotland. The Scottish Government could potentially use some of these powers to mitigate the impact of the [regulations](#) in Scotland. Its preferred option had been to use the [power to vary the housing element of Universal Credit](#).

Power to vary the housing costs element of Universal Credit

Section 29 of the Scotland Act 2016 gives Scottish Ministers powers to vary the housing element of Universal Credit.

The Scottish Government had asked the UK Government to use its regulation making powers under section 11(4) of the Welfare Reform Act 2012 to implement the changes.²⁹ Section 11(4) relates to the determination and calculation of UC housing costs element. This would have allowed Scottish Government Ministers to use their powers to vary the housing element of UC to ensure that the measure did not apply in Scotland.

However, this option was rejected by the UK Government. Instead, the regulations have been made under section 11(5) Welfare Reform Act 2012 which allows the UK Government to change the eligibility for the UC element. Damien Green MP, Secretary of State for Work and Pensions, told the joint meeting of the Scottish Affairs and Social Security Committee meeting why this approach was taken:

“ Very straightforwardly, it is because we took legal advice and were told by our lawyers that, as the policy is about removing an entitlement, section 11(5) is the correct section—that we have to use that to make regulations under this power. Section 11(4) does not provide the appropriate power, because that section provides for the determination or calculation of housing costs, and this policy is not about the calculation of amount, because that award is there.”

House of Commons Scottish Affairs Committee, 2017¹⁰

Scottish Ministers have no powers under the Scotland Act 2016 to restore eligibility for UC.

Power to create new benefits

Section 28 of the Scotland Act 2016 provides the Scottish Parliament with the power to create new benefits. Any new benefit must be funded from the Scottish Consolidated Fund and administered by the Scottish Government.

There was some discussion about the plans for the housing costs element of UC for 18-21 year olds during the Social Security Committee's [meeting](#) of 13 March 2017. It was noted that the creation of a new benefit to mitigate the change to UC may be a longer term

option as the Scottish Government does not currently have the administrative framework in place to administer such a benefit.

In its evidence paper to the joint Social Security Committee and Scottish Affairs Committee meeting, the Scottish Government said,

“ The creation of a new Scottish benefit may be an option for the longer term, but the legislation in place to bring this into effect has not yet been introduced and will take around 12 months to complete its parliamentary stages.”

The legislation being referred to is the forthcoming social security bill which is expected to be introduced in the Scottish Parliament in June 2017.

Other social security powers in the Scotland Act 2016

In addition to the [power to vary the housing costs element of UC](#) and the [power to create new benefits](#), other social security powers have been devolved to Scotland through the Scotland Act 2016. However, for the reasons outlined below, these would not appear to be suitable for mitigating the removal of housing costs element of UC for 18-21 year olds in Scotland.

- **Discretionary Housing Payments**

Section 25 of the Scotland Act gives the Scottish Parliament legislative competence over Discretionary Housing Payments (DHPs). However, for someone to be entitled to a DHP they have to be entitled to Housing Benefit or other reserved benefits payable in respect of a liability to make rent payments (i.e. UC housing costs element).

Given that the UK Government's regulations remove this entitlement for 18-21 year olds, those affected would not be eligible to apply for a DHP.

- **Top-Up Benefits**

Section 24 of the Act allows the Scottish Parliament to top-up reserved benefits. However, this does not allow a top-up to provide financial assistance to meet or help to meet housing costs.

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