



Department  
for Work &  
Pensions

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[DWP Website](#)

Our Ref: FOI2022/74207

18 October 2022

Dear Charles Ellinson,

Thank you for your Freedom of Information (Fol) request received on 20 September. You wrote:

“The Universal Credit (Administrative Earnings Threshold) (Amendment) Regulations 2022, which come into force on 26.9.22, provides for an increase to the level of the AET.

There is a significant difference to the structure of the amended regulations as compared to the regulations prior to the amendments.

The new structure seemingly allows for one member of a couple to be placed in the Light Touch Regime if s/he is earning £494/month, even though the couple between them earn below the new couple threshold of £782.

However, the regulations prior to the amendment always required a couple to have earnings (between them) of at least the couple threshold in order for either one of them to be placed in the Light Touch Regime.

This meant that if one claimant had earnings equivalent to the single claimant threshold, but the couple between them earned below the couple threshold, NEITHER claimant would be put in the Light Touch Regime.

1) Please provide any documents or information held by the Department which either confirms or refutes the above analysis.

2) Transitional protection for claimants who migrate to UC ends if the claimant has a sustained drop in earnings to below the AET if they were earning at least the AET in the first AP of their UC claim.

Please provide any documents or information held by the Department regarding the following scenarios:

(a) A claimant's earnings have stayed static, but are now below the AET due to the increase in the AET levels. Will Transitional Protection end?

(b) In their first AP, one member of a couple has earnings equivalent to the single claimant threshold (and is therefore placed in the Light Touch Regime), but the couple

between them were earning below the couple threshold. Will Transitional Protection end if that member's earnings fall below the single claimant threshold?"

## **DWP Response**

### **Response to request 1)**

We confirm that we do hold the information you have requested

A copy of the information is provided below.

Produced below in the bullet point is the relevant section of a Submission to the Secretary of State dated 28/02/22 to seek approval to make and lay The Universal Credit (Administrative Earnings Threshold) (Amendment) Regulations 2022 regulations.

- The Statutory Instrument (SI) attached to this submission is slightly different to the one submitted to you on 10 January 2022 as it corrects an anomaly unintentionally introduced into Regulation 99(6) in 2016 by the Universal Credit and Miscellaneous Amendments Regulations 2015. This anomaly created ambiguity as to whether the individual Administrative Earnings Threshold (AET) only applies to single claimants (i.e., someone who is not a member of a couple), and that only the couple's threshold applies to a claimant who is a member of a couple (i.e. an individual who is a member of a couple does not have an individual threshold). This amendment clarifies the original policy intent by providing that all claimants whose own, individual employed earnings are equal to or greater than £494 Per Calendar Month (PCM) (12 hours per week at National Living Wage(NLW)) are allocated to the Light Touch Regime (LT); additionally, a claimant who does not have earnings above £494PCM may be allocated to those in the LT if their own earnings, combined with their partner's earnings are equal to, or exceed £782PCM (equivalent to the couple working a combined total of 19 hours per week at NLW).

In the interest of being helpful and provided outside of our obligation of the FoI Act you may find the following helpful:

- The original policy intent of the Universal Credit Regulations 2013 was that individual members of a couple would not have to reach the Administrative Earnings Threshold for Couples before being placed in the LT. The intent was that a member of a couple would have both an individual and a couple's AET. In this way if one member of the couple was had employee earnings at or above the individual AET then they would be moved into the LT and that if the total household earnings (whether contributed by one or both members of the couple) reached the AET for Couples then both members of the couple would be moved into the LT. The changes to the Universal Credit Regulations 2013 introduced under the Universal Credit (Work-Related Requirements) In Work Pilot Scheme and Amendment Regulations 2015 could be construed as requiring that the combined earnings of a couple would have to be above the AET for couples before both of them would be placed in the LT and offered no opportunity for an individual member of the couple to enter that Regime on the basis of their individual income reaching the AET for individuals. This therefore went against the original policy intent.

The anomaly has now been corrected by the new 2022 regulations.

### **Response to request 2(a) & (b)**

It may be helpful if we explain the role of the FoI Act. It provides a legal right of access to recorded information held by a public authority like the DWP, subject to certain exemptions

that may apply. The Act does not oblige a public authority to create new information to answer questions; nor does it require a public authority to give advice, opinion or explanation, generate answers to questions, or create or obtain information it does not hold.

If you ask a question, rather than requesting recorded information, we will provide you with the recorded information that best answers the question. Once we have provided the recorded information, we have met our obligations under the Act; interpreting the information provided is up to you.

Your request makes statements which you want us to respond to. This would need new information to be created.

We do not hold any recorded information to answer your request and will therefore not be progressing your request any further.

However, you may find the following explanations useful. We have provided these outside our obligations under the Fol Act.

### **Response to request 2) (a)**

The Government has said that Transitional Protection will be terminated when a claimant who has been moved to Universal Credit (UC) has a significant change in the circumstances they were in when they first claimed UC. This includes where there has been a sustained (3 month) fall in a claimant's earnings, or the joint earnings of joint claimants, which results in a change in the labour market conditionality that will be applied. In light of the increase in the AET we are currently considering what, if anything, needs to be done to maintain the policy intent.

### **Response to request 2) (b)**

The amendment to level of the AET has not changed how the termination of Transition Protection should be applied to couples. In this situation, Transition Protection will only terminate where the couple has joint earnings in their first Assessment Period above the couple AET threshold and then subsequently those earnings fall below that threshold for three consecutive months.

If you have any queries about this letter, please contact us quoting the reference number above.

Yours sincerely,

DWP Central Freedom of Information Team  
Department for Work and Pensions

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### **Your right to complain under the Freedom of Information Act**

If you are not happy with this response you may request an internal review by e-mailing [freedom-of-information-request@dwp.gov.uk](mailto:freedom-of-information-request@dwp.gov.uk) or by writing to: DWP Central Fol Team, Caxton House, 6-12 Tothill Street, London, SW1H 9NA.  
Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally, the Commissioner cannot make

a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.  
Website: [ICO FOI and EIR complaints](#) or telephone 0303 123 1113.