



Benefits and Work
Guides you can trust

Permitted Work And Working While On Universal Credit Due To Sickness Or Disability

May 2020 Factsheet



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Disclaimer

Every care has been taken to ensure that the content of this work is accurate and that legislation and caselaw used is current at the time of writing. However, no responsibility for loss occasioned to any person acting or refraining from action as a result of any statement in this work can be accepted by the authors.

We strongly advise that you seek independent advice, not from the Department of Work and Pensions (DWP) before undertaking any type of work if you are receiving any benefits.

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Who is this guide for?

This guide is for you if:

1. You are claiming benefit because you are not fit for work; **and**
2. You are thinking about starting to do some work, and want to know how to do this without affecting your entitlement to the benefit(s) you are getting.

You will therefore be on one or more of the following benefits:

- Employment and Support Allowance (ESA);
- Universal Credit (UC) (and be in either the work-related activity group or the support group, or be waiting for your first assessment);
- Incapacity Benefit;
- Income Support (on the grounds of being unfit for work);
- Severe Disablement Allowance;
- Housing Benefit or Council Tax Support (with a disability premium which is linked to the fact that the DWP accepts that you are unfit for work)

For all these benefits apart from Universal Credit, the relevant rules are called the **permitted work** rules.

Universal Credit doesn't use the 'permitted work rules', but treats the work you do in a different way.

In either case, the permitted work rules, and the corresponding UC rules, allow you to do some work, either employed or self-employed, and earn some money but still be officially recognised as incapable of work or as having limited capability for work or for work-related activities.

If you do decide to do some work while on any of these benefits, be sure to read this guide carefully and get very good independent advice. You can find out where to go for advice from the *Getting help with your benefits* section of the Benefits and Work website.

Permitted work

The permitted work rules apply to you if you are getting one of these benefits:

- Employment and Support Allowance;
- Incapacity Benefit;
- Income Support (if you are unfit for work);
- Severe Disablement Allowance;
- Housing Benefit or Council Tax Support that includes the disability premium.

If you are getting Universal Credit you need to refer to the section below (Working while on Universal Credit)

New rules from 3rd April 2017

On 3rd April 2017 the rules about permitted work changed. The 52-week time limit for higher limit permitted work was abolished. This means that from 3rd April 2017 claimants can:

- Work for less than 16 hours per week
- Earn up to £140.00 per week (2020 rates)
- Do permitted work for an unlimited number of weeks while getting benefit and, (except for Income Support), keep all of their payments.

You must inform the Department for Work and Pensions (DWP) if you are doing or considering doing permitted work. These new rules apply to claimants who are already doing permitted work as well as claimants who are starting permitted work.

Minimum wage

The minimum wage is currently £8.72 per hour for workers aged 25 and over, £8.20 for workers aged between 21 and 24, £6.45 for workers aged 18-20 inclusive, £4.55 for all workers under 18 who are no longer of compulsory school age and £4.15 for apprentices who are aged 18 or under.

Please note: The National Minimum wage rates usually increase each April. The above figures were introduced in April 2020.

How will earnings from permitted work affect my benefit?

You can earn up to £140.00 a week without it affecting your Contributory Employment and Support Allowance, Incapacity Benefit, or Severe Disablement Allowance. If you are on these benefits, or if you get National Insurance credits only for limited capability for work, your permitted work earnings will not affect your Housing Benefit. In other circumstances when you receive Housing Benefit different, and more restrictive, rules apply.

The £140 applies if you are receiving Income Related Employment and Support Allowance.

Council Tax Support is administered by your local authority and how they apply the rules will be decided by them.

However, your earnings will affect your Income Support. If you are getting a disability premium with your Income Support, the first £20 a week you earn will be ignored, everything above this will be taken off pound for pound. If you don't get the disability premium the first £5 a week is ignored for single people and the first £10 if you are a member of a couple.

Will the DWP decide to reconsider my benefit award if I do permitted work?

Doing permitted work should not result in the DWP looking again at whether you are incapable of work or have limited capability for work. However, the next time you are assessed regarding your capability for work the decision maker *is* entitled to take into account any activities you undertake as part of your permitted work.

For example, if you have been found incapable of work partly because you have difficulties with standing, but your job involves standing for long periods, you may lose points. Of course, it may be that you are in considerable pain whilst standing for longer, but you tolerate it because you value the contact and change of routine that doing a small amount of work brings. If this is the case you should not lose points, but it may be hard to persuade a decision maker or a tribunal of this and you should definitely get advice.

On the other hand, if you have a social phobia, but start doing a computer programming job from home, it is hard to see how this could call into question any points you were awarded for this mental health problem, although sadly this can't be guaranteed.

Working while on Universal Credit (UC)

What work can you do while on UC?

A key aspect of UC is that, in general, you are allowed to work without your entitlement to it ending, although the amount of money you are actually paid may change because of the income you are earning.

However, in some circumstances you may lose the opportunity to be placed in the Limited Capability for Work (LCW) group or the Limited Capability for Work-Related Activity (LCWRA) group. This can affect the amount of money you receive, and the sort of activity you have to commit to in order to retain entitlement to benefit.

There are **no** restrictions on the work you can do if any of the following apply to you:

- You are getting UC **and** you have been assessed as having either limited capability for work or limited capability for work related activity under the work capability assessment (WCA); **or**
- You haven't actually been assessed under the WCA but are *treated* as having limited capability for work. This can happen if, for example, you are receiving weekly dialysis, you are terminally ill, or you have a specified infectious disease; **or**
- You are getting UC and you are also getting Personal Independence Payment (PIP), Disability Living Allowance (DLA), Attendance Allowance (AA), or Armed Forces Independence Payment, whether or not you have undergone the WCA yet.

You must still report the work to the Department for Work and Pensions (DWP). They may decide to assess you again under the work capability assessment to see if you still have limited capability for work or for work-related activity, but they do not have to do so.

If you are **already** working but have not yet been assessed under the WCA, **and** are not in receipt of any of the benefits listed above, the situation is a bit more complicated:

- If you earn, on average, less than £606 per month your UC is not affected. You will be assessed under the WCA, just as you would have been if you had not started working, and the DWP can still place you in the LCW group or the LCWRA group (of course they also have the power to decide that you do not have limited capability for work).
- If you earn, on average, £606 per month or more, you cannot be assessed under the WCA, so you will not be able to be placed in the LCW group or the LCWRA group.

The amount of £606 is based on what you would earn if you worked for 16 hours per week and were paid the National Minimum Wage for someone aged 25 or over (currently £8.72 per hour). This works out as the same amount as the ESA permitted work earnings limit (£140.00 per week) converted into a monthly figure.

How will my earnings affect my UC?

If you are in the LCW group or the LCWRA group, the first £292 of your monthly net earnings is ignored if you have to pay rent, or £512 if you are an owner-occupier or have no housing costs. Your monthly UC is then reduced by 63% of what's left over. These figures are the same whether you are claiming as a single person or as part of a couple.

So, for example, if someone is in the LCW group or LCWRA group, takes home £700 per month, and rents their home, their monthly UC is reduced by £257.04 (63% of £700 - £292).

If you are not in the LCW group or the LCWRA group, your income is reduced by 63% of your total net earnings. So, if the person in the previous example had not yet been assessed under the WCA their monthly income is reduced by £441 (63% of £700).

Will the DWP decide to reconsider my UC if I work?

As stated earlier, if you start working and you are already in the LCW group or the LCWRA group, or you are getting DLA, PIP, or AA, the DWP may decide to reassess you under the WCA, but they are not required to do so.

The DWP gives the following example in its own guide to decision makers:

'Nigel is entitled to UC including the LCW element. He has LCW because he has significant difficulties communicating verbally with strangers due to deafness, as he cannot lip read. Nigel starts office work, earning 16 x the NMW every week. The DM establishes that the job is in the family business where Nigel is not required to deal with anyone other than his family. The DM decides that a further WCA is not required, and Nigel's UC award continues to include the LCW element.'

(From G1036, Advice for Decision Making Chapter G1: Work capability assessment https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534734/admg1.pdf)

The same considerations apply if you haven't already been assessed under the WCA and are not getting DLA, AA, or PIP, but you are earning less than £606 per month.

If you earn £606 or more per month, have not yet been assessed under the WCA, and are not on DLA, AA, or PIP, your work cannot result in you being taken out of the LCW group or the LCWRA group, because you aren't in either of these groups yet. Because you cannot be treated as having a limited capability for work until you have been assessed under the WCA (unlike claimants of ESA) you will already normally be required to satisfy a claimant commitment that includes actively seeking work. By starting some work, your claimant commitment may be altered to reflect this. In fact, if your earnings are high enough you will no longer have to satisfy any work-related requirements (for example, a single person who has not yet been assessed under the WCA and is not a carer or responsible for a child will normally not have to satisfy any work-related requirements if they earn more than £305.20 per week (£8.72 per hour for 35 hours).

What if I'm on both ESA and UC?

Universal Credit is a means-tested benefit only. This means that if you claim benefit due to ill-health or disability, you may also be entitled to new-style Employment and Support Allowance due to your National Insurance record, and, at the same time, receive a top-up of UC. So, which set of rules apply to you in this situation?

The slightly odd answer is that both sets of rules apply: the ESA rules apply to the ESA, and the UC rules apply to the UC.

So, for example, if you start work after being found to have a limited capability for work and earn more than the permitted work earnings limit, your contributory ESA would end, but your UC might continue. Whether you actually received any UC, and how much you received if you did, would depend, as always, on how the means-testing calculation worked out in your case.

Will doing any work affect any DLA or PIP I am getting?

DWP decision makers are told that a claimant's award of DLA or PIP should never be stopped just because they have started doing some work. However, decision makers are also told that if the fact that the claimant has begun doing some work may indicate that there is an improvement in their condition then this can be grounds for making further enquiries.

If your DLA award is looked at again then you could be required to make a claim for PIP as part of the reassessment process.

In addition, if your award of DLA or PIP comes up for renewal then any activities you carry out in the course of your work can be taken into account when assessing what award, you should receive.

For example, your award of PIP may be based partly on difficulties you have talking to other people as a result of your mental health condition. If the work you do involves talking to customers or other staff, the decision maker may conclude that you no longer have these difficulties and make a new decision on that basis.

What should I do before starting work?

Get a better-off calculation done at your local advice agency before starting. It's quite possible to be worse off financially by working.

Get advice from an advice agency about how the work you are considering may affect your work capability assessment and your DLA, or PIP if you receive it.

Tell the DWP about the work you want to do before you start, or as soon after as you possibly can. Doing work is a relevant change of circumstances and so you do need to tell the DWP about it.

It is also important to tell the DWP as soon as possible because if, when you tell them, they decide that the work is not permitted work – for example, because you are working too many hours or earning too much – you could face repaying some of your benefits. So, it makes extremely good sense to check with the DWP as soon as possible.

For benefits other than UC, there is a specific form, a [PW1](#) to complete, and the department which deals with your claim should send this to you when you apply to do permitted work. You should complete and return it and keep a copy for your own records. It's a very short form which just asks a few questions about you and the work you want to do. You will receive a letter telling you whether the work has been accepted as permitted work.

You must let the DWP know about any changes in your circumstances, such as changes to your wages, hours or who you work for.

If you get Housing Benefit, if you are not receiving your housing costs via Universal Credit, or Council Tax support, tell your local authority as soon as you start work.