

Chapter E4: Universal Credit – Living together as a married couple

Contents

Introduction	E4001
DM's first consideration.....	E4005
Members of the same household	
General.....	E4031
Two people living in one dwelling.....	E4033
Common factors associated with the existence of a household.....	E4035
Other considerations.....	E4036
Two people owning or renting other accommodation.....	E4038
Illegal relationships, prohibited or forbidden degrees of relationship and multiple relationships	
Illegal relationships.....	E4061
Prohibited or forbidden degrees of relationship	E4062
Multiple relationships.....	E4064
Meaning of living together as a married couple	
General.....	E4091
Sexual Orientation and Sexual Relationship.....	E4097
The relationship of two people concerning money	E4098
General relationship	E4100
Stability	E4101
Children	E4107
Public acknowledgement	E4108
Future plans	E4109
Looking again at living together determinations	
Temporary absence of one party	E4151
Absence of one party expected to, or exceeds, 6 months.....	E4152
Permanent separation.....	E4153

Change in determination	E4154
Decision already given on a benefit other than UC	E4155
Prohibited or forbidden degrees for marriage/civil partnership	Appendix 1

Chapter E4: Universal Credit – Living together as a married couple

Introduction

E4001 The general principle in SS legislation is that couples, be they married or unmarried, should be treated in a similar way. The guidance in this chapter applies to UC and is to help the DM determine whether two people who live together but are not

1. married to each other **or**
2. a civil partner of each other

are LTAMC.

Note: DMs should note that guidance on LTAMC for benefits other than UC is in DMG Chapter 11.

E4002 “Couple” means¹

1. two people who are married to, or civil partners of, each other **and** are members of the same household **or**
2. two people who are not married to, or civil partners of, each other but are LTAMC.

1 WR Act 12, s 39(1)

E4003 From 5.12.05 same sex couples could form a civil partnership by registering as civil partners of each other¹. From 29.3.14, in England and Wales, same sex couples could get married².

1 CP Act 2004; 2 Marr (SSC) Act 13

E4004 From 10.12.14, in England and Wales, a civil partnership may be converted into a marriage¹. When this happens, the marriage is treated as subsisting from the date the civil partnership was formed². From 16.12.14, in Scotland, a civil partnership may be converted into a marriage³. Couples in Scotland also have the option to have a marriage ceremony. In either case, the marriage is treated as subsisting from the date the civil partnership was formed⁴.

1 Marr (SSC) Act 13, s 9; Marriage of Same Sex Couples (Conversion of Civil Partnership) Regulations 2014; 2 Marr (SSC) Act 13, s 9(6); 3 Marr & CP (Scot) Act 14; 4 Marr & CP (Scot) Act 14 (Commencement No. 3 Saving, Transitional Provisions and Revocation) Order 2014, art 3

DM’s first consideration

E4005 The DMs first consideration in deciding whether two people are LTAMC must be

1. are the persons concerned members of the same household? (see E4031 et seq) **or**
2. would a relationship between the persons concerned be illegal, prohibited, forbidden or a multiple relationship? (see E4061 et seq).

E4006 If

1. the answer to E4005 1. is 'no' **or**
2. the answer to E4005 2. is 'yes'

then two people cannot be treated as LTAMC.

E4007 – E4030

Members of the same household

General

E4031 Two people who are neither married to each other nor a civil partner of each other **must** be members of the same household if they are to be treated as LTAMC and thus a couple.

E4032 Household is not defined in legislation. It should be given its normal everyday meaning. It is a domestic establishment containing the essentials of home life. Household and home are not the same¹. Household may refer to people held together by a particular kind of tie, even if temporarily separated².

1 R(SB) 4/83; 2 Santos v Santos [1972] All ER 246

Two people living in one dwelling

E4033 To be members of the same household means that

1. two people live in the same house, flat, apartment, caravan or other dwelling place and neither normally lives in another household **and**
2. they both live there regularly, apart from absences necessary for employment, to visit relatives, etc.

E4034 However, examples of two people living in one dwelling but not necessarily living together in the same household include

1. lodgers or students who necessarily share a single gas/electricity supply etc and who may have an arrangement to share costs for items such as food and cleaning materials **or**
2. two people who are married to each other or who are civil partners of each other who separate and refuse to leave the home.

Common factors associated with the existence of a household

E4035 The DM must consider all the circumstances of a case in deciding whether two people are members of the same household. In addition to E4033, there are other factors commonly associated with a household which should be explored. These factors have been identified in cases dealing with whether married couples, who

claim to be estranged, are still living in the same household, but they may also indicate the existence of a shared household occupied by an unmarried couple. The DM should consider evidence relating to the following when making a finding as to whether a household exists

1. the circumstances in which the two people came to be living in the same house;
2. the arrangements for paying for the accommodation;
3. the arrangements for the storage and cooking of food;
4. the eating arrangements (whether separate or not);
5. the domestic arrangements such as cleaning, gardening and minor household maintenance;
6. the financial arrangements (who pays which bills? is there a joint bank account? whose name is shown on utility bills?);
7. evidence of family life.

Other considerations

E4036 The fact that two people, who are not married to each other, are members of the same household does not necessarily mean that they are LTAMC and so a couple. A relationship may resemble LTAMC but consideration of its origins may show it to be something quite different. Additionally, the DM should consider

1. the facts and circumstances that exist while the couple are living together¹
and
2. what their future plans are.

1 R(G) 1/79

E4037 Such a relationship may not be classed as LTAMC¹ where, for example, the need for care or support is the main reason. It is not only the reason that caused the parties to live together which is important, but the facts and circumstances that apply after they have done so (see E4091 – E4109 for further guidance).

1 R(SB) 35/85

Example

Louise had always lived with her mother, Carol. Andy was the son of Carol's oldest school friend, Maggie and was known to Louise since childhood. Andy had been injured in an accident some years ago and was confined to a wheelchair. Maggie was his carer. Carol went to live abroad and Louise remained in her mother's house alone. When Maggie died, Andy was faced with the need to find another carer. After talking over the situation, Louise agreed to become Andy's carer. As Louise and Andy lived 75 miles away from each other, it was decided that Louise would move into Andy's home which had been specially adapted for his needs. The agreement was that Louise would help Andy with dressing and cook his meals. Andy would pay Louise £100 per week for this but she would not be required to contribute to the cost

of the rent. They maintained separate financial arrangements and the LA provided assistance to Andy with cleaning, gardening and household maintenance. Louise would take 3 weeks off during the year to visit her mother, whilst Andy remained at home. Louise and Andy did not socialise together. The DM decided that Louise and Andy were living in a shared household but were not LTAMC and therefore, not a couple.

Two people owning or renting other accommodation

E4038 Even if one or both of the two people own or rent other accommodation, they can still be thought of as members of the same household, particularly where the other accommodation is seldom used. DMs should consider

1. the nature and ownership or tenancy of the accommodation they are living together in **and**
2. the extent to which rooms and facilities are shared **and**
3. the ownership of furniture.

A person cannot be a member of more than one household at the same time. So a person cannot be a member of more than one couple at the same time¹.

1 R(SB) 8/85

E4039 – E4060

Illegal relationships, prohibited or forbidden degrees of relationship and multiple relationships

Illegal relationships

E4061 DMs should not determine that two people are LTAMC if sexual intercourse between them, whether it actually takes place or not, would involve committing a criminal offence such as incest or sexual intercourse with an underage person. For example, DMs should not determine that a man is LTAMC with a 15 year old girl or LTAMC with a man he knows to be his brother.

Prohibited or forbidden degrees of relationship

E4062 People living together within the prohibited or forbidden degrees of relationship for marriage should be treated as not LTAMC. A list of the prohibited degrees is included at Appendix 1 to this chapter. This list also applies to civil partnerships.

Multiple relationships

- E4063 Where an unmarried person lives with a married couple, that person cannot be LTAMC because a marriage is between two people. Similarly a person who lives with a couple who are civil partners cannot be LTAMC with either of them.
- E4064 The law does not recognize multiple relationships as it does polygamous marriages. Where the term is used in this guide it means a situation where someone has a relationship similar to marriage with more than one person, but is not married to any of them. When considering whether two people are LTAMC their relationship is compared with that of a married couple. Caselaw describes the elements that feature in a marriage (see ADM E4094). One of these is exclusivity i.e. monogamy. Where the claimant has a multiple relationship they cannot be LTAMC with any of the other members of that relationship. Members of a multiple relationship are treated as single claimants or, if appropriate, lone parents.

Example 1

Alan, Bronwyn and Carol live in the same household but no marriage exists between either Alan and Bronwyn or Alan and Carol. Alan claims UC and states that he is in a multiple relationship with both Bronwyn and Carol. Alan is treated as a single claimant. Bronwyn and Carol are also treated as single.

Example 2

Alan, Bronwyn and Carol live in the same household. Alan is married to Bronwyn but in his claim for UC states that he is also in a relationship with Carol. Alan is treated as a member of a couple with his wife Bronwyn. Carol is treated as single.

Example 3

Andrew, Brian and Christopher live in the same household. Andrew is the civil partner of Brian but in his claim for UC states that he is also in a relationship with Christopher. Andrew is treated as a member of a couple with Brian. Christopher is treated as single.

Example 4

Andrew, Brian and Christopher live in the same household. Andrew is married to Brian but in his claim for UC states that he is also in a relationship with Christopher. Andrew is treated as a member of a couple with Brian. Christopher is treated as single.

Example 5

Abdul, Alkha and Fatima live in the same household and are parties to a polygamous marriage. Alkha is Abdul's first wife and Fatima his second. Abdul and Alkha are treated as a couple for the purposes of UC. However, Fatima is treated as a single person for the purposes of UC.

Meaning of living together as a married couple

General

E4091 The term LTAMC is not defined in legislation. It is for DMs to determine, on the evidence, whether the whole relationship of two people who are not married to each other, is comparable to that of a couple who are married¹

1 R(G) 3/71

E4092 If two people are members of the same household and their relationship would not be illegal, prohibited, forbidden or a multiple relationship, DMs should consider in each case the points in E4093 and E4109 to determine whether the relationship between them is the same as that of a married couple.

E4093 To be treated as LTAMC the relationship has to be the same as that of a married couple. Marriage is where two people join together with the intention of sharing the rest of their lives. There is no single template of what the relationship of a married couple is. It is a stable partnership, not just based on economic dependency but also on an emotional relationship of lifetime commitment rather than one of convenience, friendship, companionship or the living together of lovers. If the evidence does not suggest that it is more likely than not that the relationship between two people has the emotional quality that characterizes a married couple's partnership, the DM should find that they are not LTAMC.

E4094 All factors of their relationship have to be considered. The significance of each factor can only be determined in the context of all of the factors with none being decisive. There is more to the determination than the cold, observable facts. The characteristics of the relationship may include¹

- mutual love
- faithfulness
- public acknowledgement
- sexual relations²
- shared surname
- children
- endurance
- stability
- interdependence
- devotion.

1 Fitzpatrick v Sterling Housing Association; 2 R(G) 3/71; R(SB) 17/81

E4095 Not all of the characteristics in E4094 need be present and two people may be treated as LTAMC even though the relationship is unsatisfactory or unhappy. DMs should also consider

1. the relationship of the two people concerning money¹ **and**
2. the general relationship of the two people².

1 R(G) 3/71; R(SB) 17/81; 2 R(G) 3/71

E4096 In considering the points in E4094 and E4095 DMs should be aware that

1. no single point can decide the question of LTAMC¹. It is essential to have as much information as possible on all the points and consider the totality of the evidence²;
2. where they are looking at a past period, the information gathered should relate to the whole period in question;
3. a determination on whether two people are LTAMC must be based on the evidence available;
4. they should obtain further evidence if living together is reported, to determine if two people are LTAMC;
5. they can accept a signed statement or letter from the claimant saying that they are LTAMC, as voluntary evidence of LTAMC;
6. they must obtain further evidence to determine when LTAMC began if a disclosure of LTAMC is given after co-residence has begun and the statement or letter does not cover the whole period of co-residence.

1 R(G) 1/71; 2 [2017] AACR 10

Sexual Orientation and Sexual Relationship

E4097 A sexual relationship, and sexual orientation, are factors to consider in determining whether two people are LTAMC, but they are not determinative of LTAMC. Evidence of a sexual relationship, or sexual orientation does not, on its own, mean that two people should, or should not, be thought of as LTAMC. Similarly two people may be LTAMC¹ without having a sexual relationship, or if they have different sexual orientation². However, if two people have **never** had a sexual relationship, that is often strong evidence that they are not LTAMC.

1 R(G) 2/72; R(G) 3/81; R(SB) 17/81; 2 [2017] AACR 10

The relationship of two people concerning money

E4098 In most marriages it would be reasonable to expect financial support of one partner by the other, or the sharing of household costs. DMs should consider the following questions

1. Is one person supported by the other?
2. How is the household income shared or used?
3. Are their resources pooled in a common fund? Is this all their income or only the money, for example, shopping or bills?
4. Is one person bearing the major share of the household expenses, for example mortgage, rent, gas, electricity? Whose name is on the bills?
5. Is there a joint purchase of the property or other mortgage arrangements?

6. Have these financial arrangements always been the same or have they changed? If so how and when?
7. If there are no financial arrangements why not?

If any of the above applies over the long term, it could be an indication of LTAMC. However, two people may be LTAMC even if they keep their finances completely separate. The relationship of two people concerning money has to be looked at in the context of the whole relationship.

E4199 DMs should find out about payments made for accommodation or board and lodging arrangements. For example, a person may claim to be a lodger but the amount paid may be unrealistic¹. A person who pays less than would be expected under a true commercial board and lodge arrangement should not be regarded as a lodger. Such an arrangement is more like that of a married couple.

1 R(G) 3/71

General relationship

E4100 The DM should consider why the two people became members of the same household, how they share their lives now and their future plans. The stability of the relationship, children and public acknowledgement can help to indicate what their general relationship is particularly in respect of how they share their lives now. Other evidence may include the existence of a degree of mutual interdependence, of the sharing of lives, of caring and love and of commitment and support. Other important factors include a readiness to support each other emotionally and financially, to care for and look after each other in times of need and to provide a companionship in which mutual interests and activities are shared and enjoyed together.

Stability

E4101 Because marriage is entered into as a stable relationship, DMs should consider the stability of the relationship when determining whether two people are LTAMC.

E4102 Important signs of the relationship's stability include

1. the way in which two people spend their time together **and**
2. the way that this has changed while they have been together.

E4103 A couple usually do certain activities together or for one another, such as those listed below. DMs could consider two people as LTAMC, if they do these activities together or for one another, however it may not be conclusive.

1. providing meals and shopping;
2. cleaning and laundry;
3. caring for the members of the household during sickness;
4. decorating;

5. gardening;
6. caring for children.

This list is not complete. DMs should also consider the way in which two people spend their leisure time and whether they take their holidays together.

E4104 A statement from two people that they want to marry or register as civil partners can be regarded as proof of a stable relationship. Two people may be LTAMC¹ when they have no intention to marry.

1 R(SB) 17/81

E4105 It is for DMs to determine at what point a relationship should be regarded as LTAMC. The length of time two people have been together is not proof of the stability of a relationship. There is no specified time limit in determining the stability of the relationship and DMs should consider the following questions

1. is there strong evidence that they have been LTAMC from the time they began living together, that would enable DMs to determine that LTAMC existed from the outset?
2. are they living together as a temporary arrangement without commitment on either side? If so, DMs might determine they are not LTAMC
3. to what extent do they both take responsibility for the activities listed at ADM E4103? Where there is doubt about the stability, DMs might determine two people were not LTAMC.

E4106 DMs should not assume a stable relationship exists just because two people have been LTAMC on a previous occasion.

Children

E4107 When two people are caring for a child they have had together, there is strong evidence that they are LTAMC. DMs can also consider

1. a man acting as father to a woman's children **or**
2. the woman acting as mother to the man's children **or**
3. one of two people of the same sex caring for the other person's children **or**
4. two people of the same sex caring for a child they have adopted together **or**
5. two people of the same sex caring for a child(ren) under a court order that gives them parental responsibility

as evidence that they are LTAMC.

Public acknowledgement

E4108 If two people have represented themselves openly and unequivocally to others as spouses, this is an indication that they are LTAMC. Examples of where such representation could be made are

1. on the electoral register;
2. in claiming benefits;
3. in obtaining accommodation;
4. if their friends and neighbours accept them as a married couple or civil partners and that the relationship is one of a permanent intent;
5. if one person has assumed the other person's surname.

Future plans

E4109 Marriage or civil partnership is where two people join together with the intention of sharing the rest of their lives. When considering whether two people are LTAMC their plans for the future can provide important evidence. For example, two friends sharing accommodation will rarely have the intention to share accommodation for the rest of their lives but two people who are LTAMC would be expected to have the intention of sharing their lives together in the long term.

E4110 – E4150

Looking again at living together determinations

Temporary absence of one party

E4151 Subject to E4152, a couple should not automatically be regarded as having stopped LTAMC just because of the temporary absence of one of the parties. When DMs determine whether LTAMC¹ continues during a temporary absence, the reason for the absence is an important factor. Absences for the following reasons would not normally mean that the couple have stopped LTAMC

1. work;
2. a period as a hospital in-patient;
3. holiday;
4. a visit to a relative(s);
5. higher education².

1 R(G) 11/59; R(SB) 19/85; 2 R(SB) 30/83

Absence of one party expected to, or exceeds, 6 months

E4152 Where the claimant is a member of a couple and the other member is temporarily absent from the claimant's household, they cease to be treated as a couple if that absence is expected to, or exceeds, 6 months¹.

1 UC Regs, reg 3(6)

Example 1

Huw and Isobel are LTAMC and in receipt of UC. Isobel is involved in a road accident and is admitted to hospital with life-threatening injuries. She needs prolonged treatment and rehabilitation and is expected to be in hospital for about 8 months. The DM treats Huw and Isobel as no longer LTAMC from the date of Isobel's admission to hospital.

Example 2

Louie and David are LTAMC and in receipt of UC. David obtains work abroad and has a contract of employment for 18 months. The DM treats Louie and David as no longer LTAMC from the date that David goes abroad.

Example 3

Ed and Melanie are LTAMC and in receipt of UC. Melanie's mother, Cathy, lives in Spain and Melanie hasn't seen her for 2 years. Cathy receives an inheritance and tells Melanie that she will buy her a plane ticket, if she would like to pay a visit. Melanie accepts her mother's offer and leaves the UK for a 4 week period. As the absence is for less than 6 months, Ed and Melanie continue to be treated as a couple whilst Melanie is in Spain.

Permanent separation

E4153 LTAMC stops when there is a permanent separation of the couple. DMs should accept evidence that one of a couple has left permanently, unless there are reasons for doubt. In which case, more evidence will be needed.

Change in determination

E4154 A decision awarding UC to a single person should be

1. revised **or**
2. superseded

if it is later determined that they were, or are now, LTAMC.

Note: ADM Chapter A3 contains further guidance on revision for UC purposes and ADM Chapter A4 contains further guidance on supersession for UC purposes.

Decision already given on a benefit other than UC

E4155 Where it is known that a decision incorporating a determination on LTAMC may have been made on a claim for a benefit other than UC, the DM should obtain the papers on that earlier claim, before giving a determination.

E4156 DMs should consider

1. the facts of the current claim **and**

2. the points at E4094 and E4095

before determining whether two people are LTAMC.

E4157 DMs should do this

1. even though a different determination may be made on the same set of facts as those in an earlier claim **and**
2. to ensure that the circumstances in which the determination is made show the burden of proof.

There would have to be a good reason for a DM to reach a different determination on LTAMC, based on the same facts. If the DM reaches a different determination it may be necessary to consider revision or supersession of the outcome decision on the other benefit.

E4158 – E4999

Appendix 1

Prohibited or forbidden degrees for marriage/civil partnership (see E4062)

A person cannot marry (or form a civil partnership with) their

1. adoptive child
2. adoptive parent
3. child
4. former adoptive child
5. former adoptive parent
6. grandparent
7. grandchild
8. parent
9. parent's sibling
10. sibling
11. sibling's child
12. child of former civil partner
13. child of former spouse
14. former civil partner of grandparent
15. former civil partner of parent
16. former spouse of grandparent
17. former spouse of parent

18. grandchild of former civil partner

19. grandchild of former spouse.

In the above list “sibling” means a brother, sister, half-brother or half-sister.

For the people mentioned in **1.-11.**, the bar to marriage/registering as civil partners is absolute.

For the people mentioned in **12.-19.**, they can marry/register as civil partners if both parties are aged 21 or over at the time of the marriage/registration and the younger person was never a child in the older person’s family up to the age of 18.

“Child of the family” in relation to another person, means a person who

1. has lived in the same household as that other person **and**
2. has been treated by that other person as a child of their family.