**Template messages to DWP staff regarding a new claim for Universal Credit**

*An individual can claim Universal Credit as soon as they are granted leave further to an asylum claim (i.e. refugee leave, or humanitarian protection, or some kind of Leave Outside The Rules - but without a nil recourse to public funds (NRPF) condition). Individuals should not delay their UC claim (e.g. pending delivery of their biometric residence permit). If DWP staff refuse to allow an individual to submit a claim (e.g. by refusing to take a telephone claim) then consider contacting CPAG’s judicial review project (*[*jrproject@cpag.org.uk*](file:///C:\Users\ostevens\Downloads\jrproject@cpag.org.uk)*).*

*The text below can be used as the basis for a message to DWP staff regarding some of the key requirements for people making a new claim for Universal Credit after having recently been granted leave further to an asylum claim.*

*Carefully check and edit as appropriate, removing anything which is not appropriate or relevant, then copy and paste to the claimant’s journal in their online Universal Credit account. If your client is still having difficulties after attempting to resolve the problems using this template, consider contacting CPAG’s judicial review project.*

1. [NAME] has claimed Universal Credit (UC). They have recently been granted the following immigration leave:
   1. [TYPE OF LEAVE] awarded from [DATE]
2. This means that [NAME]:
   1. Is not a person subject to immigration control - they require leave to enter or remain in the UK and have it (C1040 of the [DWP ADM);](https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide)
   2. Has a qualifying right to reside; and
   3. Does not have to satisfy the Habitual Residence Test (C1377, C1379, C1384 of the [DWP ADM).](https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide)

Evidence of identity

1. [NAME] has been granted leave but has not yet received their Biometric Residence Permit (BRP).
2. [NAME] is instead able to provide both an Application Registration Card (ARC) and the Home Office Decision Grant Letter.
   1. DWP internal guidance titled ‘[Refugees and Asylum Seekers v13.0](https://www.whatdotheyknow.com/request/1049929/response/2480153/attach/5/Refugees%20and%20Asylum%20Seekers%20V13.0.pdf)’ states that:

*“Where the claimant has not received their biometric residence permit (BRP) card to prove their identity, they can be asked to provide the following documents:*

*• ARC (Application Registration Card)*

*• Home Office Decision Grant Letter*

*These documents can be used together in place of a BRP card to verify identity if the information is the same on both and confirmed by the Home Office.*

*Both documents must be provided and not one without the other to be accepted as*

*proof of identity.”*

1. [INCLUDE THIS SECTION IF THE CLAIMANT IS ABLE TO PROVIDE SOME DOCUMENTARY EVIDENCE BUT CANNOT PROVIDE EITHER (A) A BRP OR (B) BOTH AN ARC AND HO LETTER. NOTE THAT THE DOCUMENTARY EVIDENCE MAY NOT BE ACCEPTED SO CONSIDER ALSO INCLUDING THE SECTION ON THE BIOGRAPHICAL ID TEST] [NAME] is able to provide documentary evidence of their identity.
   1. DWP internal guidance titled ‘[Identity verification v.19.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/080._Identity_verification_V19.0.pdf)’ states that:

*“Claimants who do not confirm their identity online must provide one piece of*

*primary evidence and two pieces of secondary evidence when they attend their*

*Initial Evidence Interview.”*

* 1. [NAME] is able to provide the following piece of evidence listed in the DWP guidance document titled ['Primary evidence v.5.0'](https://www.whatdotheyknow.com/request/1049929/response/2480153/attach/4/Primary%20evidence%20V5.0.pdf?cookie_passthrough=1) (note that expired documents are acceptable) – [PRIMARY EVIDENCE DOCUMENT TYPE]. [NAME] is able to provide the following two pieces of evidence listed in the DWP guidance document titled [‘Secondary evidence’](https://www.whatdotheyknow.com/request/755671/response/1797693/attach/6/Secondary%20evidence.pdf?cookie_passthrough=1) - [SECONDARY EVIDENCE DOCUMENT TYPES].

1. [IF NO OR POTENTIALLY INSUFFICIENT DOCUMENTARY EVIDENCE CAN BE PROVIDED] DWP internal guidance titled ‘[Identity verification v.19.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/080._Identity_verification_V19.0.pdf)’ states that:

*“A biographical test can be used to verify a claimant’s identity. The test consists of three questions that are generated using information held on the Customer Information System (Searchlight).”*

*“A biographical check involves the validation of information provided by the claimant and checked with third parties or organisations such as:*

*• other government departments*

*• utility companies*

*• employers”*

* 1. [NAME] consents to DWP carrying out a biographical test of their identity and to DWP contacting the following third parties or organisations – [LIST ORGANISATIONS AND, IF APPROPRIATE, CONTACT INFORMATION].

Evidence of immigration status

1. [NAME] is not able to provide both the ARC and the Home Office Decision Grant Letter because [PROVIDE REASON]. [IF THEY ARE ABLE TO PROVIDE SOME EVIDENCE THEN PROVIDE DETAILS HERE]
   1. The DWP Parliamentary Under-Secretary of State has stated that:

[INCLUDE THIS FIRST SENTENCE IF ABLE TO PROVIDE SOME DOCUMENTARY EVIDENCE OF ID. OTHERWISE, DELETE] *“Although refugees normally rely on their Biometric Residence Permit to verify their identity and their refugee status, other documents can be accepted.”*

*“DWP Staff are instructed to consider all available evidence when assessing a benefit claim, including checking directly with the Home Office to confirm immigration status where they are unsure.”* ([written answer UIN 746](https://questions-statements.parliament.uk/written-questions/detail/2023-11-08/746))

* 1. [NAME] has explained why the BRP, and both the ARC and the Home Office Decision Grant Letter are not available to them. The Parliamentary Under-Secretary of State has stated that DWP staff are instructed to check directly with the Home Office to confirm immigration status where they are unsure. This approach is consistent with para.A1405 of the DWP [Advice for decision making staff guide](https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide) (ADM) which states:

*“DMs should note that*

*1. initially the burden lies with the claimant to prove that the conditions for a claim are satisfied1 but they should do as much as possible to ensure that the claimant has every opportunity to provide all relevant evidence and where the information is available to them rather than the claimant, then they must take the necessary steps to enable it to be traced”*

* 1. [NAME] requests that DWP verify their immigration status by contacting the Home Office directly.

National Insurance Number (no BRP)

1. [NAME] has not yet been provided with a national insurance number (NINO).
   1. DWP guidance on gov.uk titled ‘[Claiming Universal Credit and other benefits if you are a refugee](https://www.gov.uk/government/publications/claiming-universal-credit-and-other-benefits-if-you-are-a-refugee)’ states that “Your NINO will be on the back of your BRP”, [NAME] has not yet received their BRP and so has not yet received a NINO.
   2. The gov.uk guidance goes on to state that “You do not need a NINO for your benefits claim to be made but if you do not have a NINO you need to tell DWP at the start of your claim. DWP will tell you how to apply for a NINO as part of your claim for benefits.”

National Insurance Number (BRP)

1. [NAME] has not yet been provided with a NINO and no NINO is printed on the back of [NAME]’s BRP.
   1. A NINO is not required for [NAME] to claim UC. DWP should trigger a NINO application for [NAME] using the eDCI1 process.
   2. DWP internal guidance titled ‘[Refugees and asylum seekers v13.0’](https://www.whatdotheyknow.com/request/1049929/response/2480153/attach/5/Refugees%20and%20Asylum%20Seekers%20V13.0.pdf) states that:

*“Most BRPs will include a National Insurance number (NINO). If the BRP does not include this, action must be taken as soon as possible after the Habitual Residence Test decision to arrange a NINO on the refugee’s behalf using the eDCI1 process.”*

1. Please confirm the eDCI1 process has been followed and advise [NAME] on what they need to do next.

Bank account

1. [NAME] does not yet have a bank account.
   1. The UC online claim form does not initially permit claimants to progress their claim unless they enter bank account information.
      1. The form permits claimants to make progress after three failed attempts to enter bank account information, [NAME] used this method when completing the form.
      2. [OR ALTERNATIVELY] [NAME] bypassed the restriction on progressing the claim until bank account details are provided by making a telephone claim.
   2. DWP internal guidance titled ‘[Refugees and Asylum Seekers v13.0](https://www.whatdotheyknow.com/request/1049929/response/2480153/attach/5/Refugees%20and%20Asylum%20Seekers%20V13.0.pdf)’ states that:

*“Some refugees may not have opened a bank or building society account. Alternative payment methods must be considered so as not to prevent the Universal Credit payment being delayed.”*

* 1. DWP internal guidance titled ‘[Method of payment in universal credit v.2.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/103._Method_of_payment_in_Universal_Credit_V2.0.pdf)’ states that:

*“The Payment Exception Service (PES), which provides payment using vouchers that are redeemed using a link PDF, SMS or email at PayPoint outlets and Post Offices. These vouchers are limited to a value of £100 each and they are only redeemable if the outlet has sufficient funds available. PES vouchers are valid for 90 days and any vouchers not redeemed within this period will expire and funds returned to DWP.”*

*“In exceptional circumstances the claimant may ask you to make their payment into someone else’s account. Claimants should not use this method unless they are 100% sure they can trust the account holder. This is known as a Third Party Account and account holders should be invited in to confirm their details. This is paid by exception, and only when all other options have been reviewed and discounted.”*

* 1. To prevent payment of UC being delayed please make a payment using [STATE DESIRED METHOD OF PAYMENT].

UC advance

1. [NAME] has [BEEN REFUSED / NOT BEEN OFFERED] a UC new claim advance – new claim advances are an advance of benefit paid to people that cannot wait until their first payment of UC, and are recoverable from future payments of benefit. DWP internal guidance titled ‘[Advances – new claim v.21.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/007._Advances_-_New_claim_V21.0.pdf)’ states:

*“The purpose of a New Claim Advance is to support claimants who can’t manage until they receive their first payment of Universal Credit. Claimants must be made aware that advances are available to them if they are in financial need.”*

1. DWP internal guidance titled ‘[Refugees and Asylum Seekers v13.0](https://www.whatdotheyknow.com/request/1049929/response/2480153/attach/5/Refugees%20and%20Asylum%20Seekers%20V13.0.pdf)’ states:

“*A refugee must be offered an advance payment when making a new claim*.”

1. DWP internal guidance titled ‘[Advances – new claim v.21.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/007._Advances_-_New_claim_V21.0.pdf)’ also states:

*“To establish if the claimant and their partner (if they have one) have a financial need and require an Advance, they must be asked if they have enough money to live on until the first payment of Universal Credit is due. This might be money from savings, earnings, redundancy payments or support from the claimant or partner’s parents, family or friends. If the answer is no, an Advance must be offered.*

*A claimant is not required to have signed their Claimant Commitment before they can get an Advance, but they must:*

*• be unable to manage until their next payment of Universal Credit (financial need)*

*• have likely entitlement to Universal Credit (their ID must have been verified and there must be no doubt that the Habitual Residence Test will be satisfied)*

*• have the ability and agree to repay the advance”*

1. [NAME] claimed UC on [DATE]. The first payment of UC is typically made five weeks after the date of claim, in this case the first payment of UC might be expected on [DATE]. [NAME] does not have enough money to live on until the first payment of UC is due and is unable to manage until that time. As such, [NAME] satisfies the condition in the first bullet of the quoted section of the DWP internal guidance titled ‘[Advances – new claim v.21.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/007._Advances_-_New_claim_V21.0.pdf)’.
2. [NAME] has provided evidence of their identity and immigration status. [NAME] falls under reg.9(4) of the [UC Regulations 2013](https://www.legislation.gov.uk/uksi/2013/376/contents) and so is not required to be habitually resident (see paras.C1279 and C1280 of the [DWP ADM).](https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide) As such, there is no doubt that [NAME] will satisfy the habitual residence test and therefore [NAME] satisfies the condition in the second bullet of the quoted section of the DWP internal guidance titled ‘[Advances – new claim v.21.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/007._Advances_-_New_claim_V21.0.pdf)’.
   1. For the avoidance of doubt - if there is any guidance stating an advance is not payable if there is an outstanding habitual residence test then this guidance must be disregarded, as to follow it would mean that the decision maker is fettering their discretion. An introduction to the concept of fettering discretion can be found in the [‘Judge Over Your Shoulder’ guidance (6th ed.)](https://www.gov.uk/government/publications/the-judge-over-your-shoulder). Instead, the decision maker must decide, for the reasons already set out, that [NAME] is likely to satisfy the habitual residence test and that an advance can be paid.
3. It is likely that [NAME] will receive an award of UC and will therefore be able to repay the advance. [NAME] agrees to repay the advance. As such, [NAME] satisfies the condition in the third bullet of the quoted section of the DWP internal guidance titled ‘[Advances – new claim v.21.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/007._Advances_-_New_claim_V21.0.pdf)’.
4. [NAME] satisfies all three of the conditions they must satisfy before getting an advance, as set out in the quoted section of the DWP internal guidance titled ‘[Advances – new claim v.21.0](https://data.parliament.uk/DepositedPapers/Files/DEP2023-0791/007._Advances_-_New_claim_V21.0.pdf)’.
5. Reg.5(1)(d) of the Social Security (Payments on Account of Benefit) Regulations 2013 states that an advance may not be made until the claimant has been allocated a national insurance number. {DELETE AS APPLICABLE, EITHER:] [NAME] has been allocated a national insurance number. [OR, ALTERNATIVELY] [NAME] has not been allocated a national insurance number - please expedite the allocation of [NAME’S] national insurance number. It is appropriate to expedite allocation for the following reasons [PROVIDE REASONS FOR URGENCY]
6. Please offer [NAME] a UC advance. [OR, ALTERNATIVELY] Please urgently allocate a national insurance number and offer [NAME] a UC advance.