

ADVICE NI POLICY NEWSLETTER

JUNE 2018



Universal Credit has been a focus for the team as can be seen from the articles, and also Universal Credit rollout has now reached Belfast (Falls Road and Shankill Road) from Wednesday 13th June.

As such, our Head of Policy sought engagement with the Secretary of State for Work and Pensions Esther McVey MP to welcome the changes that have been made to Universal Credit, but to ask if she would agree that more changes are needed? Her response is as follows:

“As UC is a new benefit, specifically designed to be a modern benefit & a flexible one too, then of course when changes are required, we should do just that. Changes will need to be worked through to ensure no unintended consequences. But I want to make sure changes can be made.”

So in the spirit of ‘how can we make Universal Credit better’, Advice NI will be compiling a list of changes that we feel that are essential in order to reduce hardship and make things better for claimants.

The Policy Team welcome your views and contributions; please email us on policy@adviceni.net with suggestions for Universal Credit change. We aim to share our list of changes in the next edition of ‘... think ...’;

Best regards,
The Policy Team.

LATEST NEWS

Universal Credit

High Court rules that the Government acted unlawfully, by failing to protect benefit rates for the severely disabled, who were migrated to Universal Credit.

Justice Lewis confirms the finding that the implementing arrangements for Universal Credit give rise to unlawful discrimination, contrary to article 14 with A1P1 to the ECHR, holding that -

'There is differential treatment between the group of persons who were in receipt of additional disability premiums (the SDP and EDP) and who transferred to universal credit on moving to a different local housing authority area and so receive less money by way of income related support than they previously received and the group of persons in receipt of SDP and EDP and who move house within the same local housing authority area but are not required to transfer to universal credit and continue to receive the basic allowance and SDP and EDP and suffer no loss of income.

That differential treatment is based on status. That differential treatment has not been objectively justified at present. A declaration will be granted that there is unlawful discrimination. The defendant will then be able to determine how to rectify the unlawful discrimination.' (paragraph 114)

www.bailii.org/ew/cases/EWHC/Admin/2018/1474.html

Written Statement by Esther McVey, The Secretary of State for Work and Pensions.

"The Government has already made a commitment that anyone who is moved to Universal Credit without a change of circumstance will not lose out in cash terms. Transitional protection will be provided to eligible claimants to safeguard their existing benefit entitlement until their circumstances change.

Today I am announcing four additions to these rules to ensure that Universal Credit supports people into work, protects vulnerable claimants and is targeted at those who need it.

In order to support the transition for those individuals who live alone with substantial care needs and receive the Severe Disability Premium, we are changing the system so that these claimants will not be moved to Universal Credit until they qualify for transitional protection. In addition, we will provide both an on-going payment to claimants who have already lost this Premium as a consequence of moving to Universal Credit and an additional payment to cover the period since they

moved.

Second, we will increase the incentives for parents to take short-term or temporary work and increase their earnings by ensuring that the award of, or increase in, support for childcare costs will not erode transitional protection.

Third, we propose to re-award claimants' transitional protection that has ceased owing to short-term increases in earnings within an assessment period, if they make a new claim to UC within three months of when they received the additional payment.

Finally, individuals with capital in excess of £16,000 are not eligible for Universal Credit. However, for Tax Credit claimants in this situation, we will now disregard any capital in excess of £16,000 for 12 months from the point at which they are moved to Universal Credit. Normal benefit rules apply after this time in order to strike the right balance between keeping incentives for saving and asking people to support themselves.

The process of migrating claimants on legacy benefits will begin in July 2019 as previously announced. In order to make the changes to the system it will be necessary to extend the completion of UC to March 2023. As throughout UC roll out, we will keep the exact timetable under review to do what is sensible from a delivery and fiscal perspective."

www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-07/HCWS745

DWP Universal Credit Full Service Survey.

This research presents findings from two waves of quantitative research with Universal Credit claimants. The survey explored areas such as claimants' experiences of registering a claim and understanding of Universal Credit, their job search activity and attitudes to work, and their experiences of budgeting and sanctioning. Interviews were conducted with claimants, between March 2017 and September 2017, at approximately three and eight months into their Universal Credit claim.

It is interesting to note that almost half (46 per cent) of all claimants needed help to register their claim online.

Three in ten (30 per cent) of those who registered a claim online found this difficult, and the process of verifying their identity online was seen as particularly difficult.

Overall, more than four in ten (43 per cent) claimants said they needed more support registering their claim for UC.

www.assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714842/universal-credit-full-service-claimant-survey.pdf#5b1f8ef327e82

Advice NI highlights fundamental flaw in UC system.

The rigidity of the Universal Credit assessment period is such that, depending on the date that Universal Credit is claimed, some people are treated as receiving two monthly wages in one assessment period, resulting in a dramatically reduced or even nil Universal Credit award.

www.adviceni.net/blog/advice-ni-highlights-“fundamental-flaw”-universal-credit

National Audit Office report on the rollout of Universal Credit: not achieving value for money and significant number of claimants are struggling.

The NAO [National Audit Office] states: Throughout the introduction of Universal Credit local and national organisations that represent and support claimants have raised a number of issues about the way Universal Credit works in practice. The Department has responded to simple ideas to improve the digital system but defended itself from those that it viewed as being opposed to the policy in principle. It does not accept that Universal Credit has caused hardship among claimants, because it makes advances available, and believes that if claimants take up these opportunities hardship should not occur.

This has led it to often dismiss evidence of claimants' difficulties and hardship instead of working with these bodies to establish an evidence base for what is actually happening.

www.nao.org.uk/report/rolling-out-universal-credit/

Government proposal to move claimants on 'legacy' benefits to Universal Credit: consultation announced

The Social Security Advisory Committee (SSAC) is consulting on proposals to move existing claimants in receipt of a working age income-related benefit to Universal Credit. Deadline for responses is 20th August 2018.

<https://www.gov.uk/government/consultations/moving-claimants-to-universal-credit-from-other-working-age-benefits>

Concordat

A new concordat has been issued, between the DWP and the Department for Communities in Northern Ireland.

The Concordat aims to promote inter-agency co-operation.

It sets out arrangements for issues including consultation, exchange of information, finance, access to services, resolution of disputes and review of relations.

www.gov.uk/government/publications/concordat-between-the-department-for-work-and-pensions-and-the-department-for-communities

The Appeals Service

New TAS [The Appeals Service] Form of Authority.

TAS have produced a new Form of Authority where a benefit claimant wants to name or change a representative, which is GDPR compliant.

www.nidirect.gov.uk/publications/form-authority

Vehicle Tax Exemption

Criteria for exemption from paying vehicle tax.

You can apply for vehicle tax exemption if you get the:

- higher rate mobility component of Disability Living Allowance (DLA)
- enhanced rate mobility component of Personal Independence Payment (PIP)
- www.gov.uk/financial-help-disabled/vehicles-and-transport
- Vehicle tax reduction
- You can get a 50% reduction in vehicle tax if you get the PIP standard rate mobility component.
- You can't get a reduction for getting the DLA lower rate mobility component.

Employment & Support Allowance

Figures released by DWP in June 2018.

These figures highlight a range of interesting information including:

- Information on Work Capability Assessments, Mandatory Reconsiderations and Appeals
- Outcomes for initial claims completed in the quarter to December 2017 were 41% Support Group; 20% Work Related Activity Group and 38% Fit for Work;
- Over 60% of ESA 'Fit for Work' decisions were overturned on appeal (excludes adjourned cases);

www.assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/716083/esa-wca-summary-june-2018.pdf

Personal Independence Payment

Video recording to be introduced to PIP assessments.

Sarah Newton (Minister of State for Disabled People, Health and Work) issued a statement re: 'improving the experience', for those claiming PIP:

"A key part of our efforts to improve the assessment process will be making video recording of the PIP assessment a standard part of the process. We will be piloting videoing the assessment with a view to then rolling this out across Great Britain. It is vital for claimants that we continue to have a stable service. My Department therefore, intends to explore options to extend the current contracts for approximately two years as this will better allow for a stable transition to any new provision. At the same time we will look to enable more providers to deliver PIP by developing a DWP owned IT system."

www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-05/HCWS733

Welfare Reform Mitigations in NI

Bedroom Tax / Social Sector Size Criteria.

The Northern Ireland Executive allocated a total of £91 million to mitigate the impact of the Bedroom Tax / Social Sector Size Criteria until 31 March 2020.

During the Assembly debate on The Housing Benefit (Welfare Supplementary Payment) Regulations (Northern Ireland) 2017 (the mitigation regulations), Minister Givan committed the Department to providing biannual reports on the application of Regulation 2(2) of the mitigation regulations.

Regulation 2(2) operates to end a person's entitlement to a Welfare Supplementary Payment if they move property and continue to underoccupy by at least the same number of bedrooms. Regulation 2(2) of the Social Sector Size Criteria mitigation regulations does not apply where a property is allocated to a claimant under one of the management transfer scheme categories, commonly referred to as "Management Transfer Status".

In the six month period 1 October 2017 to 31 March 2018 a total of 86 Welfare Supplementary Payments came to an end as a result of the application of Regulation 2(2) of the mitigation regulations. At 31 March 2018, a total of 33,114 individuals were in receipt of Welfare Supplementary Payments to mitigate the impact of the Social Sector Size Criteria.

www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-sssc-cessation-of-wsp-oct17-mar18.pdf

Universal Universal Rollout Schedule

The rollout phase which was due to complete in September 2018 has now been extended to December 2018.

The new dates are:

13/06/2018 - Falls, Shankill
27/06/2018 - Andersonstown, Banbridge
05/09/2018 - Holywood Road, Ballynahinch
19/09/2018 - Newtownabbey, Newtownards
03/10/2018 - Shaftesbury Sq, Carrickfergus
17/10/2018 - Knockbreda, Bangor
31/10/2018 - Lisburn, Larne
14/11/2018 - North Belfast, Cookstown
05/12/2018 - Ballymena, Antrim

www.communities-ni.gov.uk/news/update-universal-credit-rollout-schedule

POLICY UPDATES

Kevin Higgins, Head of Policy has been seeking clarification on new and existing social policy issues. Below are the issues which he feels are most prevalent at this time. If there are any further comments or feedback please contact Kevin on policy@adviceni.net. Universal Credit: Travel Discount Cards and Flexible Support Fund

Advice NI sought clarification on the travel assistance available for Universal Credit claimants required to attend face to face interventions.

Department for Communities (DfC):

UC Claimants who are in the all work related requirements conditionality group and are required to attend face to face interventions weekly during the first 13 weeks of their claim are entitled to receive a Travel Warrant in advance of the intervention or reimbursement of their travel expenses for the alternate weeks (i.e. those in between each fortnightly attendance).

Where the Work Coach has determined that weekly face to face interventions should continue beyond the initial 13 weeks, the claimant will continue to be entitled to assistance with travel expenses for the alternate weeks. Universal Credit Claimants in other conditionality groups may also be entitled to reimbursement of their travel expenses when they are required to attend face to face interventions. In addition, Travel Warrants may also be issued to claimants to facilitate carrying out work related activities such as attendance at Job Fairs or attending a training course. Travel to Interview scheme is also available to claimants to remove a barrier when someone would not be financially able to attend a job interview. Universal Credit: Free School Meals

Advice NI sought clarification regarding how Universal Credit interacts with Free School Meals.

Department for Education: Thank you for your enquiry and the issues you have raised in relation to the introduction of Universal Credit (UC) and Free school meals (FSM). The Department has been in discussion with colleagues in the Department for Communities (DfC) and the Education Authority (EA) on the issues you have raised and more broadly in relation to the continued provision of FSM as the roll out of UC continues.

The case that you referred to in your correspondence obviously involves challenging circumstances and we recognise the difficulties that the family are undoubtedly seeking to overcome. We understand that the mother sought help and advice from DfC and also from Advice NI in order to ensure that the family is able to access all available supports.

In relation to the respective roles in the relevant procedures, the process and timescales for assessing eligibility to UC, as it is for each of the qualifying benefits for new claimants, lies with DfC and DE has no role in the processing of UC applications. School meals policy, including FSM eligibility criteria, is set by DE and the EA is responsible for the verification and award of FSM entitlement.

FSM are a passported benefit and eligibility is determined by the receipt of a qualifying benefit. The FSM eligibility criteria state that entitlement is awarded on 'receipt of' rather than 'application for' these benefits. Therefore an application can only be approved on receipt of verified evidence of receipt of a qualifying benefit. This seeks to ensure that FSM are available to those families in need while balancing this with the prevention of any potential misuse from those who are not. As FSM are effectively a non-cash benefit, it is not possible for the EA to seek to recover the public funds that would have been expended in providing FSM during the UC application period from those FSM applicants that are later found to not meet the eligibility criteria. There is also no current mechanism open to the EA to refund school meal costs incurred prior to FSM eligibility having been confirmed.

The EA has advised that in comparison to the processes for those new FSM applicants who would have applied on the basis of their eligibility for legacy benefits, it is not anticipated that there will be a significant increase in time before a decision is reached on their FSM application due to the usual timescales involved in applicants providing documentary evidence of receipt of a qualifying benefit.

DfC officials have confirmed that in cases where the UC applicant is concerned about short term hardship during the UC application period, a discretionary grant (which does not require repayment) may be awarded. They may also be able to apply for an advance payment which would be recovered from their UC payment over several months. There are therefore mechanisms in place from DfC that seek to mitigate any hardship being experienced by applicants during the UC application period.

While I understand that this may not be the response you were wishing for, I hope that it provides some clarity on the approach used by the EA in supporting those families in need and the potential support mechanisms open to those families in hardship. Universal Credit

Advice NI sought clarification on situation where UC claimants do not have a bank account and particularly with reference to the UC Payment Exception Service.

DfC: If a claimant does not have a bank account, and they call Universal Credit, the agent will discuss alternative methods of payments, and help the claimant to complete their claim. In exceptional circumstances the HMGPEs can be used, however the service centre will work with the claimant to discuss the benefits of direct payment. There will be no delay in their claim.

www.gov.uk/payment-exception-service

DfC: The Simple Payments System has been replaced by 'Her Majesty's Payment Exception Service' (HMGPEs). I-MOVO is the actual system that is used to make the

payment. Only in exceptional circumstances should the new exception payment service be used to pay benefits to claimants. It should only be used as a last resort, where claimants are unable to be paid into a bank, building society, credit union, or Post Office card account.

Advice NI sought clarification on the Written Statement by Esther McVey, The Secretary of State for Work and Pensions regarding the extension to existing support within Universal Credit and Child Tax Credit for children who would otherwise be likely to be in local authority care, including children who are adopted or looked after by non-parental carers, also known as 'kinship' carers.

DfC: Re: 'Two Child' rule: changes to exceptions in Universal Credit, Income Support and Jobseeker's Allowance (income-based), on 27 April 2018 Esther McVey, Secretary of State for Work and Pensions announced in Parliament that support for children who may be in local authority care, including children adopted or looked after by non-parental carers, is to be extended in Universal Credit. I confirm that this extension of support will also apply in Northern Ireland.

This will require an amendment to regulations and while no details are available at this early stage as to when the change will be implemented, the intention is that it will be implemented in Northern Ireland at the same time as it takes effect in Great Britain.

Advice NI sought clarification on the approach taken by DfC staff regarding exceptions to the 2 child limit

DfC: Women seeking Universal Credit for a third child are required to have their application verified by a third party, to confirm that said child was conceived by rape. However, Section 5 of the Criminal Law Act (Northern Ireland) 1967, obliges an individual with knowledge of a relevant offence to report to the PSNI, regardless of the client's wishes.

The Attorney General for Northern Ireland has issued guidance regarding this situation. He stated it is:

"..highly unlikely that it will be in the public interest to prosecute a person for failure to report information received about a rape to police where that disclosure is made in the context of....social security and tax credit" This means that, whichever third party assists the client with their application, will not be committing an offence by not reporting the incident to the PSNI. He clarifies that circumstances may be

different where the victim is a child or vulnerable adult.

www.attorneygeneralni.gov.uk/human-rights-guidance

DfC: Operational guidance for DfC staff on processes relevant to the delivery of benefits is not published externally, however staff guidance does reference the legal position with regard to Section 5 of the Criminal Law Act (NI) 1967 in that in Northern Ireland, if the third party knows or believes that a relevant offence (such as rape) has been committed, the third party will normally have a duty to inform the police of any information that is likely to secure, or to be of material assistance in securing the apprehension, prosecution or conviction of someone for that offence. This information is publically available and is included in the NCC1 NI (IS) form on NI Direct.

In addition substantive guidance on section 5 of the Criminal Law Act (NI)1967 and accompanying legislation has also recently been published by the Attorney General and will come into operation on 29 May 2018. The relevant guidance was laid before the Assembly on 20th April and the legislation, the Attorney General's Human Rights Guidance (The Application of Section 5 of the Criminal Law Act (Northern Ireland) 1967 to Rape Victims and Those to Whom They Make Disclosures in Connection With a Claim for Social Security, Child Tax Credit or Anonymous Registration on the Electoral Roll) Order (Northern Ireland) 2018, was made on 3rd May.

Advice NI: Please clarify the situation re:

Advice NI: Someone living in NI in a UC rollout area, claiming UC – move elsewhere in NI to a non-UC area – do they stay on UC;

DfC: Yes, they will remain on Universal Credit.

Advice NI: Someone moves from GB where they were on UC – to NI to a non UC area – do they claim legacy benefits?

DfC: No, claimants will remain on Universal Credit.

Advice NI sought clarification on Universal Credit payment dates.

DfC: UC Payments will usually arrive on the same dates each month or earlier if the date falls on a weekend or bank holiday. If the payment date is usually on 31 of the month and a month does not have 31 days, it will usually be paid on the last day of month e.g. in February, the 28 of the month.

Advice NI: there does not seem to be a place for

inputting contribution based ESA details on the UC system?

DfC: If a claimant indicates that they are in receipt of other benefits, this is checked automatically. Therefore it is not necessary for the claimant to input individual details of any other benefit for example, contribution based ESA.

USEFUL BRIEFINGS, RESEARCH AND GUIDES

Personal Independence Payment (PIP) Assessment Guides

www.gov.uk/government/publications/personal-independence-payment-assessment-guide-for-assessment-providers

Universal Credit information

www.communities-ni.gov.uk/publications/welfare-changes-universal-credit-information

Welfare Reform Working Group ['Evason'] Report

www.executiveofficeni.gov.uk/sites/default/files/publications/ofmdfm/welfare-reform-mitigations-working-group-report.pdf

Independent Welfare Changes Helpline

0808 802 0020