

ADVICE NI POLICY NEWSLETTER

MARCH 2019



Welcome to the latest in our series of Advice NI policy eNewsletters `... think ...`.

IMPORTANT: In order to receive '...think...' you must click [this link](#).

The 2020 welfare reform cliff edge looms ever closer, and this edition of `... think ...` has further information on the latest position as set out by the Department for Communities' Permanent Secretary; we also have further clarification on the mixed-age couples Pension Credit issue; Personal Independence Payment latest news and, as ever we have more information in relation to Universal Credit.

Please email us at policy@adviceni.net to discuss any policy matters, content, feedback or comments.

We'd be happy to share ideas on areas to focus on, content suggestions and other ways of getting involved

Best regards,

The Policy Team

LATEST NEWS

Welfare Reform Mitigations Cliff Edge

Tracy Meharg, Department for Communities' Permanent Secretary outlines the department's position in relation to the NI welfare reform mitigations package

"The funding for the current mitigations schemes will end on 31 March 2020. Similarly, the legislation providing for each of the mitigations schemes will cease to have effect from 31 March 2020. Any proposal to extend the existing welfare mitigations beyond this termination date will therefore require the Department to bring forward new legislation, which would be subject to Affirmative Resolution. In the continued absence of a sitting Assembly it will not be possible for such legislation to be made."

Advice NI sought further clarification on precisely which of the current mitigation schemes are legislatively time bound and will cease on 31 March 2020

"You have sought further clarification on this and have listed the various mitigation measures in turn seeking confirmation as to precisely which of these will have a March 2020 legislative end date. Please see the attached Annex detailing the specific legislation which provides for a 31 March 2020 end date for each of the welfare reform mitigation schemes. I would highlight that the Discretionary Support Scheme, which is not a mitigation scheme, will not cease to have effect on 31 March 2020.

You have also asked for an assurance that schemes / measures that do not have a legislative end date will continue in their current form beyond 2020. As advised in my letter of 4 February, in line with the requirements of the Fresh Start Agreement, the Department will complete a review of the welfare reform mitigation measures by March 2019. It is anticipated this review will assist incoming Ministers in making decisions on the provision of any future mitigation measures."

Annex

CPAG &

1. (a) Carers supplementary payments for one year

The relevant regulations are 6(3), 10(3), 14(3), 18(3) and 20(5) of The Welfare Supplementary Payment (Loss of Carer Payments) Regulations (Northern Ireland) 2016. SR 2016 No. 253.

(b) Carers - exemption from benefit cap

The UK Government committed itself to exempting full-time carers from the Benefit Cap, and appropriate changes to legislation were made to ensure that the exemption was in place before the Benefit Cap was implemented in Northern Ireland. The relevant regulation is 73F (1)(h) of The Housing Benefit Regulations (Northern Ireland) 2006*. SR 2006 No. 405.

2. Adult ill health – ESA supplementary payments

The relevant regulation is 10(3) of The Welfare Supplementary Payments Regulations (Northern Ireland) 2016. SR 2016 No. 178.

3. Disability – DLA reassessment to PIP supplementary payments

The relevant regulations are 6(3), 6(6), 11(3) and 19(4) of The Welfare Supplementary Payment (Loss of Disability Living Allowance) Regulations (Northern Ireland) 2016. SR 2016 No. 250.

4. Additions to benefits: Adult disability premium supplementary payments

The relevant regulations are 8(3), 17(3), 24(3), 30(3), 36(3) and 39(5) of The Welfare Supplementary Payment (Loss of Disability-Related Premiums) Regulations (Northern Ireland) 2016. SR 2016 No. 254.

5. Benefit cap – supplementary payments for families

The relevant regulation is 4(6) of The Welfare Supplementary Payments Regulations (Northern Ireland) 2016. SR 2016 No. 178.

6. Discretionary Support Scheme – replaced abolition of Social Fund for Community Care Grants and Crisis Loans

The Discretionary Support Scheme is not a mitigation scheme. The regulations to enable this (The Discretionary Support Regulations (Northern Ireland) 2016, were made under the Welfare Reform (Northern Ireland) Order 2015 and do not have an

end date. There are no plans for this scheme to end in March 2020. However, the Universal Credit Contingency Fund is not explicitly provided for in this legislation and the future delivery of the fund will be considered along with the other time-limited mitigation schemes.

7. **Bedroom Tax (SSSC) – supplementary payments**

The relevant legislation is Article 137A (4) of The Welfare Reform (Northern Ireland) Order 2015. SI 2015 No. 2006 (N.I. 1).

8. **Appendices within the 'Evason' report**

These elements of the Welfare Reform Mitigations Working Group Report were not provided for in the mitigations legislation. The Department's Voluntary & Community Division are engaging with stakeholders to assess the impact of welfare reform funding ceasing in April 2020 and will contribute to the Departmental review of the Welfare Reform Mitigations Measures.

Updated versions of the above legislation can be found on the Department's website: [Volume 12 and Volume 8](#)

Personal Independent Payment

Latest Personal Independence Payment statistics for NI published

PIP statistics produced for the period June 2016 to November 2018 in relation to:

- Registered Claims
- Cleared Claims
- Clearance Time
- Awards
- Claims in Payment
- Reassessed DLA claims
- Mandatory Reconsiderations
- Disability Living Allowance (DLA) to Personal Independence Payment (PIP) reassessment outcomes (23% disallowance rate);

Available to view [here](#).

Northern Ireland Public Services Ombudsman 'Own Initiative' Investigation

The Northern Ireland Public Services Ombudsman Marie Anderson has informed the Department for Communities that she is proposing, under new powers, to launch an investigation into the way the Department administers Personal Independence Payments (PIP).

More information is available [here](#).

Personal Independence Payments: Renewals

Department for Communities have confirmed the following:

The PIP renewal - or more correctly, award review process process has been that Capita will advise the Department of a date the condition/disability may change. For example the medical evidence supports a two-year award of benefit. When the case manager reviews the case they will make an award for **three**-years with a **two**-year review. This is an operational matter and ensures that customers will still receive benefit while the Department conduct an up to date assessment of their case. The decision notification clearly states within it when their case will be reviewed, in addition to the award period.

This has meant that claimants have seen their PIP renewal / award review commence 12 months prior to the award ending.

This approach has now changed (from January 2019): the PIP renewal / award review now commences six months prior to the award ending, when the PIP AR1 Form will be issued to the claimant to commence the review process.

Pension Credit

Pension Credit & Universal Credit – Mixed Age Couples

Further to the [Statement in the House of Commons](#) Advice NI has received notification from the Department for Communities relating to claimants where one person is of working age and the other person is over state pension age

To: Advice Sector

Dear Stakeholder,

You may be aware in a recent House of Commons written statement, the Under Secretary for Pensions & Financial Inclusion Guy Opperman, announced changes to Pension Credit and Housing Benefit for Mixed Age Couples.

From 15 May 2019 benefit rules are changing for Pension Credit and pension age Housing Benefit. This means couples where one member is below the State Pension age will no longer be eligible to make a new claim to Pension Credit and Housing Benefit as a couple. Mixed age couples may be able to qualify for Universal Credit if they meet the capital. Income and other entitlement conditions.

People already receiving either Pension Credit or pension age Housing Benefit will not be affected providing their circumstances do not change and will continue to receive their current benefits. From today we will be issuing letters (examples attached) to people living in Northern Ireland who may be affected by these changes.

The letter will tell the claimant that we are writing to them as our records indicate that they are currently receiving Pension Credit and/or pension age Housing Benefit for themselves and their partner who will not have reached State Pension age by the time these changes are introduced on 15 May 2019. The letter also provides information on how this change may affect the claimant and provides them with details of where to contact if they need any further information.

I hope you find this information useful and if you have any queries or would like any further information please do not hesitate to contact our Communications & Engagement team by emailing CommsEngagement@communities-ni.gov.uk

The Department also outline the changes of circumstances that might lead to the Pension Credit claim being affected including:

- *if you or your partner leave Northern Ireland for more than 4 consecutive weeks*
- *if your household income or savings increase*
- *if you or your partner move out of your home*
- *if you or your partner's entitlement to another benefit ends.*

Following a change of circumstances, if you are no longer eligible for either Pension Credit or Housing Benefit, you and your partner may be eligible to claim Universal Credit.

Please tell us as soon as possible about any change to your personal circumstances, not just those listed above, and we will be able to advise whether you'll be affected.

If you are receiving Housing Benefit, you must also report any change of circumstances to your local Housing Benefit office.

Calls to Cut Red Tape Faced by Terminally Ill Social Security Benefit Claimants

Advice NI supports call to scrap the arbitrary rules governing fast track access to social security payments for people with terminal illnesses in Northern Ireland

Benefits like PIP, Universal Credit and ESA have Special Rules for claimants who have been diagnosed with terminal illnesses, which allows them to get faster access

to the payments they are entitled to, without having to fill in as many lengthy forms, go through face-to-face assessments or, in the case of Universal Credit and ESA, attend sessions with job coaches. The Special Rules process means that people can access the support they need quickly, with as little bureaucratic interference as possible – allowing them to enjoy a better quality of life during the time they have left.

The problem is that only people who have a medical prognosis of six months or less to live are eligible to apply for benefits under these Special Rules. This is excluding many legitimate claimants with unpredictable conditions like motor neurone disease, chronic heart failure and others, for which it is incredibly difficult for medical professionals to give an accurate estimation of life expectancy.

These claimants have to apply for support through the normal rules, which involves a lengthy and complicated application process and, for some benefits, may result in them having to meet work requirements in order to continue receiving their payments. This is unfair, undignified and needs to change.

Marie Curie and the MND Association want to remove this arbitrary six month criterion and replace it with a new system based on clinical judgement instead, as has recently been adopted in Scotland. Representatives of the [medical community](#) and parties [from across the political spectrum](#) have given their support to this campaign, and a recommendation to remove the six month life expectancy criterion for terminally ill PIP applicants was included in Walter Rader's independent review of the PIP assessment process here last year. However, the lack of a Stormont Assembly has meant that the Department for Communities is unable to change the rules.

The only option at present is therefore to convince the government in Westminster to intervene and reform the Special Rules process. The charities have launched a joint petition, calling on policy-makers in Westminster to change the law so that everyone with a terminal illness can access the welfare support they need quickly and sensitively.

The petition is available online at: <https://tinyurl.com/Scrap6Months>

Brexit

Government agrees deal to protect social security rights of UK and Irish citizens living and working in each other's state

The UK and Ireland are working closely together to protect the rights of UK and Irish citizens in each other's state, as part of the commitment to maintain the rights

associated with the Common Travel Area - a long-standing arrangement between the UK and Ireland.

<https://www.gov.uk/government/news/government-agrees-deal-to-protect-social-security-rights-of-uk-and-irish-citizens-living-and-working-in-each-other-s-state>

POLICY UPDATES

Universal Credit: Mixed-Age Couples

Advice NI: If a partner of a couple reaches state retirement age before 15th May but fails to claim Pension Credit, can they claim Pension Credit after 15th May? Or is the 15th May a blanket date that covers everyone?

DfC: with effect from 15 May 2019, mixed-age couples will no longer be able to choose whether they claim Universal Credit or Pension Credit and pension-age Housing Benefit. Both members of the couple will have to reach Pension Credit qualifying age (65 at November 2018 and rising to 66 by October 2020 in line with State Pension age) before they can be entitled to Pension Credit and/or pension-age Housing Benefit. Mixed-age couples who are already in receipt of Pension Credit or pension-age Housing Benefit on or before 14 May 2019 will be unaffected while they remain entitled to either benefit.

This change is being brought into effect through the Welfare Reform (Northern Ireland) Order 2015 (Commencement No. 13 and Savings and Transitional Provisions and Commencement No. 8 and Transitional and Transitory Provisions (Amendment)) Order 2019 (S.R. 2019 No. 4 (C. 1)) ("MAC Order 2019") under the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1)).

Pension Credit can be claimed any time after the person reaches Pension Credit qualifying age and the claim can be backdated up to 3 months (Regulation 19 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 465)). If a partner of a couple (mixed-age couple) who reaches the Pension Credit qualifying age before 15 May 2019 fails to claim Pension Credit until after 15 May, they could ask to have their claim backdated to the date they reached the Pension Credit qualifying age (date of entitlement), backdated up to 3 months. Their date of claim would then be prior to 15 May and would not fall under the provisions brought in by the MAC Order 2019.

The DWP estimates that this exclusion will save £220 million by 2021/2020.

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-02-06/217672/>

Universal Credit: Upfront Childcare Costs

Following a Parliamentary Question response which stated that DWP could use the "Flexible Support Fund" to help Universal Credit claimants with upfront childcare costs - Advice NI asked if this "Flexible Support Fund" is available in Northern Ireland

DfC: Northern Ireland does not have the Flexible Support Fund that is in place in Great Britain. However the Flexible Support Fund was introduced in 2011 to replace schemes that are still available in Northern Ireland. These are:

Adviser Discretion Fund

Adviser Discretion Fund is available to customers, for the purchase of goods or services, up to a maximum of £300 in a 12 month period, to remove a barrier to employment and move them closer to the labour market, or to enable them to take up the offer of employment. Upfront childcare costs do fall under this description. This fund is not an entitlement and the use of it is at the discretion of the work coach to address an evident barrier to work.

Travel to Interview Scheme

The Travel to Interview Scheme available to people who are unemployed, or under written notice of redundancy. This Scheme can help with the cost of travelling to job interviews in the UK, Northern Ireland and the Republic of Ireland.

More information can be found at <https://www.nidirect.gov.uk/articles/travel-interview-scheme>

Work Experience Programme

The Work Experience Programme offers short work experience placements with local employers. These placements can last between two and eight weeks and will give customers the chance to try out various tasks in a real work situation and develop skills needed to help participants get a job. The Work Experience Programme can provide support with childcare and travel costs for unemployed and economically inactive customers to gain employability skills and enter employment.

More information can be found at <https://www.nidirect.gov.uk/articles/work-experience-programme>

Housing Benefit / State Pension Credit

Advice NI: Clarification is required on the definition of 'abroad' in relation to Housing Benefit / State Pension Credit (Temporary Absence) (Amendment) Regulations 2016 which changes the period of time for which a person who is absent from Great Britain can remain entitled to Housing Benefit and State Pension Credit

DfC: The Chancellor, in his Autumn Statement of November 2015, announced that the Government would end the payment of Housing Benefit and State Pension Credit to claimants who travel outside of Great Britain for longer than 4 consecutive weeks, with effect from April 2016. As a result of this announcement The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations 2016 came into operation. Equivalent provision was made for absences from Northern Ireland in The Housing Benefit and State Pension Credit (Temporary Absence) (Amendment) Regulations (Northern Ireland) 2017, reflecting the two separate jurisdictions.

Social security is a devolved matter in Northern Ireland and therefore in the context of the UK there are two separate social security systems in operation, one serving the people of Great Britain and one serving the people of Northern Ireland. The legislation in question therefore ensures that a claimant travelling to Northern Ireland from either England, Scotland or Wales will be restricted to four weeks in the same way as a Northern Ireland claimant who decides to travel to England, Scotland or Wales.

Universal Credit Service for Claimants Unable to Interact Through an Online Account

Following a Parliamentary Question response which described a new, improved service for Universal Credit claimants who were unable to interact through an online account - Advice NI asked if this service is available in Northern Ireland

DfC: The 'alternative' service you refer to in your question is the new process that has been introduced to address the exceptional circumstance where an individual may make a claim to UC by phone.

This process will enable a UC Case Manager to set up an account for the claimant, record their data gather on the build, submit their claim and identify the claim as a phone claim on the UC system.

In addition, functionality has been added to allow the claim start date to be altered for phone claims as there is a chance that due to claimant circumstances, they were not able to make the call on the first date they contacted the service, e.g. they are unable to communicate in English.

Once registered as a phone claim, the claimant will not be able to manage or maintain their claim online, however, UC agents will update the claimant journal as and when required, this is because the claimant may at some point in the future gain online access and they would be entitled to view the full historic data relating to their claim.

The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations Northern Ireland 2016

Advice NI asked Department for Communities to confirm the following:

- 1. Under the regulations, a Universal Credit claimant can potentially make a UC claim over the phone or if this is not deemed to be appropriate, the date of the phone call will be taken as the date of claim for UC purposes? (if the claim is submitted within one month)**

DfC: There is nothing in the Regulations below that would confirm your suggestion that such a request could be 'not deemed to be appropriate' and the one month backdating would still be applicable. So long as the claim falls within a class of case for which the Department accepts telephone claims, (or where, in any other case the Department is willing to do so) and the Department has been supplied with all the information required, the date of the phone call will be taken as the date of claim (if the claim is submitted within one month of that date).

- 2. Could you please confirm the "class of case" for which the Department accepts telephone claims?**

DfC: Claims can be made by telephone in exceptional circumstances which may include claimants without an Appointee who:

- can't speak, read or write in English;
- are medically blind;
- are restricted from using the internet; or
- have mental health issues that restrict them leaving their home.

- 3. If a claim cannot be taken over the phone, will the phone call automatically be taken as the date of claim, if the claim is submitted within one month?**

DfC: If a claimant satisfies one or more of the above 'class of case' criteria and

requests to make a claim by phone, but cannot, the one month backdating will apply. If the Department is unable to accept a claim by telephone but subsequently receives a claim properly completed in accordance with the regulations then the date of claim may be taken as the date of the first notification by phone. If a claimant does not satisfy any of the above criteria, the Regulations governing telephony claims will not apply.

4. How does DfC cross check to ensure a 'date of claim' is linked to a prior telephone call and so have a 'date of claim' prior to the online lodgement date?

DfC: If a claimant who is in the 'class of case' group had been in contact with the UC Service Centre prior to the date the claim is submitted via phone then there will be a record of this held in the Service Centre shared email account and the correct backdating can be applied. If a claimant who does not fall into the 'class of case' group phones the UC helpline to enquire about making a telephone claim, they will be advised to make a claim online, the Regulations governing telephony claims will not apply.

5. Any other information relevant to the issue of making or initiating a UC claim via telephone?

DfC: Nothing further to add.

Change in Debt Recovery Policy in NI

DfC Permanent Secretary approves changes to pursue recovery of Social Fund (SF) Loans from customers only in receipt of DLA/AA/PIP using off benefit methods of recovery

In Northern Ireland, as at October 2018 statistics suggest that there are approximately 1800 NI customers with a Social Fund Debt who are only in receipt of one of DLA, AA or PIP, with a combined debt of approximately £1.01m.

Legislation does not support recovery of outstanding SF loans by deductions from benefit where Disability Living Allowance (DLA), Attendance Allowance (AA) or Personal Independence Payment (PIP) is the only benefit in payment. DLA/AA/PIP are not means-tested benefits but allowances paid alongside other benefits or earnings. Therefore, if no other benefit is in payment, the customer may have other means, such as earnings, which could be used to repay the outstanding Social Fund debt.

In the first instance customers will be contacted by Debt Management staff to attempt to agree a voluntary agreement. If this is unsuccessful, the Department will seek to utilise either Direct Earnings Attachment or Private Sector Supplier process if the customer meets the criteria. If recovery cannot be secured by any of the means,

the case will continue to be reviewed every 6 months pending a change in customer circumstances or payment of another benefit from which repayment of the debt can be obtained.

For purposes of clarity this change will not result in deductions of SF loans from the benefit payments of DLA, AA or PIP to any customer.

The Department has in place policies and practices to help customers who may need additional support as a result of this change including policies for dealing with vulnerable customers, hardship applications and the use of our outreach services.

The policy change brings the DfC in line with the DWP.

USEFUL INFORMATION

For information or advice you can contact the free Independent welfare changes Helpline 0808 802 0020 or email welfarechanges@adviceni.net