

ADVICE NI POLICY NEWSLETTER

APRIL 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](#).

Important developments in this edition include the Welfare Mitigation Schemes including a report just published by the Department for Communities in relation to options that the Department might advance on the future of the mitigation schemes. Advice NI and NICVA also hosted a 'media morning' on 8th April at NICVA to highlight the welfare reform mitigations cliff edge NI faces in one year.

We have a very important update on the Universal Credit SDP Gateway.

There are also some interesting consultations coming up, including the Northern Ireland Affairs Committee and the Work and Pensions Committee joint inquiry to examine the impact of welfare policy in NI, with a focus on policies such as Universal Credit, the two-child limit and the impact of the NI Executive social security 'mitigation package'.

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

Review of Welfare Mitigation Schemes

Department for Communities publish report setting out options that the Department might advance on the future of the mitigation schemes.

The Department for Communities has prepared this report to examine progress against the recommendations that were made by the Welfare Reform Mitigations Working Group. The report also includes details of the latest expenditure against the funding allocation for each recommendation.

This report sets out the evidence that the planned end of the welfare mitigation funding on 31 March 2020 is likely to present significant issues to people who may have benefited from this financial support.

Taking account of the impacts the report closes with options that the Department might advance on the future of the mitigation schemes. These are informed by the analysis presented in the report and an assessment of the ability of the Department to successfully deliver future mitigations.

<https://www.communities-ni.gov.uk/system/files/publications/communities/dfc-review-welfare-mitigation-schemes-2019.pdf>

Advice NI and NICVA facilitate a media morning at NICVA to highlight the welfare reform mitigations cliff edge NI faces in one year.

Through this engagement we aimed to generate sustained media coverage on the fast approaching mitigations cliff edge in March 2020 and the impact this will have on people including the threat of an eviction crisis.

See social media [#CliffEdgeNI](#)

[Media Briefing Paper: Welfare Reform Mitigations: Less Than 1 Year to Cliff Edge](#)

[Advice NI Opinion Piece on the Mitigations Cliff Edge](#)

Joint inquiry into Northern Ireland's welfare policy launched

The Northern Ireland Affairs Committee and the Work and Pensions Committee launch joint inquiry to examine the impact of welfare policy in NI, with a focus on policies such as Universal Credit and the two-child limit.

Terms of reference

The Committee is inviting written evidence on the following questions:

- What has been the impact of the NI Executive social security 'mitigation package'?
- What would be the likely effects of the mitigation package coming to an end in 2020?
- What, if anything, should replace the mitigation package from 2020?
- What are the effects of having higher levels of welfare entitlement in Northern Ireland? Is it feasible for Northern Ireland to have differing levels of welfare entitlement in the long term?
- How well is Universal Credit working in Northern Ireland? Are there issues with Universal Credit that are specific to Northern Ireland compared to the rest of the UK?
- Do people in Northern Ireland benefit from the flexibility to have Universal Credit paid at a different frequency or with split payments?
- What is the impact of the two-child limit on families in Northern Ireland?
- Do social housing tenants in Northern Ireland (including NIHE tenants) regularly experience rent arrears? What are the reasons for this? What level of deductions do tenants face to pay back arrears?

Contribute views and ideas to the inquiry by submitting written evidence by Friday 24 May 2019

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/northern-ireland-affairs-committee/news-parliament-2017/welfare-policy-in-northern-ireland-launch-17-19/>

Universal Credit and the Severe Disability Premium (SDP) Gateway

Advice NI sought clarification on the legislation governing access to the Universal Credit SDP Gateway: confusingly it references both 'entitled to' and 'in receipt of' the SDP as conditions. DfC responded to Advice NI as follows: "The SDP gateway prevents claimants who have SDP as part of their legacy benefit award from naturally migrating to universal credit. If a claimant on legacy benefits does not have

SDP as part of their legacy benefit award, and has a change of circumstances that requires them to claim UC, they will still naturally migrate onto UC. It is the inclusion of the SDP within the award that prevents the move over to UC.

If the person is entitled to have SDP as part of their legacy award (in other words they meet all the qualifying conditions and have provided the relevant information) but SDP is not being paid, the gateway will still apply.”

Universal Credit and Severe Disability Premium

PQ in relation to the timetable for the draft regulations for compensatory payments to be arranged for people who have moved to universal credit and lost their legacy benefit severe disability premium payments.

The draft Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019 were laid in Parliament on 14 January 2019, and will introduce provision for those claimants who were in receipt of the Severe Disability Premium (SDP) and who have already moved on to Universal Credit following a change in their circumstances. These regulations will provide both an on-going monthly payment to eligible claimants who have already lost the SDP as a consequence of moving to Universal Credit and an additional lump sum payment to cover the period since they moved.

These regulations are subject to parliamentary debate and approval before they come in to force. Once introduced we will implement our processes to identify those who are potentially eligible for payments, aiming to make all payments as quickly as possible and within 6 months of the regulations coming into force. This will be a time consuming process, as we have to identify claimants and assess their eligibility, possibly needing to check some information directly with claimants. We aim to finish making payments within 6 months of the regulations coming into force.

We have also introduced the Severe Disability Premium Gateway which prevents claimants who are receiving the SDP, or have done so within the past month and remain entitled to it, from moving onto Universal Credit from legacy benefits, even if they experience a change in their circumstances. These claimants will continue to receive legacy benefits including their SDP until they are moved onto Universal Credit by the Department.

Universal Credit and Implicit Consent

PQ in relation to whether Government has received advice from the Information Commissioner on whether implicit consent in universal credit would violate data protection laws.

DWP has been in correspondence with the Information Commissioner to clarify our approach to consent within Universal Credit. This does not amount to formal advice on the narrower point of whether implicit consent in Universal Credit would violate the Data Protection Act, but the Department continues to review its policy on consent and how it interacts with data protection laws.

The DWP policy to require explicit consent in most cases is to give an extra layer of security and protect claimants from people seeking to impersonate genuine advisers. We have agreed to explore options for improving the process of explicit consent in collaboration with the Social Security Advisory Committee to consider how current processes could be enhanced and publish a report on our joint conclusions.

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-01-23/211712/>

ICO respond to concerns in relation to the approach to explicit consent for Universal Credit (UC) claimants

“We have formed the opinion that the DWP appears to be taking an unduly restrictive view of the definition of consent under data protection in relation to consent for authorised representatives to act on behalf of UC customers. The DWP has reported that it is the fundamental of its own design of the online digital account that is its reason for taking its restrictive approach to ‘authority to act on behalf’. We have made clear that we feel the DWP’s approach to consent for representatives is unduly restrictive and that we are not satisfied that the DWP’s current approach constitutes data protection by design and by default.”

[Via Rightsnet.](#)

Universal Credit and Deductions

PQ in relation to how many and what proportion of universal credit claims had a deduction applied in the most recent month for which data is available.

The Government recognises the importance of safeguarding the welfare of claimants who have incurred debt. Under Universal Credit there is a co-ordinated approach to deductions from benefit, which simplifies the current complex arrangements.

The aim of the deductions policy in Universal Credit is to protect vulnerable claimants from eviction and/or having their gas, electricity and water cut off, by providing a last resort repayment method for arrears of these essential services.

Work has been done to increase awareness of advances and access to them for claimants, and to support this, new guidance has been issued to staff.

This guidance makes it clear that claimants should be made aware of advances, made aware of their maximum entitlement and informed that their entitlement will be adjusted over the relevant recovery period to take this into account. This increased awareness has resulted in around 60% of eligible new claims to Universal Credit receiving an advance in October 2018, providing further financial support until their first payment.

Of all eligible claims* to Universal Credit Full Service due a payment in October 2018, 53% (532,000 claims) had a deduction to their standard allowance.

Of these 532,000 claims with a deduction:

- a) 53% (284,000 claims) had deductions up to 20% of the Standard Allowance (28% of all eligible claims).
- b) 21% (113,000 claims) had deductions between 21% and 30% of the Standard Allowance (11% of all eligible claims).
- c) 24% (129,000 claims) had deductions between 31% and 40% of their Standard Allowance (13% of all eligible claims).
- d) 1% (6,000 claims) had deductions above 40% of their Standard Allowance (0.6% of all eligible claims).

Notes:

*Eligible claimants are claimants that have satisfied all the requirements of claiming Universal Credit; they have provided the necessary evidence, signed their claimant commitment and are eligible and have received their first payment.

These figures do not include sanctions or fraud penalties which are reductions of benefit rather than deductions.

Claim numbers may not match official statistics caseloads due to small methodological differences.

Claim numbers are rounded to the nearest 1,000

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-02-07/218206/>

Refugees accessing Universal Credit on the day of their arrival

PQ in relation to what recent assessment has been made of the ability of refugees arriving through the resettlement programmes to access universal credit on the day of their arrival.

A resettled refugee can make a claim to Universal Credit on the day of arrival into the UK. They can make their claim via several channels, including the online service, by telephone, by a home visit or in person at their local Jobcentre Plus office.

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-03-13/232095/>

Universal Credit 'Survival Sex' Inquiry

The charity Changing Lives conducted a study of sex work in Durham and Darlington and found that some of the women interviewed “work to supplement their benefits in exchange for drugs and alcohol and to secure accommodation, however precarious.”

The Work & Pensions Committee has launched an inquiry to explore possible links between Universal Credit and 'survival sex'; here is their statement:

The Committee has opened this phase in its Universal Credit inquiry in response to reports from charities and support organisations that increasing numbers of people—overwhelmingly women—have been getting involved in “survival sex” as a direct result of welfare policy changes. These include the roll-out of Universal Credit. In his recent report on extreme poverty in the UK, the UN Special Rapporteur, Professor Philip Alston, described meeting people who:

Depend on food banks and charities for their next meal, who are sleeping on friends' couches because they are homeless and don't have a safe place for their children to sleep, who have sold sex for money or shelter.

Through its work on different aspects of Universal Credit over the last two years, the

Committee has identified number of features of the policy that may contribute to claimants having difficulty meeting survival needs:

- The wait for a first payment, which is a minimum of five weeks but can be a lot longer;
- The accumulation of debt: for example, as a result of third-party deductions to benefits or taking out an Advance Payment at the start of a claim;
- Sanctions, which are applied at a higher rate under Universal Credit than under the system it replaces.

We'd like to hear from you if you've had to exchange sex for basic living essentials, like food or somewhere to live. This will help us to understand what is happening and to make the right recommendations to the Government. We understand that telling your story might be difficult. You can ask for your evidence to be anonymous (we'll publish your story, but not your name or any personal details about you) or confidential (we'll read your story but we won't publish it). The Committee is inviting anyone with experience of or affected by this issue, in any capacity, to send us a written submissions on any or all of the following questions:

What features of Universal Credit might drive people into "survival sex"? How does Universal Credit compare to the previous benefits system in this respect?

How widespread is this problem? To what extent are any increases in prevalence directly attributable to Universal Credit?

Are some claimants at particular risk of turning to "survival sex"? If so, who are they and what are the risk factors?

What changes to Universal Credit could help tackle this problem and better protect claimants?

What role should Jobcentre Plus play in supporting claimants who are involved in "survival sex" or sex work more widely?

You can share your story or evidence - we'd like to hear from you by Monday 29 April 2019.

We will also hear oral evidence in Parliament later in this inquiry. Committee Chairman Frank Field stated 'This is an investigation, and we do not yet know what we will uncover. But if the evidence points to a direct link between this kind of survival sex and the administrative failures of universal credit, Ministers cannot fail to act.'

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2017/universal-credit-survival-sex-inquiry-17-19/>

ESA Update Re Arrears Payments

Following migration from Incapacity Benefit to ESA, DfC has published an update on how it has resolved underpayments to claimants

The Department has been working to rectify errors that mean some claimants may have been underpaid when they were reassessed and transferred to contributory Employment and Support Allowance (ESA) between 2011 and 2014. The exercise began on 1 July 2018 and is due to be completed by 1 April 2019. The current position for NI claimants is:

- We have reviewed all affected cases and contacted all ESA claimants who may have been impacted by this error.
- We have issued just over £15million in arrears payments to 2,462 claimants.
- The average arrears payment is £6,300.
- All arrears are payable from the date the claimant's case was reassessed and transferred to ESA.
- We are on track to complete the exercise by 1 April 2019.

Via @CommunitiesNI Feb 22

Northern Ireland Executive Child Poverty Strategy

2018/19 Report on the Northern Ireland Executive's Child Poverty Strategy

The Executive's Child Poverty Strategy 2016/19 was published on 25 March 2016. The Strategy's aims are to reduce the number of children in poverty and reduce the impact of poverty on children. The Child Poverty Strategy 2016–19 focuses on four high level outcomes:

- Families experience economic well-being
- Children in poverty learn and achieve
- Children in poverty are healthy
- Children in poverty live in safe, secure and stable environments.

This document is an Annual Report on progress on the Executive's Child Poverty Strategy 2016/19 as required by Article 12(7) of the Life Chances Act, which requires an annual report to be laid before the Northern Ireland Assembly which:

- describes the measures taken by the Northern Ireland departments in accordance with the Northern Ireland Strategy, and
- describes the effects of those measures that contribute to the achievement of the purpose of ensuring, as far as possible, that children here do not experience socio-economic disadvantage.

<https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-child-poverty-annual-report-2018-19.pdf>

PIP, ESA Assessments and PIP Reviews for Pensioners

Amber Rudd, Health and Disability Announcement, March 2019

“We will improve and simplify the customer experience by no longer undertaking regular reviews of Personal Independence Payment (PIP) awards for claimants at or above State Pension age unless they tell us their needs have changed.”

“We will also be transforming the delivery of assessment services. I have established the Health Transformation Programme to undertake the significant task of transitioning the currently separate Work Capability Assessment (WCA) for Employment and Support Allowance and Universal Credit (UC), and the PIP assessment services into one unified, integrated service from 2021. To support this, we are developing a single digital platform. An integrated approach will allow for a more joined-up claimant experience across these benefits, which takes account of the multiple interactions an individual may have with DWP. We hope that developing our own digital platform will also enable a greater range of assessment providers to compete to help us deliver this important service in the future.

To enable an integrated service, we are extending the contract for the Health and Disability Assessment Service (HDAS), which includes the delivery of the WCA, and aligning it to the duration of the extended PIP contracts. This will allow for a safe and stable service now, and as we transition to the new integrated service.”

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-03-05/HCWS1376/>

How to Claim State Pension, Sent to the Advice Sector

For anyone who would prefer not to claim online, State Pension can still be claimed by telephone by contacting the Northern Ireland Pension Centre on 0808 100 2658

Dear Stakeholder,

You will be aware that the 'Check Your State Pension' and 'Get Your State Pension' services are available for citizens in Northern Ireland to access via nidirect. Feedback on these services since their introduction in July 2017 and March 2018 respectively has been very positive, with almost 48% of customers now claiming their State Pension online.

Citizens are sent an invite letter which contains a unique reference code to enable them to access the 'Get your State Pension' service. The online process takes on average 10 minutes to complete.

Whilst we would encourage claims to State Pension to be made online as the simplest, clearest and fastest channel, we appreciate that some people may not be able or wish to use the online service. For anyone who would prefer not to claim online, State Pension can still be claimed by telephone by contacting the Northern Ireland Pension Centre on 0808 100 2658.

In the event that neither of these services is suitable, a paper version of the State Pension claim form can still be requested by contacting the Northern Ireland Pension Centre on 0800 587 0892.

I hope you find this information useful in supporting your customers. If you would like any further information please contact

commsengagement@communities-ni.gov.uk

DfC Annual Report on Decision Making & Financial Accuracy, 2017

The Joint Standards Committee, which provides independent scrutiny on decision making in N.I., has produced it's latest annual report

This report focuses on two main areas; the level of decision making accuracy in social security benefits and the level of financial accuracy. The purpose is to establish if the decisions to award claims to benefit are correct and also to provide robust estimates of the percentage of benefit expenditure which is paid correctly. Accuracy underpins the Department's commitment to ensure that customers are receiving the right benefit at the right time.

<https://www.communities-ni.gov.uk/publications/department-communities-annual-report-decision-making-and-financial-accuracy-1-january-31-december-0>

Social Security Advisory Committee Consultations

The Claimant Commitment (Deadline 16 April 2019)

This research aims to build a better understanding of how effective the Claimant Commitment is in terms of supporting people into work or progressing in work. We are also interested in whether Claimant Commitments, by setting out clear expectations of what actions are needed in returns for benefit payments, help build trust in the welfare system.

The focus of this research is on claimants in the all-work related activity conditionality group, including those with potential restrictions on their work abilities but are still deemed to be suitable for this conditionality group. For example, people with caring responsibilities or a disability.

The all-work related activity conditionality group means a claimant must do all they can to find a job or earn more, which includes looking for jobs, applying for jobs and going to interviews. This research does not cover claimants in the remaining 3 conditionality groups:

- no work-related requirement
- work-focused interview group
- the work preparation group

<https://www.gov.uk/government/consultations/claimant-commitment/call-for-evidence-on-the-claimant-commitment>

Social Security and Separated Parents (Deadline 16 April 2019)

This research seeks to better understand the living standards of parents who have separated. It will consider the living standards of both the resident (who lives with the children most of the time) and non-resident parent but will have a specific focus on non-resident parents given the relatively limited amount of existing research on this group.

In particular, we will be seeking to get a better understanding of how living standards and well-being are affected by:

- child maintenance
- child Benefit
- the legacy benefit system (for example Child Tax Credit, Housing Benefit and Working Tax Credit)
- Universal Credit

This includes whether the tax and benefit system (and interactions between them and child maintenance) creates any negative outcomes or perverse incentives that potentially undermines the objectives of the social security system. For example, reduces the incentive to work or pushes people into poverty. We are also interested in understanding whether the social security system could be designed or delivered more effectively to help balance the needs and resources of separated parents and their children.

<https://www.gov.uk/government/consultations/social-security-and-separated-parents>

POLICY UPDATES

Universal Credit and Deductions

Advice NI: Could you please give me an overview of the processes around Universal Credit in terms of when and how deductions are taken from an award, including engagement with DfC debt centre ... ideally a walkthrough of the claimant journey in terms of deductions.

DfC: There are a number of different schemes that require deductions to be made from Universal Credit (UC). They fall into one of three categories, which are:

- “Last resort” deductions which safeguard vulnerable claimants who could be at risk of homelessness or disconnection of fuel;
- “Enforcing social obligations” when other repayment methods have failed or are not cost effective (e.g. Court fines, Child Maintenance); or
- Ensuring benefit debt is recovered in a cost effective manner (e.g. Social Fund loans, benefit overpayments).

When there is only one deduction required the item’s maximum deduction rate is taken. When there is more than one deduction required, provided there is sufficient Universal Credit in payment, deductions are taken for all items.

If a claimant is receiving insufficient Universal Credit to meet all deductions, or the total deductions would exceed 40% of the benefit unit’s Universal Credit standard allowance, a priority order is applied and as many deductions as possible are taken.

If a claimant is struggling financially, they can ask for the amount of deduction to be reconsidered on the basis of financial hardship. The process around the setting up and recovery of deductions from Universal Credit is carried out via computer interface with the Debt Centre. There are no clerical or manual interventions required. At the end of the claimant’s assessment period, the relevant deductions will have been made and recorded on the Claimant Statement.

Advice NI: If it is deemed that an overpayment has arisen, who communicates this with the claimant and outlines rights in terms of challenging the decision?

Any payment of Universal Credit made in excess of entitlement is a recoverable overpayment, regardless of how the overpayment was caused. This includes those overpayments arising wholly as a result of official error. This is because there is a duty to protect public funds and an obligation, wherever possible, to make sure that an overpayment is recovered. The claimant can find information on any Universal Credit overpayment on their online journal, this will also include details on how to apply for Reconsideration and Appeal.

Advice NI: Is recovery / deductions set even if the case is being challenged to MR and appeal?

Recovery of a Universal Credit overpayment will continue until the outcome of any appeal, if the appeal result is found in the claimant’s favour, any monies over

recovered will be refunded.

Advice NI: Who makes the decision in terms of the rate of deductions; How are the deductions calculated, including priority order and ensuring the maximum ceiling of 40% of the standard allowance is not breached?

Universal Credit recovery rates are deducted at a percentage of the Benefit Unit's Universal Credit standard allowance:

- Lower rate (Third Party Deductions) 5%
- Standard Rate – Maximum Deduction 15%
- High Rate – Maximum Deduction 25%
- Hardship and Fraud Rate – Maximum Deduction 40%

The recovery rate for Migrated Social Fund (MSF) loans is based on the single rate of recovery (i.e. agreed repayment rate for oldest loan at date of migration). This rate will be taken each month until all loans have been repaid. Deductions can fluctuate as the UC award changes. This can be due to a change in the benefit unit's income/earnings, household, or sanction.

Priority Order:

Deductions taken before the priority order is applied

- 1 Fraud Penalties
- 2 Conditionality Sanctions
- 3 Short-Term Advances (UC Advance (New Claim or Change of Circumstances))
- 4 First Month Advances (UC Advance (Benefit Transfer))
- 5 Budgeting Advances

Deductions Priority Order

Last Resort Deductions

- 6 Owner occupier service charges (where the lender is not part of MID scheme)
- 7 Rent and/or service charges arrears
- 8 Gas and/or electricity arrears

Enforcing social obligation deductions

- 9 Rates Arrears
- 10 Fines (minimum deduction rate) DN: NI legislation in draft
- 11 Water Charges Arrears
- 12 Old Scheme Child Maintenance
- 13 Flat rate Maintenance

Ensuring recovery of debt deductions

14 Social Fund loans

15 Recoverable Hardship Payments

16 Housing Benefit and DfC Administrative Penalties

17 Housing Benefit, Tax Credit and DfC Fraud Overpayments

18 Housing Benefit, Tax Credit and DfC Normal Overpayments

Enforcing social obligation deductions

19 Integration Loans arrears

20 Fines (maximum deduction rate) DN: NI legislation in draft

There is an overall maximum deduction rate for all items listed on the NI priority order. The maximum amount that can be deducted from Universal Credit is an amount equivalent to 40% of the claimant's Universal Credit Standard Allowance. There are two exceptions to this which are:

- Deductions for normal consumption of utilities do not count towards the 40% maximum
- If a sanction or penalty is being applied, or if an advance is being recovered, priority deductions, for example arrears of fuel costs, are still taken even if the total amount of deductions is higher than the 40%.

Advice NI: Who makes decisions on affordability, and how are claimants informed about how to seek a reduction in the recovery rate?

The claimant can telephone the Debt Centre if they wish to renegotiate their current repayment deductions.

Financial hardship decisions are only available when deductions amount to more than 10% of the Universal Credit standard allowance and are being made for any of the following:

- Benefit debt
- A Social Fund loan
- Rent arrears

The Debt Centre will carry out an Affordability assessment with the claimant when reviewing the amount of deductions being taken. The amount being recovered for a Universal Credit Advance, or a recoverable Hardship Payment, or a Third Party Deduction, can only be reviewed/suspended through agreement with the Universal Credit programme. Claimants can enquire about having their repayment reviewed/suspended by contacting their case manager via their online journal or by phone.

Advice NI: How are UC claimants notified regarding when deductions commence?

Details of all deductions from Universal Credit are recorded on the claimant's online statement.

USEFUL INFORMATION

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