

ADVICE NI POLICY NEWSLETTER

JUNE 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](#).

There's a lot happening this month regarding campaigns and inquiries into Welfare Reform.

Professor Eileen Evason and Kevin Higgins have published a brief discussion paper in relation to the mitigations cliffedge – [here is the link to this important paper](#)

The much-anticipated report on extreme poverty and human rights in the UK has been published, with Philip Ashton, Special Rapporteur to the UN finding that the UK Government has doubled down on anti-poor policies and that sustained cuts to social support violate the UK's human rights obligations.

The Northern Ireland Affairs and Work and Pensions Committees joint inquiry into welfare policy in Northern Ireland has held an evidence session at NI Assembly consisting of a claimant panel and a panel including our own Head of Policy. Minutes and submissions to the inquiry are now available [here](#).

Advice NI has initiated our member Policy Forum, with a first round of meetings held in Belfast and in the northwest. These will continue and help shape the policy work of the organisation.

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

The Northern Ireland Affairs Committee and the Work and Pensions Committee joint inquiry into welfare policy in NI

The Northern Ireland Affairs and Work and Pensions Committees began taking evidence for their joint inquiry into welfare policy in Northern Ireland with an evidence session in Stormont on Monday 10 June.

At the session, Jim Shannon MP asked the question ...

“I am just wondering—I know it myself but I want to hear your opinion in relation to it—do we need a system that has compassion because it is quite clear that we don't have?”

Kevin Higgins: What I would say to that is, well, of course we do. I would like to make some supplementary points around that as well. If we try to paint a big picture about all of this, I would engage quite regularly with the UC Director General addressing there part of the DWP Stakeholder Forum that is looking at reviewing Universal Credit, with good engagement with the local DfC—Department for Communities—senior staff in terms of Universal Credit. The earlier claimant panel really does speak to this disconnect between the negative experiences that very many claimants experience with Universal Credit, and I suppose the positive stories that are pushed out at a higher level.

In terms of my point of view, I come here with I suppose the advice sector and the experience of what people need coming through the doors of advice centres. Our frontline service has dealt with about 350,000 over the last year, and that is just social services security issues. The bulk of those would be related to DLA to PIP reassessment but about 10% are Universal Credit. You may be interested to know then what the types of inquiries are. What are the broad level things that people are

looking for help with? You will know that that will be to do with UC eligibility for a start, then the claims process, then the two elements of UC that are causing the most angst is the UC housing element and the UC limited capability for work element, issues with all of those, and of course UC advances.

I would highlight that when you drill down on those issues a little bit further—and I will try to prioritise these, I know we have limited time here today—the big issue that we are seeing is around a failure to recognise vulnerable claimants.

I did briefly read the DfC submission to this inquiry and it talked about a complex needs toolkit. In terms of the advice sector and my role as Head of Policy with Advice NI, I have not seen the complex needs toolkit that DfC has talked about. We have repeatedly flagged this issue of the need to safeguard the rights and the needs of people with various vulnerabilities. That could include terminal illness, mental health problems and other health problems.

We have no criteria around someone making a claim for Universal Credit over the phone. The legislation states that there is a classic case where a claimant can make a claim for UC over the phone, but we have yet to see the criteria for that and we have repeatedly pushed on that. Safeguarding vulnerable people would I suppose be top of our list of where there could be more compassion in the system.”

Links to the Inquiry and Advice NI submissions:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/welfare-policy-in-northern-ireland/oral/103079.html>

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/welfare-policy-in-northern-ireland/written/99593.pdf>

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/welfare-policy-in-northern-ireland/written/102452.pdf>

Links to media activity regarding the mitigations cliff edge and the impact of Universal Credit

<https://audioboom.com/posts/7286764-mps-warned-ni-is-facing-another-welfare-reform-crisis-if-mitigation-payments-come-to-an-end-while> ... BBC Nolan Show

<https://www.itv.com/utvprogrammes/view-from-stormont/view-from-stormont-episode-104> ... UTV View from Stormont ... From 26.40

<https://www.newsletter.co.uk/news/universal-credit-we-were-panicking-for-a-month-says-working-father-of-three-1-8946025>

<https://www.newsletter.co.uk/lifestyle/universal-credit-ex-gas-fitter-tells-of-struggle-to-keep-his-home-and-children-1-8944295>

<https://www.newsletter.co.uk/news/people/welfare-changes-blamed-for-surge-in-fermanagh-food-bank-demand-1-8946657>

DfC response to Joint Committee Enquiry

Support for childcare costs outside the UK 26. Until recently policy provided that, in Tax Credits and Universal Credit, support for childcare costs has only been payable in practice for registered or approved childcare that is provided within the UK. This means that, for example, any claimants (whether UK residents or frontier workers) who are found to be entitled to Universal Credit and the child element would not be able to claim childcare costs if these are incurred abroad.

27. Following a recent decision by the Social Security Commissioners in Northern Ireland, HMRC has changed its policy and now accepts registered or approved childcare in RoI for the purposes of entitlement to the childcare element of Working Tax Credit (WTC) for those UK and EEA citizens working in the UK. 9 28. WTC is treated under EU law in the same way as Universal Credit: both are social assistance, so not 'exportable' in the social security coordination sense, but nevertheless fall within the equal treatment of workers duty. The HMRC case concerned a person who lived and worked in Northern Ireland and had childcare provision in RoI: the decision relates to the provision and receipt of services in other Member States, but it may read across to freedom of movement of frontier workers. HMRC figures show that there are currently around 15,000 WTC claimants in Northern Ireland who are also in receipt of the childcare element and of these, around 3,500 live in the Councils bordering RoI.

29. There is already a power to accredit non-NI childcare providers in current Universal Credit regulations, so long as they are approved by an organisation accredited by the Secretary of State. The Department is currently in discussions with the Department for Work and Pensions regarding the issue of accreditation by the Secretary of State.

2 child policy - It is also notable that the average household in Northern Ireland is larger than in Great Britain. It is therefore reasonable to expect that the introduction of the policy on support for a maximum of two children will have a disproportionate

impact. The latest data, using a three year average (14/15 – 16/17), shows the household size in Northern Ireland is 2.5 compared to 2.3 in Great Britain. Also 41% of households in NI have three or more persons, compared to 35% in GB.

Although the twice monthly payments will assist some claimants in managing their money in the longer term, it may impact claimants in the first weeks of their claim. Universal Credit is calculated on a monthly basis in arrears, known as the Assessment Period, and claimants receive their first payment five weeks after they submit their claim to Universal Credit. In Great Britain, claimants will receive their full monthly amount at this point. However, Northern Ireland claimants will receive 50% of their full monthly amount after five weeks, with the second twice monthly payment two weeks later. The split payment flexibility is not set as a default in Northern Ireland. However, a claimant can request that their Universal Credit payment is split between members of a joint claim provided they have two bank accounts.

The NIHE have provided the following definition for technical and residual arrears:

Technical arrears are created as a consequence of the different way UC housing costs are paid to the Housing Executive (i.e. monthly payment made 4 weekly in arrears) compared to HB (weekly payment made in advance). The value of the technical arrears is equivalent to the estimated UC housing costs included in the 4 weekly payment file.

Residual arrears are created because UC housing costs payments are not sufficient to cover the rent charge that has accrued during the payment processing period. This occurs because the timescale for processing the first UC housing costs award can take on average 8.4 weeks but the first payment is normally equivalent to 4.33 weeks rent charges. Accordingly, the residual arrear is the balance left on the rent account after the UC housing costs payment has been received less any arrears that were there previously.

In Northern Ireland Universal Credit Housing Element is paid directly to landlords, on behalf of tenants, monthly in arrears. This differs from Great Britain (GB) where the Housing Element is paid to tenants. A consequence of this difference in Northern Ireland is that if a tenant changes landlord at any stage during the Universal Credit assessment period and therefore in advance of the Housing Element being paid, the existing landlord will not receive the Housing Element for that period, whilst the new landlord will receive the Housing Element for the entire period.

Social Housing Providers have indicated that it can take up to a maximum of nine weeks to receive a tenant's first Universal Credit Housing Element payment should the initial payment miss the date of the scheduled rent payment cycle

There is some anecdotal evidence to suggest that private landlords are experiencing issues due to time taken to make Universal Credit payments. The DfC is aware that this can be in part attributed to the time taken to obtain private landlords bank account details.

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/welfare-policy-in-northern-ireland/written/102740.pdf>

Report of the Special Rapporteur on extreme poverty and human rights

The Special Rapporteur [Philip Alston] on extreme poverty and human rights visited the United Kingdom of Great Britain and Northern Ireland from 5 to 16 November 2018. The purpose of the visit was to report to the Human Rights Council on the extent to which the Government's policies and programmes relating to extreme poverty are consistent with its human rights obligations and to offer constructive recommendations to the Government and other stakeholders.

"It might seem to some observers that the Department of Work and Pensions has been tasked with designing a digital and sanitized version of the nineteenth century workhouse ... rather than seeking to respond creatively and compassionately to the real needs of those facing widespread economic insecurity."

The Special Rapporteur specifically comments on the current mitigations package:

"Scotland and Northern Ireland each report spending some £125 million per year to protect people from the worst impacts of austerity and, unlike the United Kingdom Government, the three devolved administrations all provide welfare funds for emergencies and hardships. But mitigation comes at a price, and is not sustainable. The Scottish Government said it had reached the limit of what it can afford to mitigate, because every pound spent on offsetting cuts means reducing vital services. The mitigation package in Northern Ireland runs out in 2020, leaving vulnerable people facing a "cliff edge" scenario. For devolved administrations to have to spend resources to shield people from government policies is a powerful indictment."

The Prime Minister “disagreed” with the preliminary statement, and the Secretary for Work and Pensions was “disappointed” by its language, though the Under Secretary of State promised the Government would seriously consider the present report.’ The Secretary of State for Housing, Communities and Local Government, after initially denying any link, acknowledged that the Government’s policies may have played a role in rising homelessness.

Amber Rudd, Work and Pensions Secretary, plans to lodge a complaint with the UN. In a statement, the government said his report was “a barely believable documentation of Britain based on a tiny period of time spent here” and “a completely inaccurate picture of our approach to tackling poverty”.

Following this response, Philip Alston tweeted:

‘Rather than addressing the substance, the UK government has sought to distract from the troubling findings of this report by misrepresenting the process behind it. This is disappointing, if predictable.’ He was also quoted in the Guardian, saying the government response amounted to “a total denial of a set of uncontested facts” and that when he first read its public comment. “I thought it might actually be a spoof”.

He said he feared it showed ministers were not willing to debate official figures that showed 14 million people were living in relative poverty. “The statement is as troubling as the situation,” he said. “There is nothing that indicates any willingness to debate over issues which have generated endless very detailed, totally reputable reports across the political spectrum in the UK. All of these are dismissed.....The government is proceeding as if the problems I have reported don’t exist. Is it the case that 14 million people do not live in poverty? Do they contest the child poverty predictions? That is what it seems to be.” Frank Field MP, stated in a tweet:

‘It’s been reported that the Government intends to lodge a complaint with the UN about the contents of the Special Rapporteur’s report on poverty. I’ve written to the UN asking whether, if there is such a complaint, it would consider my letter as an endorsement of the report.’

And at an evidence session to the Work & Pensions Committee on Wednesday 12th June regarding Universal Credit and ‘Survival Sex’ (10.12am), a senior DWP official said that she did not denounce the work of the Special Rapporteur and in fact she said: “We did a fact check of the Special Rapporteur Report, he made a lot of good points, it was factually correct.”

<https://www.parliamentlive.tv/Event/Index/dc8af560-fd77-4196-922b-a80731799097>

<https://www.theguardian.com/society/2019/may/24/un-poverty-expert-hits-back-over-uk-ministers-denial-of-facts-philip-alston>

<https://undocs.org/A/HRC/41/39/Add.1>

Complaints to the Advertising Standards Authority [ASA], regarding DWP's Universal Credit Uncovered campaign in Metro newspaper

Z2K and a number of other charities, cite several instances of what they believe to be misleading claims and propaganda from the DWP, contained within the adverts.

One example cited is as follows:

"Another of the broader adverts claims it's a "myth" that "Universal Credit doesn't work", adding: "fact: it does." These statements omit the thousands of claimants universal credit does not 'work for' but instead has driven them into debt, rent arrears, foodbanks, and homelessness. The Metro's own universal credit article page refers to the extreme hardship it is causing. Or for further evidence, we refer you to the damning evidence the Work and Pensions Committee have received and reported on ...

We believe these adverts to be dangerous in their disingenuousness and could lead to people who are not better off on Universal Credit than they were on their old legacy benefits, being seriously harmed and at risk of living with not enough income for basic provisions such as food."

A DWP spokesman said:

"It's important people know about the benefits available to them, and we regularly advertise Universal Credit. All our advertising abides by the strict guidelines set by the Advertising Standards Authority."

<https://www.z2k.org/latest/z2k-formal-complaint-to-advertising-standards-authority-asa/>

A coalition of more than 80 benefit charities has submitted a complaint to the Advertising Standards Authority over government ads for Universal Credit which they claim are "deliberately misleading".

<https://www.independent.co.uk/news/uk/politics/universal-credit-adverts-complaints-charities-misleading-a8964186.html>

Universal Credit: Northern Ireland statistics

Experimental statistics on households and individuals on Universal Credit in Northern Ireland.

Universal Credit is a new payment to help support households that are out of work or are on a low income. Universal Credit was introduced in Northern Ireland on a phased geographical basis from 27 September 2017. Statistics have been compiled on the following:

- The number of claimants and households on Universal Credit
- Family type of households on Universal Credit
- Average payments households receive
- Statistics on housing support
- Where Universal Credit claimants are located
- The work conditionality regime that claimants belong to

<https://www.communities-ni.gov.uk/articles/universal-credit-statistics>

CPAG produces report 'Universal credit: What needs to change to reduce child poverty and make it fit for families?'

It states 'This report summarises the changes which CPAG believes should be made to universal credit in order to (a) reduce child poverty, (b) improve claimants' experience by adjusting universal credit design so that it works with the grain of people's lives, not against it, and (c) ensure a safe and fair process for migration of claimants on to universal credit.'

This report proposes a series of re-investments in universal credit, and details their impact on child poverty and the expected cost to the exchequer. The greatest 'bang for the buck' in terms of numbers of children protected from poverty would come from abolishing the two-child limit, a policy which seems designed to increase and deepen child poverty.

http://cpag.org.uk/sites/default/files/uploads/Universal%20credit%20-%20what%20needs%20to%20change_0.pdf

https://www.adviceni.net/sites/default/files/publications/making_uc_better.pdf

What alternatives are available for UC clients unable to utilise the on-line system?

Baroness Sherlock PQ regarding Universal Credit applications other than the online application system.

Baroness Buscombe response:

The Universal Credit Full Service Claimant Survey found that 98 per cent of claimants claimed online.

For those claimants who are unable to access or use our digital services, assistance to make and maintain their claim is available via the Freephone Universal Credit helpline. Face-to-face support is also available in Jobcentres. In exceptional circumstances, a home visit can be arranged to support a claimant in making and maintaining their claim.

Note:

Here is what the law says re: claiming UC by phone ... detailed guidance needed re 'the class of case', who can / cannot claim UC by phone:

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

Making a claim for universal credit

7. (2) A claim for universal credit may be made by telephone call to the telephone number specified by the Department if 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.

<http://www.legislation.gov.uk/nisr/2016/220/regulation/7/made>

Universal Credit: Change of circumstances leading to claimants migrating naturally

The question was asked: would a change of address in GB (moving from one local authority to another) trigger natural migration to Universal Credit.

This response from the Secretary of State Amber Rudd MP highlights that a relevant change of circumstance is one that would have triggered a new claim for benefit in

the legacy system. In GB a claimant moving from one Local Authority to another would require a new claim to HB – now will trigger natural migration to Universal Credit.

Note:

In Northern Ireland, change of address (in itself) should not trigger natural migration to Universal Credit as we have a single 'local authority' for HB (NIHE), therefore the Housing Benefit claimant will be able to remain on Housing Benefit.

<https://www.parliament.uk/documents/commons-committees/work-and-pensions/Correspondence/Letter-from-Rt-Hon-Amber-Rudd-MP-re-UC-natural-migration-20190424.pdf>

Universal Credit and Advance Repayments

The Trussell Trust and Stepchange have both called for UC advance payments to be made non-repayable, in the 'Hardship Now, Hardship Later' report.

Their recommendations include:

- in the short term, advance payments to be offered as non-repayable grants, at the very least for the most vulnerable groups;
- in the long term, the removal of the need for bridging payments by ending the five week wait, by paying universal credit after two weeks and paying awards fortnightly;
- the inclusion of all deductions from benefits to repay debts in the government's proposed 'breathing space' and statutory debt repayment plan schemes; and
- use of the Single Financial Statement (the standard income and expenditure assessment developed by the Money and Pensions Service used in the debt advice sector) when considering the affordability of deductions.

<https://www.trusselltrust.org/wp-content/uploads/sites/2/2019/06/StepChangeBriefing.pdf>

Universal Credit Repayment Calculations; No individual assessment re affordability, no real attempt to address the affordability issue in any meaningful way

Steve McCabe PQ re what assessment of a universal credit claimant's financial situation is made when calculating what percentage of their payment will be deducted in order to repay an advance.

Alok Sharma response:

The maximum amount a claimant can receive as a new claim advance payment is 100 per cent of their total indicative Universal Credit award. The claimant can decide the length of repayment period when they request the advance. This can be up to a maximum 12 months. The rate of repayment is decided by dividing the total advance amount by the agreed repayment period.

Affordability is managed by ensuring the recovery rate is not more than the equivalent of 40 per cent of the standard allowance and help is available for those struggling to meet the recovery rate once recovery begins. In many cases, because claimants choose to repay advances over many months, advance repayments constitute less than 40% of a standard allowance. In exceptional circumstances, recovery can be deferred for up to 3 months from the start of the recovery period.

Advances are not loans; they are an interest free advance payment of benefit, available to help people who need immediate financial support, which is then recovered over an agreed period. The Department has taken a number of steps to ensure that advances meet the needs of claimants and that recovery arrangements are personalised and reasonable. From October 2019 we are reducing the maximum rate of deductions to 30 per cent and from October 2021 we are increasing the maximum recovery period for advances from 12 to 16 months.

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2Clords&dept=29&uin=254734>

Note: 'Breathing Space' proposals

People struggling with serious debt are to be given a grace period of 60 days before being hit with further interest, charges and enforcement action, under new rules that will come into force in 2021.

<https://www.moneysavingexpert.com/news/2019/06/two-month--breathing-space--period-for-those-in-problem-debt-fro/>

<https://www.gov.uk/government/consultations/breathing-space-scheme-consultation-on-a-policy-proposal/breathing-space-scheme-consultation-on-a-policy-proposal>

https://www.huffingtonpost.co.uk/entry/60-day-breathing-space-scheme-for-people-struggling-with-problem-debt_uk_5d09dcd9e4b06ad4d258600a?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAHk3L8uI4xFXW_JLZHQu_43UmcWwdml1nrIEIfUWw3JvTwspbGjB_DvyPeFAc2Ug9LRSNLBJ8fUWEG-PF52na8cyz2waCRwTr2BEIVTu4n9Eji-38p9TGjKKgrcD12eRw4SbVhzYJPFxb9hqG-zGljJImEjqJ4PZQACVPGMWG5

Universal Credit & Deductions

Ruth George PQ re how many and what proportion of universal credit claims that had a deduction applied had (a) up to 20 per cent, (b) between 21 and 30 per cent, (c) between 31 and 40 per cent and (d) more than 41 per cent deducted in the latest period for which data is available.

Alok Sharma response:

The Government recognises the importance of safeguarding the welfare of claimants who have incurred debt. Universal Credit already has procedures and regulations in place to protect claimants from excessive deductions. The maximum rate of deductions cannot normally exceed 40 per cent of the Universal Credit standard allowance, and from October 2019 this will be reduced to 30 per cent.

However, last resort deductions can be applied to protect vulnerable claimants from eviction and/or having their fuel supply (gas/electricity) cut off, by providing a last resort repayment method for arrears of these essential services. In these circumstances, when it is considered to be in the best interests of the claimant and

their family, deductions may be taken above the 40 per cent limit.

If a claimant is in financial difficulty as a result of the level of deductions being made they can contact the Department to request that a reduction in deductions be considered.

Of all eligible claims to Universal Credit Full Service due a payment in Feb 2019, 57% (840,000 claims) had a deduction.

Of this 840,000 claims with a deduction:

- a) 50% (420,000 claims) had deductions up to 20% of the Standard Allowance (29% of all eligible claims).
- b) 20% (170,000 claims) had deductions between 21% and 30% of the Standard Allowance (12% of all eligible claims).
- c) 28% (238,000 claims) had deductions between 31% and 40% of their Standard Allowance (16% of all eligible claims).
- d) 1% (13,000 claims) had deductions above 40% of their Standard Allowance (1% of all eligible claims).

Notes:

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

Claim numbers are rounded to the nearest 1,000

When categorising claims into the groups above the figures for the percentage of the Standard Allowance for individual claims have been rounded to the nearest percent.

Deductions include advance repayments and all other deductions, but exclude sanctions and fraud penalties which are reductions of benefit rather than deductions.

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2Clords&uin=257147>

Universal Credit & reasons for a decision

Stephen Timms PQ re what assessment has been made of whether the information provided to universal credit claimants, who request reasons for a decision, meets the statutory requirements that it should (a) be adequate to allow a challenge to the decision, if appropriate and (b) inform claimants of their right to challenge the decision.

Alok Sharma response:

The decision notice sent to the claimant explains not only their dispute rights but also that they can request a statement of reasons for the decision made. That will not only be a comprehensive explanation for the decision, as required in law, but it will also remind the claimant of their dispute rights, including the time limit for making any dispute.

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2Clords&uin=251204>

Universal Credit & Waivers

Claimants can request a "waiver" regarding repayment of overpayments. Not widely known as only 30 people requested a waiver in 18/19 ... 10 of which were successful. The waiver criteria are set out below.

In 2018/19, 16,260 successful applications for a reduction in their repayment rate were made by claimants or their representatives.

In 2018/19, 10 overpayments were waived, either in full or in part, as a result of applications made by claimants or their representatives. In the same period, 20 applications were unsuccessful.

The Department has an obligation to ensure that public funds are administered responsibly and to abide by the principles set out in Her Majesty's Treasury's guidance on Managing Public Money (which can be found on gov.uk). Waivers are

only granted in limited circumstances including where the recovery of an overpayment is causing substantial financial and/or medical hardship and clear supporting evidence of this is provided.

Rather than waiving benefit overpayments, the Department works to support claimants through the recovery of these overpayments.

If a claimant is having difficulty repaying a benefit overpayment, they can request a review of the amount that is being taken. Any adjustment to the rate of repayment will be based on the individual circumstances of the claimant.

**All figures in this response have been sourced from internal management information and were not intended for public release. They should therefore not be compared to any similar figures subsequently released by the Department. All figures have been rounded to the nearest 10.*

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2Clords&uin=257457>

Universal Credit & Payment Statements

Stephen Timms PQ re what assessment the Secretary of State for Work and Pensions has made of the (a) accuracy and (b) clarity of the universal credit payment statements provided to claimants.

Alok Sharma response:

Universal Credit (UC) has been designed with accessibility and **accuracy** in mind and we are committed to providing personalised support for all claimants. Most people claiming UC will be able to access and navigate the internet, to make and maintain their UC account.

The Department delivers UC in a way which responds to the needs of those who are supported by it. UC payment statements have been designed to give claimants a relevant breakdown of their award, including details of any outstanding debt and the reason for deductions. Every UC award is calculated based on the circumstances of

individuals during each assessment period, taking into account savings, assets and income.

Further enhancements will be introduced in the future to make UC payment statements even easier to understand, with a particular focus on making it clearer when amounts are deducted and whether people are being paid as a single person or as part of a couple. Claimants will be able to access a 'blank' statement, available through their online account as soon as their claim is received, allowing them to view expected entitlements based on what information has been submitted.

Universal Credit and claimants who have cancer

Paul Farrelly PQ re steps being taken to ensure that universal credit phone-line staff are adequately trained to understand the complex needs of claimants suffering with cancer.

Alok Sharma response:

All DWP staff delivering Universal Credit undergo a comprehensive learning journey designed to equip them with the tools, skills and behaviours required to provide a high quality service to all claimants, including those who have cancer and other serious health conditions. Colleagues receive on-going learning in their roles and have access to Universal Credit guidance which is refreshed at regular intervals.

The Department takes seriously the need to support vulnerable claimants. We are committed to ensuring that people who have cancer are treated with the upmost sensitivity and care, when making a claim to Universal Credit.

We are continuously reviewing and improving the service for vulnerable people who claim Universal Credit to ensure that it is accessible and responsive to their needs. This includes how they are identified and supported, either from our own staff or via referrals from local services. For instance, when a claimant is asked to attend a Work Capability Assessment, they are required to complete a UC50 questionnaire which incorporates a 'light touch' evidence gathering process for cancer patients; and makes clear that Clinical Nurse Specialists and consultants can provide information on the form

Universal Credit Consent Issue

DWP grants landlords implicit consent, to discuss UC Housing Cost claims.

In the May 2019 edition of the Universal Credit landlord engagement newsletter, The DWP states it has updated Universal Credit housing costs and disclosure: guide for landlords, which sets out when information may or may not be shared about a claim. In particular, in relation to implicit consent:

'If the customer is not present to confirm consent verbally, DWP will decide whether the caller has the consent of the individual to act on their behalf ... only information pertaining to the claimants universal credit housing costs will be provided, and never any general information about any other aspect of the claimant's business with DWP.'

...So the DWP trusts random businessmen with implicit consent, but is unwilling to extend this trust to independent advisers? In 2017, Neil Couling's letter states that allowing implicit consent in UC full service would run the risk of disclosure of material to third parties and this would be unacceptable under data protection rules. This stems from the fact that claimant's in UC full service deal with their benefit through an online digital account which allows access to all claimant data.

<https://www.gov.uk/government/publications/universal-credit-landlord-engagement-newsletters/may-2019-universal-credit-landlord-engagement-newsletter>

The ICO found that the department's approach to consent was 'unduly restrictive', and likely to cause 'significant prejudice to 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.

The effect of this overly restrictive approach by the DWP is, in our opinion, likely to mean that people are at risk of significant prejudice as a result of excessive time being spent by DWP staff, representatives and individuals resolving authorities to act; peoples' (including vulnerable persons') legitimately authorised representatives' contact being refused by the DWP; vulnerable people being unable to obtain necessary assistance from representatives; and in some cases vulnerable people having an appointee established where this is not necessary or appropriate.

We have observed that the DWP's 'consent' policy and guidance includes no preamble, or statement of intentions, highlighting the importance of ensuring that vulnerable persons are not prejudiced as a result of the interpretation of the DWP's policy on this topic.

We have advised the DWP that there ought to be room for flexibility when interpreting consent based the circumstances of the specific case, including causal links between the original matter for which consent was obtained and the matter then being raised, and any agreed reasonable adjustments required by that individual from the DWP. We have also observed that the DWP's policy omits any provisions for it to approach, or initiate contact with, an individual to clarify the extent of their consent where a matter for which consent has previously been obtained has expanded, or progressed, to a boundary of the scope of the previously obtained consent.

We have informed the DWP that the extremely short time limits prescribed for representative permission (seemingly 5-8 weeks normal maximum, but potentially limited to only a single 'query') advocated by the DWP's guidance leaves a high likelihood of valid authorities routinely expiring multiple occasions during the course of a single dispute or query between individual and DWP. We consider the short time limits imposed by the DWP's policy to be disproportionately restrictive, likely to be prejudicial to both vulnerable people and the representative process as a whole, and have recommended that these time limit restrictions to consent be revised urgently.

We have observed that none of the DWP's guidance for its staff, or for the public, involved in this case includes any templates, illustrative case studies, or other examples, to aid with the consistent practical interpretation of the guidance. We have expressed the opinion that the current guidance requires supplementation with practical examples in order to ensure a reasonable degree of consistency in how it is interpreted, in practice, by DWP officials. We have recommended that the DWP publish a ready-to-use template form, for explicit consent for a representative to act on behalf of an individual, alongside its published policy in this area.

We have indicated to the DWP that its absolute ban on the discussion of specified

personal data with representatives is likely to require caveat for occasions when the specified personal data (that is banned from disclosure to representatives) is the direct subject of the matter being raised by the representative.

We, finally, observed in passing that the DWP policies that we have examined in the course of this case made no reference to the DWP's duties in relation to in protected characteristic information arising from the Gender Recognition Act 2004 (GRA). It seems that the design of the online digital account may not be readily compatible with the DWP's duty to protect protected characteristic information under the GRA.

We have written to the DWP asking it to revise its consent policies and internal guidance in consultation with its Data Protection Officer Team, and with reference to its legacy policies in this area. We have asked the DWP to take active steps to ensure that its policy works on a practical level for the individuals, their authorised representatives, and the DWP staff that need to enforce the DWP's consent policy consistently.

It is now up to the DWP to take account of the advice it has been given and improve its information rights practices. Although we are closing our case file for this matter, and have not actively sought the DWP's written response, we will keep the concerns raised on file to help build up a fuller picture of the DWP's information rights practices and to allow us to monitor the DWP's progress in this area over time.

Personal Independence Payment (PIP): DfC Update on the PIP Administrative Exercise

The DfC review of personal independence payment (PIP) claims affected by the Upper Tribunal judgments in MH v SSWP (PIP) and RJ, GMcL and CS v SSWP (PIP) has been completed in Northern Ireland.

The Department commenced an administrative exercise on 28th June 2018 to review all current PIP claims to check if customers are eligible for more support as a result of two Upper Tier Tribunal judgements in Great Britain.

As at 30 April 2019 the Department has reviewed 30,165 PIP claims, with around 600 arrears payments made to qualifying customers. The total amount of additional payments the Department has paid out is around £1.9 million with the average payment around £3,300.

<https://twitter.com/CommunitiesNI/status/1128622880135184384>

Personal Independence Payment (PIP): DfC update for PIP claimants of State Pension Age

New customers to PIP whose review would have been scheduled after they reached State Pension Age.

The Department for Communities will mirror the announcement made by the Department for Work & Pensions (on 29th May), whereby from 31 May 2019 any new customers to PIP whose review would have been scheduled after they reached State Pension Age will receive an ongoing award with a light touch review in 10 years.

Approximately 7,500 customers in Northern Ireland are affected. Applying this change to new PIP customers is the first step and we will be rolling it out to existing PIP customers above State Pension Age.

Customers do not need to take any action. The Department will implement the change and affected customers will be notified.

<https://twitter.com/CommunitiesNI/status/1133710244658515975>

Personal Independence Payment (PIP): Reconsiderations & DLA to PIP reassessments

Improving picture on DLA to PIP reassessment figures (although still an overall 22% disallowance rate).

These statistics reflect the position from PIP go-live in June 2016 up to 28 February 2019. They will also include updated MI on DLA Reassessment cases, as at 28 February 2019, in terms of the number getting a higher amount, lesser amount, same rate as they were getting under DLA or not entitled to PIP at all.

<https://www.communities-ni.gov.uk/articles/personal-independence-payment-statistics>

Personal Independence Payment (PIP): Ombudsman Investigation

Ombudsman has now commenced an investigation on her 'own initiative' into aspects of the administration of the Personal Independence Payment benefit system by the Department for Communities.

Following detailed consideration of the information available and the views of the Department for Communities, other Oversight bodies, MLAs and other members of civil society, the Ombudsman remains satisfied that the criteria for launching an 'own initiative' investigation have been met

https://nipso.org.uk/finding_type/own-initiative-investigations/

Mixed Aged Couples and Housing Benefit claims

Information from DfC

Mixed Aged Couples are those couples where one member of the couple has reached State Pension Age but the other has not. Prior to 15 May 2019 these couples could choose whether to claim Pension Credit or Universal Credit but from 15 May 2019 they must now claim Universal Credit if they require benefit support.

Should the working age person within the Mixed Aged Couple be continuously in receipt of a 'passport' benefit, ie ESA(IR), Income Support or JSA(IB), from 14 May 2019, the couple can remain on Housing Benefit. The Housing Executive has been able to identify a number of Housing Benefit claims that may be affected by the introduction of this change between now and September 2020 where their claim for Housing Benefit must be stopped.

Informing Housing Benefit claimants

We will be writing to affected claimants approximately one month before the date State Pension is reached to tell them about the impact of the new benefit rules. In the letter (sample attached) we will sign-post them to make a claim for Universal Credit and Rate Rebate to help pay their housing costs. We are emphasising that to receive the 2-week Housing Benefit run on the claim for Universal Credit must be submitted by the deadline date given. Approximately two weeks later, those for whom we have not received a stop notice, we will follow-up with a telephone call or SMS text and a second letter (sample attached). Again we are emphasising the need to submit the claim for Universal Credit by the deadline given.

Qualifying Age for State Pension

Below is a table which shows the date on which someone reaches State Pension Age by the date of birth band:

| Date of Birth | Date State Pension Age is Reached |
|-----------------------------------|--|
| 6 February 1954 – 5 March 1954 | 6 July 2019 |
| 6 March 1954 – 5 April 1954 | 6 September 2019 |
| 6 April 1954 – 5 May 1954 | 6 November 2019 |
| 6 May 1954 – 5 June 1954 | 6 January 2020 |
| 6 June 1954 – 5 July 1954 | 6 March 2020 |
| 6 July 1954 – 5 August 1954 | 6 May 2020 |
| 6 August 1954 – 5 September 1954 | 6 July 2020 |
| 6 September 1954 – 5 October 1954 | 6 September 2020 |
| 6 October 1954 – 5 April 1960 | 66th birthday |

In the letter we have sign-posted customers for independent advice to the Welfare Reform Helpline but we have also given telephone contact details for your organisation. I would be grateful if you could share this information and the sample letters with advice workers. We want to make sure they are aware of the correspondence in case they are contacted.

If contacted please emphasise it is vital customers submit their claim for Universal Credit on or before the deadline date to make sure the 2-week run on of Housing Benefit is paid for them. Any claims made after this date will miss out.

POLICY UPDATES

Advice NI asked: On the PIP Review form, it now states that a letter from your GP is not required as supporting evidence.

Is it following a request from GPs, or is it a procedure that DfC/Capita have decided upon? And if this is the case, could you advise us as to the reason for this?

DfC: I can confirm that customers can continue to send in evidence from their GP's or any other HP involved in the treatment of their disability at any stage of the PIP Process, including at the Award Review stage, and due regard will be had to this evidence by both Capita and Case Manager. That said, I appreciate the wording on the AR1 cover letter is misleading in that under the heading 'What Not to Send' it refers to 'A supporting letter from your GP', which would suggest that they can't, whereas on the same page under the heading 'What to Send' it details information from the GP that would be beneficial, such as their patient record, repeat prescription list and reports and/or care or treatment plans from their GP or consultant.

This is a standard PIP letter for Award Review cases which is generated by the PIP computer for all PIP customers, both here and in GB. I think the intention behind the wording was to try and obtain meaningful evidence from the GP re the customers disability and how it impacts their daily life. This would hopefully enable Capita to have sufficient information to clear the case by Paper Based Review, rather than receiving a general letter from the GP stating that they support the customers application or confirming a disability etc, but not giving any corroborative statement around limitations arising as a result of it etc, in which case the customer would more than likely be called for a face to face assessment.

I will flag your concerns with DWP around this wording in order to try and get the letter amended to make it more explicit around this matter to avoid any confusion.

Advice NI asked: What alternative arrangements are in place for safeguarding people who cannot claim help with rates via the digital platform?

DfC: The Rate Rebate scheme represents a new policy for rates support which is aligned with new Universal Credit processes. The policy saw the introduction of a digital first scheme with applications made via digital channels from the outset. These digital channels included telephony assistance via NI Direct. The digital option "piggy backs" on the UC digital process which will have been undertaken as a pre-requisite to claiming for rates support.

The policy intention of allowing claims for the Scheme to be made through a digital service gives customers greater control when they engage with the Department and aligns with the wider Welfare Reform objectives of promoting personal responsibility.

In circumstances where customers may have difficulty with the 'digital only' approach, telephony assistance can be provided by operatives who can complete the application on behalf of the claimant, and if necessary, ensure all contact is made via post. I have attached a link below which you may find helpful.

<https://www.nidirect.gov.uk/articles/getting-help-your-rate-rebate-claim>

Advice NI asked: Re the SDP Gateway (especially re people on legacy benefits but not HB), who take up a tenancy for the first time and would then be entitled to an SDP, do they claim HB or UC?

NIHE: DfC Policy & Legislation have advised, having consulted, with DWP that the legislation (and therefore the gateway) does not extend to someone making a fresh claim to legacy benefit (inc HB) because they *might* have been entitled to an SDP. It only applies where a claimant is moving across directly from a legacy benefit to UC. This advice concurs with our interpretation of the regulations therefore it is not possible for someone to receive HB on the basis that their circumstances would have entitled them to the SDP allowance.

However where SDP is awarded or an award is imminent within one of the other legacy benefits we will, by exception, accept a HB application and hold until the SDP award can be verified.

I would advise though that this approach is very much on a case by case basis and is not without risk therefore there are a number of caveats that yourselves and indeed customers should be aware of;

The customer must advise us on their HB application that an SDP award is under consideration/pending. Our staff will check the DWP's Customer Information System for information to this effect. The claim will be registered but not processed unless SDP is verified.

If/when SDP is verified HB can only be paid from the date of the SDP award therefore if there is a gap between someone taking up tenancy/occupying the

property and the date of the SDP award then the customer will not receive HB for this period.

There has been some confusion (hopefully this is lessening) around what constitutes SDP. We have had applications from some customers who have an Enhanced Disability Premium and/or who have a disability element in their Tax Credit award. These type of disability allowances are not SDP and do not meet the criteria to allow entitlement to a new legacy benefit.

In addition if we receive a HB application in the circumstances outlined above we will write to the customer advising of the situation (and the risks) and advising that if SDP is not applicable or there is a gap then they should consider applying for UC as soon as possible.

Finally we have had a number of ESA customers who have had a change of circumstances that has entitled them to SDP within their ESA award and we adopted the approach above with many now successfully receiving HB.

Advice NI asked: Please confirm how a UC claimant can access their UC LCW assessment report?

DfC: Regarding how claimants can access their medical assessment report. These reports are not automatically issued to the claimant but they can request to have a copy issued either by contacting their Service Centre over the phone or in writing via their online journal.

USEFUL INFORMATION

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