

ADVICE NI POLICY NEWSLETTER

DECEMBER 2018



'...think...'

Welcome to the latest in our series of Advice NI policy e-newsletters ' ... think ...'.

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

A theme in this edition is the so-called mitigations 'cliff edge': the threat posed by the end of mitigation measures brought forward by Professor Eileen Evason aimed at protecting the most vulnerable children and adults from hardship. This threat is made more real by the publication by the Department for Communities of the 2nd Annual Report on the Welfare Supplementary Payments made during the financial year 2017/18 and the publication of the latest biannual report on the application of Regulation 2(2) of the bedroom tax mitigation. (Regulation 2(2) operates to end a person's entitlement to a bedroom tax Welfare Supplementary Payment if they move property and continue to under occupy by at least the same number of bedrooms).

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

Second Annual Report published on the Welfare Supplementary Payments

Department for Communities has published its Second Annual Report on the Welfare Supplementary Payments covering 2017/18.

This report provides information on the Welfare Supplementary Payments made during the financial year 2017/18 and it also provides information on the operation of the Discretionary Support Scheme, on Standards of Advice and Assistance provided and on Benefit Sanctions.

<https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-annual-report-welfare-supplementary-payments-2017-2018.pdf>

Latest biannual report produced on households which have lost bedroom tax mitigation

Department for Communities has published the latest biannual report on households which have lost bedroom tax mitigation

This report provides information on the application of Regulation 2(2) of the bedroom tax mitigation. (Regulation 2(2) operates to end a person's entitlement to a bedroom tax Welfare Supplementary Payment if they move property and continue to under occupy by at least the same number of bedrooms).

<https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-sssc-welfare-supplementary-payments-apr18-sept18.pdf>

Welfare Reform: Mitigations on a Cliff Edge

Advice NI, Housing Rights and Law Centre NI produce Welfare Reform: Mitigations on a Cliff Edge Report

This report considers the importance of the current mitigation package and the implications for social security claimants in Northern Ireland if the agreed measures are discontinued at the end of March 2020.

<https://www.adviceni.net/blog/mitigations-%E2%80%98cliff-edge%E2%80%99>

BBC Radio Ulster's On Your Behalf

On Your Behalf coverage of the Welfare Reform: Mitigations on a Cliff Edge Report

You can listen again to the interview with Professor Eileen Evason, Chair of the Welfare Reform Mitigations Working Group and Kevin Higgins, Advice NI. The programme includes a Department for Communities statement on the current position regarding the mitigations cliff edge.

<https://www.bbc.co.uk/sounds/play/m0001ch8>

Northern Ireland 'faces cliff edge' if welfare help ends

Northern Ireland faces an escalation in hardship if planning is not made for the end of a mitigation period for welfare reform, it has been warned.

<https://www.bbc.co.uk/news/uk-northern-ireland-46411402>

'End of Mission' Statement by United Nations Special Rapporteur on extreme poverty and human rights

Statement on visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights

During his visit, the Special Rapporteur travelled to nine cities in England, Northern Ireland, Scotland and Wales and met with people affected by poverty, civil society, front line workers as well as officials from a range of political parties in local, devolved and UK Governments.

"Government policies have inflicted great misery unnecessarily, especially on the working poor, on single mothers struggling against mighty odds, on people with disabilities who are already marginalised, and on millions of children who are locked into a cycle of poverty from which many will have great difficulty escaping."

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881&LangID=E>

Latest Personal Independence Payment statistics released

Department for Communities has released the latest PIP statistics relating to claims, DLA to PIP reassessments and awards

This information summarises the published official statistics relating to PIP.

By the end of August 2018, there were 156,430 PIP claims registered. Of these, 133,670 had been cleared including 1,240 (1%) 'Special Rules for the Terminally Ill' (SRTI) claims. Of these clearances, 86,260 (65%) were reassessed DLA claims.

76% (63,710 cases) of DLA Reassessed claims were granted an award of PIP, meaning 24% (20,119 cases) were not granted an award.

<https://www.communities-ni.gov.uk/system/files/publications/communities/personal-independence-payment-statistical-bulletin-aug-2018.pdf>

State Retirement Age

State Retirement Age for both men and women equalise

By 6 December, the state pension age will be the same for both men and women. This will in turn have knock-on implications for social security benefits as the state retirement age increases to 66 and beyond for both men and women.

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7405>

Budget 2018

Budget 2018 was presented by Chancellor Phillip Hammond on Monday 29 October 2018

Budget 2018 included measures in relation to Universal Credit including:

- People who receive the Severe Disability Premium (SDP) and who would have naturally migrated to Universal Credit (UC) will now only move to UC when they can receive transitional protection. This measure will be effective from January 2019.
- Tax Credits claimants with capital in excess of UC's £16,000 capital limit (who are not otherwise eligible for UC) will now have their transitional protection and UC eligibility time-limited to 12 months from the point at which they manage-migrate to UC. This measure will be effective from July 2019.
- Income Support, Jobseeker's Allowance (Income-Based), and Employment Support Allowance (Income-Related) claimants will continue to receive support for a fortnight during their transition to UC. This measure will be effective from July 2020.
- The Minimum Income Floor (MIF) will now apply to all gainfully self-employed UC claimants after a 12-month grace period, whereas previously only certain claimants received a start-up/grace period. This measure will be effective

from September 2020 for claimants joining UC as a result of a change of circumstance and from July 2019 for those who are moved to UC by DWP.

- From 6 April 2017, families in Child Tax Credit or UC are no longer paid a child element for a third or subsequent child born on or after that date unless they are eligible for an exception. There are a number of exceptions to this policy, including third or subsequent children being looked after in non-parental care (NPC) arrangements, and adopted children. This measure extends these two exceptions to families with third or subsequent children in cases where the children adopted or in NPC arrangements are the first or second children in the family. This measure will apply from November 2018.
- This package also reinstates the automatic entitlement for housing support for 18- 21-year olds. This measure will be effective from December 2018.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752208/Budget_2018_policy_costings_PDF.pdf

Understanding, avoiding and challenging sanctions

This guide on how best to avoid or challenge sanctions, for Universal Credit and Legacy Benefits.

This Understanding, Avoiding & Challenging Sanctions Guide is designed to assist frontline generalist advisers in their work in supporting benefit claimants who are at risk of being sanctioned or who have been sanctioned.

https://www.adviceni.net/sites/default/files/downloads/sanctions_guide_2018.pdf

Policy Updates

Kevin Higgins, Head of Policy has been seeking clarification on new and existing matters. Below is a list of the matters which he feels are most prevalent at this time. If you have any further comments or feedback please contact Kevin on policy@adviceni.net.

Universal Credit: Deductions

Advice NI sought clarification on the priority order for deductions which will be taken from Universal Credit payments.

Department for Communities (DfC):

There is an overall maximum amount that can be deducted from a claimants Universal Credit payment. This is the equivalent to 40% of the benefit unit's Universal Credit standard allowance. This limit is set to reduce the risk of claimants facing hardship because of the amount being deducted from their Universal Credit payment. There are two exceptions to the maximum amount rule:

- Where there are deductions for arrears of fuel or water charges, deductions for ongoing normal consumption will also be made but the amount deducted for normal consumption will not count towards the 40% maximum amount
- If a sanction or penalty needs to be applied or an advance needs to be deducted, last resort deductions will continue even if it means the total deductions exceed the 40% maximum amount. I
- If a claimant is receiving insufficient Universal Credit to meet all deductions, or 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.

As requested in your email please see below list of priority order for deductions:

Deductions taken before the priority order is applied	
1	Fraud Penalties
2	Conditionality Sanctions
3	Short Term Advances (UC New Claim or Change of Cir)
4	First Month Advances (UC Benefit Transfer)
5	Budgeting Advances
Deductions Priority Order	
Last Resort Deductions	
6	Owner Occupier service charges
7	Rent and/or service charge arrears
8	Gas and/or electricity arrears
Enforcing Social Obligation deductions	
9	Rates Arrears
10	Fines
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

Universal Credit: Disabled Students

Advice NI sought clarification on the issue of disabled students claiming Universal Credit, and the process for proving their Limited Capability for Work

Department for Communities (DfC):

Thank you for your email regarding students claiming Universal Credit (UC).

Until such times as a Limited Capability for Work determination is made, the claimant cannot be paid Universal Credit as entitlement has not been established. The Work Capability Assessment referral should be made on Day 1 of the claim in order for the claim to be expedited. This issue has been raised with the Department for Work and Pensions in order to ensure that any student making a claim to Universal Credit is not penalised or does not experience a delay in processing of the claim.

Once the outcome of the Work Capability Assessment is known the claim can then be progressed in the normal way. The claim should remain open until the outcome of the Work Capability Assessment is known.

Claimants who receive funding for education, for example a student loan or bursary, are placed into the No Work Related Requirements regime during term time. The exception is during the summer vacation, when they will be placed in the regime appropriate to their circumstances. It should be noted that any grant or loan the claimant is entitled to as a result of their education will have to be considered/taken into account and may reduce any entitlement to Universal Credit.

The UC Regulations allow for disabled students in receipt of Attendance Allowance (AA), Disability Living Allowance (DLA) or Personal Independence Payment (PIP) who also have Limited Capability for Work (LCW) to be exempt from the requirement not to be receiving education.

On making a new claim, every claimant is automatically allocated to a regime based on their individual and household circumstances.

If the WCA needs to be carried out in a student case, the process will be started immediately with the claimant being referred for WCA at day one and the UC claim should not be closed down. The claimant will not be paid any UC until LCW has been determined and entitlement confirmed.

Carers Allowance (CA)

Advice NI sought clarification on the process where: Someone getting Carers Allowance (CA), the person they are looking after does not receive an award when reassessed from DLA to PIP, so the CA stops.

Can you please outline the process (where the person being cared for successfully challenges the PIP decision either at MR or appeal), in terms of how the carer get their CA back into payment and backdated.

DfC: If a person has lost CA due to their severely disabled person coming off the qualifying benefit, they have to make a fresh claim to benefit. If it is within three months of original decision to stop CA then they can complete the shortened claim form DS1384, which they would get by ringing our contact centre. If outside the three month limit, they can ring up and ask for a full claim form. The best and quickest way for them to make a new claim however, is online at NI Direct.

It is important to point out that they should make their claim within 3 months of the PIP/DLA/AA decision being changed. If they do so we can pay back to the date of disallowance of CA, otherwise it will be the date the claim is received. Subject to other circumstances we will offset any arrears against other benefits or mitigation paid in the intervening period.

Useful Information

Independent welfare changes Helpline 0808 802 0020