

ADVICE NI POLICY NEWSLETTER

JULY 2018



Welcome to the third edition of Advice NI's new social policy newsletter 'think'. Universal Credit continues to be a key focus for the team as can be seen from the articles in this edition.

Advice NI has also risen to the challenge following engagement between our Head of Policy and the Secretary of State for Work and Pensions Esther McVey MP who said:

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

In the spirit of 'how can we make Universal Credit better', Advice NI has engaged social media and a range of stakeholders to produce our ground-breaking social policy paper:

Proposals on Universal Credit (UC): **How to make it better**

We hope that this paper will be a catalyst for change; a catalyst for improving Universal Credit for the vulnerable, low income working age households both working and not in work who rely on this new system for their social security. Over to you now Esther McVey: we will circulate any feedback when we get it.

The Policy Team welcome your views and contributions; please email us on policy@adviceni.net with suggestions for future areas of work.

Best regards, The Policy Team

LATEST NEWS

Universal Credit

Impact of Universal Credit Contingency Fund [UCCF]

UC claimants in NI who are in financial hardship can apply to the UCCF for non-repayable grants. The DfC Equality Screening Report shows the UCCF awarded payments averaging £154.10 per application, since it was set up on 1 November 2017. In addition, eligibility rules have been changed 'to ensure that the Fund is made available to those most in need' so that -

- there is no longer a requirement for claimants to have received at least one full UC assessment period payment (so that claimants opting for twice monthly payments can apply to the Fund in the period between their first and second split payment);
- there is no longer a requirement for claimants to have received at least a 50 per cent advance payment of their universal credit award;
- existing hardship tests under the Discretionary Support Scheme (which delivers the UCCF) are applied when deciding whether to make an award; and
- payments are calculated on a daily basis based on the daily universal credit rate from the date of the claim until the claimant's next income of any sort.

www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-uc-contingency-fund-june-2018-screening.pdf

Advice NI produce 'making UC better' policy paper

Advice NI believes that now is the time for a fundamental review of the purpose of Universal Credit with a view to rebalancing the focus on meeting the needs of claimants as opposed to delivering value for money; focusing on the needs of the most vulnerable as much as it focuses on getting people back to work.

We hope that this paper will be a catalyst for change; a catalyst for improving Universal Credit for the vulnerable, low income working age households both working and not in work who rely on this new system for their social security.

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

Universal Credit New Claims: Payment Delays

Released July 2018, this publication provides ad hoc statistics on the length of payment delays, for new claims to Universal Credit (UC) that are paid late. A

previous ad hoc publication has provided statistics on the proportion of claims which were paid late, and provide further background on UC.

Essentially, 3% of new UC claimants still awaiting full payment after 8 weeks from payment due date; 12 weeks from date of application.

This can be found at:

www.gov.uk/government/statistics/universal-credit-payment-timeliness-january-to-june-2017

Universal Credit entitlement is calculated over monthly Assessment Periods. New claims that are that are paid on time will receive a payment by the 'payment due date', which is 7 days after the first Assessment Period ends. Payments received after this point would be late. Late payments can arise for a number of reasons. This analysis looks at new claims that were due a payment in February 2018.

www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-05-17/145370/

Universal Credit SSAC Consultation

The Social Security Advisory Committee (SSAC) launched a public consultation on proposals for moving all existing claimants of a working age income-related benefit to Universal Credit. SSAC will examine this draft legislation. The committee welcomes evidence from a range of organisations and individuals who have good insight into and/or experience of the following aspects of these proposals:

- the overall migration timetable
- arrangements for contacting claimants and inviting claims from them
- issues associated with making a claim, and ending legacy benefit claims
- the calculation of transitional protection (including the treatment of earnings and capital)
- the impact of proposed transitional protection (including how easily it will be delivered and the degree to which it will be understood by claimants)
- the impact on workers, including the self-employed
- equality impact (whether there will be particular effects for different groups and how these can best be addressed), for example are there any groups that will not be covered by transitional protection?
- monitoring and evaluation

Responses should be submitted to the Committee Secretary by no later than 10am on Monday 20 August:

The Committee Secretary
Social Security Advisory Committee
5th Floor
Caxton House
Tothill Street
London
SW1H 9NA

Alternatively responses can be emailed to – ssac.consultation@ssac.gsi.gov.uk
www.gov.uk/government/news/government-proposal-to-move-claimants-on-legacy-benefits-to-universal-credit-consultation-announced

Personal Independence Payment (PIP)

PIP Independent Review in NI

The Welfare Reform (Northern Ireland (NI)) Order 2015 and subsequent regulations legislated for the introduction of Personal Independence Payment (PIP) to replace Disability Living Allowance (DLA) for eligible people who first claim when they are between the ages of 16 and 64.

The statute provides the basis for two Independent Reviews of the PIP assessment process. Article 94 of the 2015 Order states that: The Department must lay before the Assembly an independent report on the operation of assessments under Article 85:

(a) within 2 years beginning with the date on which the first regulations under that Article come into operation; & (b) within 4 years beginning with that date.

Walter Rader conducted the first Independent Review of the PIP assessment process in NI and published his Report in June 2018.

www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-independent-review-pip-assessment-process-june-2018.pdf

New 'light touch' PIP reviews being introduced by DWP [18th June 2018]

New guidance coming into effect this summer means people who are awarded the highest level of support under PIP – and where their needs are expected to stay the same or increase – will receive an ongoing award of PIP with a light touch review every 10 years.

The change will ensure that those with severe or progressive conditions receive an award which reflects the fact that their condition will not improve.

The government states it will consult with stakeholders, and guidance will be published later in the summer.

www.gov.uk/government/news/government-to-end-unnecessary-pip-reviews-for-people-with-most-severe-health-conditions?utm_source=58a11da2-a58c-4868-9b84-04d5ae8f38f9&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

Statement by Sarah Newton, Minister of State for Disabled People, Health & Work
"..I have today [25 June 2018] published the new guidance required in order to implement the change. The guidance can be found at:

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

Pension Credit

The State Pension Credit (Additional Amount for Child or Qualifying Young Person) (Amendment) Regulations (Northern Ireland) 2018 S.R. 2018 No.135

The Statutory Rule is made under powers conferred by sections 2(3)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002 and is subject to the negative resolution procedure. The rule is due to come into operation on 1st February 2019.

Support for low income pensioners with responsibility for children is currently provided through Child Tax Credit, which is being abolished in accordance with the Welfare Reform (Northern Ireland) Order 2015 ("the 2015 Order"). The purpose of the Regulations is to ensure support for children continues to be provided for low income pensioners by introducing a new additional amount within Pension Credit. www.legislation.gov.uk/nisr/2018/135/made

Note:

Advice NI has queried how this is compatible with the arrangements contained in the Legislative Consent Motion agreed within the Fresh Start Agreement which stated:

*"It is agreed that Legislative Counsel in the NI Assembly will work with Parliamentary Counsel at Westminster to prepare the necessary legislation and Order in Council to effect current welfare changes. The Welfare Bill will be debated and approved by the Assembly by way of a Legislative Consent Motion no later than the week commencing 23 November 2015. This approval will also cover the draft Order in Council which gives effect in NI to the 2012 welfare changes in GB, the welfare clauses of the Welfare Reform and Work Bill as initially introduced at Westminster and the Executive's proposals to enhance payments flowing from this Agreement. Following Assembly approval, the Bill will be passed at Westminster in order to meet the Executive's timetable
Any subsequent changes to the welfare elements of the Welfare Reform and Work Bill will be brought to the Assembly for debate and approval.
The welfare and tax credit top-ups will be taken forward by the Assembly.
The provisions of the Welfare Bill will lapse at the end of 2016."*

Employment & Support Allowance

Errors in Employment and Support Allowance

December 2017 Written Statement by The Secretary of State for Work and Pensions: In 2013, the Department was made aware of individual cases which were transferred in error to contributory ESA, and not assessed for entitlement to income-related ESA.

www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-12-14/HCWS356/

March 2018 Written Statement by The Secretary of State for Work and Pensions: On 14 December 2017 my predecessor provided a statement to the House on how the Department will be undertaking work to correct underpayments that may have occurred as a result of how a proportion of Incapacity Benefit claims were transitioned to Employment and Support Allowance between 2011 and 2014. I wanted to take this opportunity to update the House on how this work is progressing.

www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-03-15/HCWS549/

July 2018 Written Statement by The Secretary of State for Work and Pensions: On 15 March I provided the House with a statement setting out how the work my Department was undertaking to correct underpayments that occurred when converting Incapacity Benefit claims to Employment and Support Allowance (ESA) between 2011 and 2014 was progressing. I wanted to take this opportunity to provide the House with a further update.

www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-07-18/HCWS877

March 2018: National Audit Office Investigation into errors in Employment and Support Allowance

Since 2011, the Department for Work & Pensions (the Department) has underpaid an estimated 70,000 people who transferred to Employment and Support Allowance (ESA) from other benefits. The error related to people who may have been entitled to income-related ESA but were instead only awarded contribution-based ESA, and therefore may have missed out on premium payments.

www.nao.org.uk/wp-content/uploads/2018/03/Investigation-into-errors-in-Employment-and-Support-Allowance-Full-Report.pdf

In Northern Ireland, the Department for Communities has provided the following update:

Universal Credit Rollout Schedule

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

The new dates are:

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

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

POLICY UPDATES

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

Universal Credit

Making a UC application over the phone

Advice NI sought clarification on the process where someone wants to claim Universal Credit over the phone: does the call handler make the decision not to allow a claim to be made over the phone, does the decision get escalated to senior management, what safeguarding is there which prevents the claimant simply being cast aside and left to fall through the system, being left with nothing; can the claimant dispute not being allowed to claim over the phone, is this outlined to the claimant; do you keep a record of the number of people who request to make their claim over the phone; (the number taken over the phone and the number refused)?

DfC: Where a claimant cannot make and maintain their Universal Credit claim online, they may make a claim by telephone.

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

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

A Case Manager in the Universal Credit Service Centre will establish from conversation with the claimant, or staff in the local office, whether a telephone claim is appropriate. The Case Manager will determine whether the claimant has someone to support them to make a claim, whether they have the digital skills and access to the internet to make a claim and also whether the claimant has other barriers to making a claim, for example, non-English speaker.

Advice NI follow-up: Could you please come back with further info re the following ... "the case manager will establish a conversation" ... this is not sufficient in my view in terms of clearly explaining the process.

Implicit consent for advisers

Advice NI asked for implicit consent regarding Universal Credit enquiries be applied to independent advice sector advisers.

DfC: The Department considers that to operate a system of implicit consent for advisers poses too significant a risk to the protection of claimant's data. As you are aware, the Universal Credit online digital account, which is fundamental to the design of the service, allows claimants access to all their personal, medical, financial and other data. The claimant 'holds the key' to that account at all times. While implicit consent allows for general information to be shared, there are no restrictions on what areas can be discussed and therefore increases the opportunity that information can be given out erroneously and provides more opportunity for bogus callers. Running a system of implied consent means that the risk of disclosure of this personal data to a third party is heightened beyond an acceptable level under the data protection rules and could also undermine some of the other security features which have been built into the Universal Credit system through personal accreditation.

Therefore, the Department has in place a system of explicit consent. Under this approach, a claimant can give explicit consent at any time in one of three ways: either via their online account, on the phone or in person, with the third party, in the local office. The fact that the claimant has authorised disclosure means there is less

risk and more control over what is discussed, when explicit, rather than implicit consent is used. At all times, the claimant retains the 'key' to their account and control over their information. Explicit consent provides the right balance between security of information owned by the claimant and facilitating those supporting claimants.

Advisors may feel this approach is unduly cautious, however, the Department already faces attempts from unscrupulous organisations and individuals to access information and we need to take all reasonable steps to protect the position of claimants and the data we hold. We recognise, however, that some claimants will seek advice from third parties about their claim and we in no way want to undermine that, but as we move to a digital service, changes to long established practices are required.

The Department operates a system of implied consent with MLAs/MPs and their constituency offices. We can offer this because of the pre-existing relationships between MPs/MLAs, Regional Managers and their teams. However, this is something that cannot pertain for enquiries from other sources.

How does the two-child limit apply to Universal Credit?

Advice NI sought clarification regarding the application of the 2 child limit within Universal Credit.

Background: Between 6 April 2017 and 31 January 2019 inclusive, if you already have three or more children and you try to make a new claim for Universal Credit (or a repeat claim more than six months after the end of a previous award) special arrangements apply. The DWP calls this period the 'interim period'. The rule about special arrangements during the interim period is in regulation 39 of the Universal Credit (Transitional Provisions) Regulations 2014. (Note: at the time this information was written, the regulation still used an end date of 31 October 2018, i.e. instead of 31 January 2019. However the government have announced that the end of January 2019 is to be the relevant end date.)

In that situation, you are not allowed to make a new claim for Universal Credit and should instead be advised to claim child tax credit and housing benefit. You may also be able to get one of the other means-tested benefits that you can get outside the universal credit system (income support, income-based jobseeker's allowance or income-related employment and support allowance).

DfC: The revised date for an end date to the 'interim period' is February 2019.

**A family with 3 or more children (all born before April 2017) currently claim tax credits and are paid for all children;
From February 2019, if they are 'manage migrated' on to Universal Credit – they will qualify for transitional protection and so the amount of money they receive stays the same - effectively paid for all children?**

DfC: Work is still ongoing on managed migration and details are not available yet.

From February 2019, if this family 'naturally migrate' on to Universal Credit – they will only be paid for 2 children?

DfC: A claimant with 3 children or more, all born before 6 April 2017, who claims Universal Credit from February 2019, will be entitled to transitional protection for the third child if:

- i. the claimant was entitled to Universal Credit on the last day of the interim period (or is in a 6 month period between awards) and was responsible for the third child ; or
- ii. the claimant was receiving a payment of Child Tax Credit (or a child dependency addition of Jobseeker's Allowance or Income Support) in the 6 months immediately preceding the first day of entitlement to universal credit (from February 2019), and the claimant remains responsible for the child.

Therefore this family will be entitled to the transitional provision for the third child as they were in receipt of Child Tax Credit right up to the date they claimed Universal Credit.

From February 2019, if another family in this situation make a new claim to Universal Credit after February 2019 – they will be paid for 2 children?

DfC: If this is a first claim to Universal Credit and there has been no award of Child Tax Credit (or a child dependency addition of Jobseeker's Allowance or Income Support) in the 6 months immediately preceding the first day of entitlement to universal credit, then Universal Credit will be restricted to payment for 2 children irrespective of when the children were born unless an exception applies.

Where a third child is excluded due to the 2 child limit, can this child become included if one of the other 2 dependent children become a non-dependent or move out of the home?

DfC: The 3rd child can then be included in the claim.

Help with health service charges

Advice NI sought clarification on the amount of earned income which excludes someone from help with health service charges under Universal Credit.

DH: Given that UC is not currently recognised in legislation as a benefit that will passport someone to help with health costs all those in receipt of UC currently have to apply for help to health costs under the Low Income Scheme (HC1 form).

The Help with Health Costs Scheme is based on Income Support Rules and the amount of income someone can have before it excludes them from help will depend on other circumstances – age, whether in receipt of disability/family premiums etc. There is nothing specific in the public domain about how the Low Income Scheme deals with UC claimants or how it calculates their entitlement to help given that there are complexities around the extreme differences between UC and IS – the use of the Low Income Scheme for UC claimants was initially meant to be an interim measure until we had a Minister and an Assembly back in place but our interim measure seems to be working better than measures currently in place in other parts of the UK.

We did have to put in place administrative procedures under the Scheme to ensure the likes of childcare housing and disability premiums payable under UC are disregarded in full when determining a person's income and subsequent entitlement to Help with Health Costs. This was similar to what is in place under legacy benefits but we were keen to ensure that nobody transferring over to UC was going to be disadvantaged in any way.

The administrative measures put in place are actually more advantageous to patients given that some things such as housing benefit, which is disregarded under IS rules up to a certain level, is now totally disregarded as income under the Scheme for UC recipients.

UC & Employment & Support Allowance

Advice NI: can the dept. please confirm that a claimant in a UC area can shift between ESA [c] and ESA [i] without triggering a claim to UC; similar to the situation re Child Tax Credit and Working Tax Credit.

E.g. on ESA [c], gets awarded PIP, then become entitled to premiums within ESA [i] so become entitled to ESA[i].

DfC: This is a change which would not trigger a move to Universal Credit provided the claimant is in receipt of old style ESA [c].

Advice NI: If on ESA and in Support Group and then move to UC ... does this get you into UC LCW&WRA payment straightway?

DfC: Yes, this is correct.

Advice NI: What is the position re UC and needing to submit medical certificates?

DfC: Claimants can self-certify for the first seven days after reporting unfit for work. From day eight they will be required to submit medical evidence, most commonly a Statement of Fitness for Work, usually known as a fit note.

Advice NI : If on ESA and in the Work Related Activity Group and then move to UC; does this get you into UC (with amount paid equivalent to WRAG amount) straightway?

DfC: If the claimant was entitled to ESA before 3 April 2017 the LCW element can be paid provided the claimant remains continuously entitled to ESA from 3 April 2017 up

to the date of entitlement to Universal Credit.

Contingency Fund

Advice NI: Could the DfC please explain how the UCCF scheme operated before the change [which was implemented December 2017]?

DfC: Prior to the change which extended eligibility for a Contingency Fund to be paid in the second UC assessment period it was only available in the first UC assessment period.

Advice NI: In terms of UCCF now, is every claimant informed about the availability of the UCCF and how do they apply for it?

DfC: The Department is being pro-active in ensuring that the availability of the Contingency Fund is available. UC claimants are informed of the availability of Advance Payments and the additional support available from the Contingency Fund. For example a claimant submits a claim to UC and verifies their identification, they will be informed that if they need financial support prior to their first payment of UC, they can apply for an Advance Payment. Advance Payments and the Contingency Fund are discussed at their initial interview and entries made on the claimants online journal. Claims are made to Discretionary Support, either by telephone or through the Finance Support staff in the local office.

Advice NI: What is the formula in terms of how much they will receive under UCCF?

DfC: The amount of UC Contingency Fund payment available to each claimant equates to 50% of the UC personal allowance rate and an amount equal to the UC child element for each child in the household and is calculated with reference to the number of days between the date of the claim up until the day before the claimant's next income is due.

Social Security Advisory Committee consultation

Advice NI response to the Social Security Advisory Committee consultation into Government proposals to move claimants on 'legacy' benefits to Universal Credit.

Advice NI response: The Government (and SSAC) need to adopt a proposal to run the first Universal Credit Assessment Period over the last month of legacy benefits (before managed migration) ... and then land people immediately on to fortnightly UC payments ... so no delay, no hardship.

USEFUL BRIEFINGS, RESEARCH AND GUIDES

Personal Independence Payment (PIP) Assessment Guides

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

Universal Credit information

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

Welfare Reform Working Group ['Evason'] Report

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

Independent Welfare Changes Helpline

0808 802 0020