

# ADVICE NI POLICY NEWSLETTER

## MAY 2018

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### '...think...'

The Policy Team for Advice NI have an ambitious and intense programme over the next 12 months which will ensure access to quality advice through providing leadership, support and services to the Independent Advice Network.

Please email us at [policy@adviceni.net](mailto: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

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### Carers Allowance

#### **Increase in Carers Allowance Earnings Limit**

From 9 April 2018, the amount of weekly earnings above which a carer is to be treated as employed, increases from £116 to £120.

[www.gov.uk/carers-allowance/eligibility](http://www.gov.uk/carers-allowance/eligibility)

## **Employment Support Allowance: Commons Written Statement**

### **ESA Claimants underpaid**

In 2011 the Department began reassessing people claiming pre-existing incapacity benefits to see whether they were eligible for ESA. However some claimants were transferred in error to contributory ESA, rather than to income-related ESA.

[www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-12-14/HCWS356](http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-12-14/HCWS356)

## **Universal Credit: Kinship Carers**

### **Exceptions to policy to provide support in Child Tax Credit and Universal Credit for a maximum of two children**

Extension to the existing support within Universal Credit and Child Tax Credit for children who would otherwise be likely to be in local authority care, including children who are adopted or looked after by non-parental carers, also known as 'kinship' carers.

[www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-04-27/HCWS653/](http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-04-27/HCWS653/)

## **Employment & Support Allowance: NAO: Investigation into errors**

### **Report examines a single, major cause of underpayment error in ESA**

This investigation covered a single, major cause of underpayment error in Employment and Support Allowance (ESA). This error related to people whose existing benefit claim was converted to ESA and who were entitled to income-related ESA but were only awarded contribution-based ESA. This caused people to miss out on premium payments.

[www.nao.org.uk/wp-content/uploads/2018/03/Investigation-into-errors-in-Employment-and-Support-Allowance-Full-Report.pdf](http://www.nao.org.uk/wp-content/uploads/2018/03/Investigation-into-errors-in-Employment-and-Support-Allowance-Full-Report.pdf)

## **Social Fund**

### **Changes to Funeral Payments**

These amendments are designed to clarify eligibility and to simplify the application process. For example they extend the application limit to six months and allow supporting evidence, for example, funeral directors' invoices, to be submitted electronically. These regulations also exempt a person living in a care home, and who is funded by a local Health and Social Care trust, from being assigned responsible person status in respect of making funeral arrangements.

[www.legislation.gov.uk/nisr/2018/45/contents/made](http://www.legislation.gov.uk/nisr/2018/45/contents/made)

## **Housing Benefit and Universal Credit**

### **Housing Benefit 'transitional payment'**

Claimants moving from Housing Benefit to Universal Credit will get an extra two weeks Housing Benefit, known as a 'transitional payment'.

[www.nidirect.gov.uk/articles/universal-credit](http://www.nidirect.gov.uk/articles/universal-credit)

## **Sanctions**

### **Sanctions Guide**

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

[www.adviceni.net/sites/default/files/downloads/sanctions\\_guide\\_2018.pdf](http://www.adviceni.net/sites/default/files/downloads/sanctions_guide_2018.pdf)

## **Universal Credit: How decisions are communicated to claimants**

### **Advice NI support 'Keep Me Posted'**

Advice NI understands that Universal Credit decisions are uploaded to the claimant's online journal. However there is a fear that where a claimant has skills and access issues they may not be able to access the decision in a timely manner, with all the consequences that this could bring including delays in challenging decisions and delays in getting rightful entitlement into payment.

[www.adviceni.net/blog/advice-ni-calls-universal-credit-claimants-have-choice-receive-postal-decisions](http://www.adviceni.net/blog/advice-ni-calls-universal-credit-claimants-have-choice-receive-postal-decisions)

## Universal Universal Rollout Schedule

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

- 16/05/2018** - Newry, Downpatrick
- 30/05/2018** - Lurgan, Newcastle, Kilkeel
- 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](http://www.communities-ni.gov.uk/news/update-universal-credit-rollout-schedule)

## POLICY UPDATES

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**Kevin Higgins, Head of Policy** has been seeking clarification on new and existing matters. Below is the matters which he feels are most prevalent at this time. If there is any further comments or feedback please contact Kevin on [policy@adviceni.net](mailto:policy@adviceni.net).

### Mitigation Payments

**Advice NI sought clarification whether Benefit Cap and Bedroom Tax mitigation payments increased in line with rent increases.**

Department for Communities [DfC]:

While the Benefit Cap under the current benefit system is administered through a reduction in Housing Benefit, the Benefit Cap is a cap on all eligible benefits that a claimant may be in receipt of and is not solely related to housing costs.

The maximum Welfare Supplementary Payment (WSP) that a claimant can receive under the Benefit Cap is the amount which they are capped by when they are first impacted.

The WSP will not increase if the claimant has a change of circumstances whereby their benefit income and hence the capped amount increases. This could be for a number of reasons other than an increase in Housing Benefit due to rent increases. Social Sector Size Criteria on the other hand is directly related to housing costs.

Any impact on Housing Benefit as a result of the Social Sector Size Criteria (increases or decreases), will be mirrored in the amount of the welfare supplementary payment and this would include rent increases. This is as long as the claimant does not move to a similar or larger bedroom property without the accompanying Management Transfer Status.

## **Motability**

### **Advice NI sought further information in relation to people losing their Motability car on reassessment from DLA to PIP.**

DfC: Mitigation payments are not a disability benefit and, as a consequence, there is no legal basis under which DfC could divert them to the Motability Scheme even at the request of the claimant.

Motability Response: The numbers you may have seen in the Press recently were that we had seen some 175,000 Scheme customers being reassessed from DLA to PIP with some 100,000 retaining the higher rate mobility (and hence eligibility to the Scheme) and 75,000 losing higher rate and having to leave the Scheme, with Motability providing the transitional support package which you are already familiar with. We are happy to update these numbers each quarter but we do not provide other more detailed breakdowns e.g. by constituency or by nation.

*More information on the transitional support package is available here <https://www.motability.co.uk/about-the-scheme/personal-independence-payment/q-and-a-transitional-support-package>*

## **PIP (Capita Assessments)**

### **Advice NI sought clarification on the procedure for deciding where an assessment takes place.**

DfC: Consultations may potentially be carried out at a variety of locations and some will need to be carried out at the claimant's home. Where a claimant indicates that they are unfit to travel to a consultation in a location other than their home, or where travel would require high levels of support or cause

significant distress to the claimant, – for example where the claimant is autistic, has severe physical disability or severe agoraphobia – the Health Professional should, at a minimum, consider whether a home consultation is necessary.

The request for a home consultation may come from a GP or other healthcare professional involved in the claimant's care.

When considering such requests, the HP should consider the points outlined above before making a decision on whether a home consultation would be appropriate. HPs may also consider whether other options may be acceptable

## **PIP 2 (Non-return of PIP 2 form)**

### **Advice NI asked about the ramifications of a PIP form not being returned.**

DfC: Where the PIP2 isn't returned within a calendar month (or agreed extended period) the customer isn't contacted again after the issue of the reminder. The case progresses no further (provided additional support isn't indicated) and the PIP computer system applies an automatic disallowance. No intervention from a Case Manager is required.

However, a system disallowance is not applied if 'Additional Support Indicated' is recorded on the system e.g. where a customer has a severe mental health or behavioural condition, learning difficulty or developmental disorder.

In this instance the PIPCS system automatically tasks the case to Capita without the PIP2 for an assessment. In the absence of the PIP2 and sufficient other evidence Capita will usually then try and arrange a face to face assessment with the client.

## **PIP (Capita Complaints)**

### **Advice NI sought clarification regarding the Capita complaints process:**

DfC: The process (including contact details) for making a complaint about Capita in NI;

- By email – a customer can email [complaintsNI@capita-pip.co.uk](mailto:complaintsNI@capita-pip.co.uk) with their concerns. It is worth noting this email address will not accept attachments to the email. If there is an attachment the email will reject in its entirety.
- By telephone – a customer can call the NI Enquiry Centre on 0808 1788 116. The Enquiry Centre is then able to pass the call through to the Customer Relations Team

- By Post – a customer can post a complaint letter directly to Capita as follows;

Capita PIP Complaints  
PO Box 392  
Darlington  
DL1 9UJ

A reconsideration or preparation of an appeal submission will be put on hold pending a complaint response.

## **Sanctions**

**Advice NI continued to flag issues regarding the impact of benefit sanctions and the 'go live' of the 'new style' sanctions regime on 27th September 2017.**

DfC: In Universal Credit a sanction is applied to the award of Universal Credit not to the individual elements. However, the amount of the reduction can never exceed the 'standard allowance' applicable to the award, or in the case of joint claimants, 50% of the 'standard allowance'.

A sanction reduces a Universal Credit payment by a daily reduction amount which should reflect the claimant's circumstances on the last day of the assessment period for which the award is being reduced.

Advice NI continue to call for improved safeguards including a home visit where children are included within a household at risk of a sanction.

## **Universal Credit (Identity verification)**

**Advice NI sought clarification regarding to what extent Universal Credit claimants could conduct ID verification / private sector housing verification / signing of claimant commitment at a single appointment.**

DfC: A claimant can conduct ID verification and verification of other documentation at a single appointment. This will be completed by a member of the First Contact Team.

A further appointment will be made with their Work Coach to agree their Commitment.

In relation to verification of other documentation, if this is not available to the claimant when they are completing verification of ID interview, this information could be presented at the Commitment interview.

## **Universal Credit (Payment of the housing element)**

### **Advice NI sought clarification regarding Universal Credit and payment of the Housing Element where the claimant has opted for this to be paid direct to the landlord**

DfC: In general the full Housing Element will be paid to the landlord. Where the entire Universal Credit payment is equal to, or less than, the housing costs element, the entire payment will be made to the Landlord (except in the circumstance where the claimant has opted out of this arrangement). Where the Housing Element does not cover the entire rent the claimant will be required to make up the shortfall.

## **Universal Credit (Online identity verification system 'Verify')**

### **Advice NI sought clarification from DfC regarding the effectiveness of the 'Verify' system.**

DfC: A claimant has two ways to verify their identity when making a claim to Universal Credit. This can be face to face in their local office or online through GOV.UK Verify.

When claimants make a claim to Universal Credit they will be directed to the GOV.UK Verify hub to verify their identity.

GOV.UK is not part of the Universal Credit system therefore, the hub manages communications between the claimant, the certified company and Universal Credit. GOV.UK Verify uses certified companies to check the claimant is who they say they are. Claimants choose from a number of listed private sector companies who they want to perform the check. They can choose as many companies as they wish and change them at any time.

The company asks questions only the claimant should know the answers to and the answers provided are matched against information held by the company to verify the claimant's identity. Once the claimant's identity has been verified, this

information is communicated through GOV.UK Verify to Universal Credit. The claimant is then directed to their Universal Credit claim.

Universal Credit claimants can also verify their identity in person by making an appointment at their local office. Both the Irish passport and Northern Ireland Driving License are an acceptable form of identification in the local office. The Department for Communities accepts that the GOV.UK Verify process can be difficult to navigate and acknowledges the concerns raised by those who have attempted to use the system.

The Department for Communities has invested extra resources in local offices in order to ensure that Northern Ireland claimants are able to avail of face-to-face verification.

If a claimant is able to verify their identity using 'GOV.UK Verify' then there will be no requirement for them to produce ID evidence at the local office for ID verification purposes. In the circumstance where a claimant cannot verify their identity using 'Verify' then they would be required to bring along ID evidence to the local office. Advice NI continues to flag issues with the 'Verify' system including the performance data which highlights an overall success rate of 40%, this data is available here [www.gov.uk/performance/govuk-verify](http://www.gov.uk/performance/govuk-verify)

## **Universal Credit (Help with rates)**

### **Advice NI sought clarification regarding claimants on legacy benefits who needed to claim help with rates for the first time (a policy 'blindspot')**

Department of Finance response: In Northern Ireland responsibility for the policy on setting rates lies with the Department of Finance (DoF). DoF therefore developed a new rate relief for UC claimants called the DoF Rate Rebate Scheme. Following three public consultations, the policy was approved by the Northern Ireland Executive and the Rate Relief Regulations (Northern Ireland) 2017 came into operation on 27 September 2017 to align with the introduction of Universal Credit (UC).

The Rate Relief Regulations (NI) 2017 provide that the new Rate Rebate Scheme is only available to claimants in receipt of UC. It is therefore not possible to apply for this scheme without an award of UC. Rates support for those not eligible to claim UC continues to be provided under DfC social security legislation by Housing Benefit (HB).

As UC is introduced to each geographical area, no new claims for any of the legacy benefits, including HB, can be made. This means that anyone not already claiming HB who needs help with rent and/or rates in a UC area may submit a claim for UC –

it will however be their decision as to whether or not to proceed with a claim to UC. Some exceptions to this rule do apply as set out in the relevant Department for Communities (DfC) legislation (Welfare Reform (NI) Order 2015 (Commencement No. 8 and Transitional and Transitory Provisions) Order 2017 –

<http://www.legislation.gov.uk/nisr/2017/190/made>

In respect of existing legacy claimants with existing rates claims, LPS continue to assess entitlement to HB Rates for owner occupiers on behalf of DfC on an application basis. Where an award has been made, this will continue as an on-going entitlement across the rating years. When LPS receives notification of changes in circumstances which result in reviews of entitlement:

- Where the change in circumstance does not end but results in a revision or supersession of an award, the claim will continue (not triggering natural migration).
- Where the change of circumstances ends entitlement to an award, the claim will be ended (a fresh application received at a later date will therefore result in the criteria for UC being taken into consideration).

Advice NI remain concerned that a 'blindspot' exists for existing legacy benefit claimants who need help with their rates. If they need help with rates for the first time, they will be required to claim Universal Credit; but this could entail a significant financial loss in terms of the change from legacy benefits to Universal Credit which may not be balanced by any help received with rates.

## **USEFUL BRIEFINGS, RESEARCH AND GUIDES**

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### **Personal Independence Payment (PIP) Assessment Guides**

[www.gov.uk/government/publications/personal-independence-payment-assessment-guide-for-assessment-providers](http://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](http://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](http://www.executiveofficeni.gov.uk/sites/default/files/publications/ofmdfm/welfare-reform-mitigations-working-group-report.pdf)

### **Independent Welfare Changes Helpline**

**0808 802 0020**