

nawra

national association of
welfare rights advisers

Work and Pensions Committee Universal credit update inquiry

NAWRA Update Response

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This update is in response to the email from the Work and Pensions Committee following the delay in carrying out the inquiry due to the dissolution of Parliament. The issues raised in our original report remain unresolved but this report focuses principally on issues additional to those already identified.

It is compiled from communication within the NAWRA community and also via the [rightsnet discussion forum](#) – a specialist forum for welfare rights advisers and those in related fields.

Accuracy of payments

There is very little flexibility in when and how you can report self-employed earnings leading to inaccurate payments and overpayments occurring. Self-employed people are told they must report self-employed earnings on the last day of the assessment period and they have to do this via the helpline. One member cited an example of a claimant who was doing this but was then told she phoned in too late in the day and the assessment had already been done. Even though she had done everything as requested the payments were wrong and she was told she had to repay the resulting overpayment.

Given the desire to move to a digital system it seems incomprehensible that self-employed people are not allowed to report their income online.

Problems claiming

Members report numerous examples of claimants having their claim closed almost instantaneously if they fail to attend their first appointment at the jobcentre. A FOI request¹ has confirmed that regulation 37 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013² requires a claimant to be given one month to provide the information or evidence needed in connection with a claim.

Not only are claims being incorrectly closed before a claimant is given the correct opportunity to provide the information but proper notification letters including appeal rights are not sent. The guidance attached to the above FOI request states that 'the claimant should receive a decision notification that the claim has been closed including consideration of appeal rights. A journal note is added to this effect.' However, once the claim is closed, the claimant has no access to the journal anymore so this is of no use. And in fact members report that the journal is in effect 'wiped clean' when the claim is closed so the evidence of what has happened has been erased.

¹ https://www.whatdotheyknow.com/request/closure_of_universal_credit_clai#incoming-1021568

² http://www.legislation.gov.uk/uksi/2013/380/pdfs/uksi_20130380_300916_en.pdf

NAWRA believes it is unacceptable that claims are being illegally closed, and that claimants are not being given their appeal rights.

Members also report difficulty for claimants wanting to make a claim by phone – they are told they have to go online. While NAWRA appreciates that the government wants to encourage online claims, it is essential that the ability to make claims by phone is maintained in order for the benefit to be accessible to everyone. Indeed the DWP guidance at paragraph A2030³ states that ‘telephone claims will be accepted from claimants who do not have access to or cannot use a computer’. This guidance does not appear to be being followed.

Additionally it is very hard to get hold of the full service helpline number - 0345 600 4272 – using the search engine on gov.uk does not bring it up. A google search for ‘universal credit full service helpline number’ brings up a page at the fourth result down⁴ which gives the number and advises it can cost up to 45p a minute from mobiles. A call to the helpline can take several minutes before you even speak to anyone.

NAWRA strongly believes that the helpline number should be readily available, free to call, and that claims by phone are accepted for claimants who request it because they have difficulty making a claim online.

Members also report a number of issues around backdating the claim. Under the full service the date the claim is backdated to is counted as the date of claim (unlike in the live service where it will always be the date the claim was made even if a backdate is given). As the date of claim dictates the claimant's monthly assessment period, under full service claims the DWP cannot assess an award until they have made a decision on the backdate - this can mean that some claims are delayed.

Additionally, there have been numerous cases of claimants being advised incorrectly by DWP (and HMRC and local authorities) that they can't claim universal credit when they can – or can when they can't – and other than requesting compensation for maladministration which is lengthy and not always successful, there is nothing that can be done as having been wrongly advised is not included in the list of reasons for backdating universal credit. NAWRA recommends that the backdating rules should be amended to include ‘official error’ as a ground for backdating.

People are struggling to claim contributory (new style) ESA. The claim has to be made via the UC helpline⁵ and when claimants ring they are often told they

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/602462/adma2.pdf

⁴ <https://www.universal-credit.service.gov.uk/contact>

⁵ <https://www.gov.uk/guidance/new-style-employment-and-support-allowance#how-to-claim-new-style-esa>

have to claim universal credit and are not facilitated to claim contributory ESA. NAWRA has grave concerns that this is in effect abolishing people's entitlement to contribution based benefits.

Impact on local authorities, housing associations, charities and other local organisations

The issue of corporate appointees has been raised by local authorities who may have several hundred people they act as appointee for. Problems include

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- a separate email account is needed for each individual to submit a claim – this makes it very difficult for a local authority to manage as they cannot set up all the email addresses required and monitor them;
- once a claim is submitted they are required to present themselves at a jobcentre for an interview (see issue above on claims closing if this is not attended) – the local authority may not have the resources to send an individual to the interview and DWP are not always willing to send out their visiting team;
- payments are not issued with a unique identifier which is needed for the local authority to connect it to the correct person's account;
- maintaining the claim – local authorities need to be able to access the online account in order to report changes of circumstances.

The lack of 'implicit consent' in the full service remains a major issue particularly as more vulnerable claimants begin claims. Members report that it is not always possible for the claimant to 'put a note on the journal' giving consent as they may be too ill or not remember their own password. Even when they are able to put written consent in their journal it is not always considered 'detailed' enough, for example consent may not be recognised if the claimant does not put a named adviser which is not practical for many organisations. Members also report that they can be told the wording is not 'specific' enough yet there is no guidance regarding the form the written consent should take. Furthermore the consent expires at the end of the assessment period after the one in which it was given regardless of whether the issue has been resolved. These issues make it extremely difficult for advisers to support claimants effectively and also add significantly to the time taken to resolve a problem.

Added to the above is the difficulty escalating problem cases. NAWRA has been advised that the way to escalate problems in the full service areas is via the local partnership manager. However, NAWRA members report great inconsistency in how this operates in practice. While some regions have found it very helpful, others report that the escalation is ineffective.

Social housing providers report increased rent arrears which is making their situation untenable. This situation is exacerbated where there is a discrepancy between the rent figure reported by the claimant and that from the social housing provider – the onus is left on the claimant to sort the problem out which can call further delay – it would be easier if DWP could accept the figure provided by the social housing provider as the landlord. Also dealing with all the individual managed payments places a huge administrative burden on social landlords.

Local authorities also have to reassess council tax support every month if the claimant's universal credit varies which again is an administrative burden.

Live service moving to full service

Any alternative payment arrangement (APA) that has been set up within the live service is not transferred when the claim moves to the digital service. This means payments are missed resulting in increased rent arrears and therefore risk of eviction, and additional stress and time getting a new APA set up for both the claimant and the landlord

Other issues

Death of a partner

Members have raised how difficult it is to report the death of a partner. The change of circumstances screens do not have this as an option so the only thing a claimant can do is to report that the relationship has ended – an extremely upsetting scenario. It also means that the run-on after death of a partner will not be picked up meaning payments will be inaccurate.

NAWRA has picked up this issue via the stakeholders group and were told in December 2016 –

Reporting the death of a partner has not been automated yet. If a claimant tries to do it online, the service tells the claimant to telephone (as it does for all changes that are not automated) and the agent then takes the details over the phone.

On chasing it up in June 2017 we were told –

It's not automated yet and is not currently in the backlog. So will still be the phone I am afraid for come considerable time.

We leave the claimants joined together for the 3 month run on and then manually separate the claims apart afterwards.

NAWRA believes that these issues need to be resolved as a matter of urgency.

Moving from ESA to universal credit

Many members report issues when a claimant who has been on ESA has to claim universal credit in a full service area due to a change in circumstances. Regulation 19 of the Universal Credit (Transitional Provisions) Regulations 2014⁶ provides that where a work-related activity or support component was included in the ESA award then the corresponding limited capability for work or work-related activity element should be included in their universal credit from the start of claim. However, this is not happening, and when claimants have raised the issue they are often told they have to have a work capability assessment first. This is not only additional stress for the claimant but could lead to a loss of the element as it is not paid for non-linked claims starting since 3 April 2017.

NAWRA has raised the issue via the stakeholder's forum and we understand that there is now guidance for decision makers to clarify that the element should be put in place (although this guidance is not in the public domain). However, this only comes into play if the claimant rings to query the amount of their universal credit or why they have been asked to attend a work capability assessment. NAWRA believes it is essential that the claim form should ask questions to establish if the claimant had moved from ESA, and what group they were in, to ensure future claims are paid correctly, and also that a sweep is done of claimants who may have already lost money.

Online journal

Where a universal credit claimant's award is reviewed for a past period, the award details on their on-line journal also get changed - ie the details of how the award was assessed and what payment was due are altered. This means that the universal credit payments they actually received may not now match what their on-line account states should have been paid - and this makes it difficult to check whether a claimant has received the correct money.

Members also report long delays responding to journal queries – and reports of some not being answered at all. In an FOI (4847)⁷ DWP stated:

There is no target time for when claimants are responded to as it would depend upon the complexity of the request but the aim is to have them cleared within 5 days, often sooner.

Advance payments

If you ring the live service helpline number there is a message which says 'if it is less than five weeks since your claim please hang up'. This is played even

⁶ http://www.legislation.gov.uk/uksi/2014/1230/pdfs/uksi_20141230_311216_en.pdf

⁷ https://www.whatdotheyknow.com/request/journal_note_wrong_option_box_se#incoming-984422

if you have said to the voice activation system that you are ringing about an 'advance payment'. In effect this is preventing people get advice about advance payments or being able to apply for them.

Additionally, where claimants are asking for an advance payment they are not necessarily being directed to the correct type of advance payment. Universal credit claimants who have been on a legacy benefit at any point in the month before claiming can have a benefit transfer advance instead of a new claim advance – which allows a three month repayment period and does not require proof of financial hardship. Work coaches routinely offer the new claim advance instead – we have heard this is because the option 'box' is a lot further down the screen than that for the new claim advance.

Conclusion

This additional report highlights some of the issues that have been raised by members in addition to those in our original report. There are others that we have not had time to include given the short time for response.

All the recommendations from our original report stand, and in addition we would add –

- Ensuring the online journal is kept as a permanent record of what has happened and when, and that a claimant can retain access to it after a claim is closed.
- Any appeal rights should be notified in writing as well as by way of the online journal.
- The helpline should be a free call and recorded messages on the helpline that advise claimants to hang up should be removed.
- The claim form should be amended to ensure that information relating to previous ESA claims is collected and used to ensure the correct payment of universal credit is made and a trawl should be carried out to identify any claimants who may be missing out on the correct elements.