



Work and Pensions Committee

Universal Credit inquiry

NAWRA observations and
recommendations on disability and
universal credit – follow up to oral
evidence on 4 July 2018

NAWRA: Secretary - Kelly Smith C/O CPAG, 30 Micawber Street, London N1 7TB Tel: 02078125232 email:
Kelly@nawra.org.uk

web: www.nawra.org.uk

1. NAWRA welcomed the opportunity to give evidence to the Committee on 4 July 2018 and thanks the Committee for inviting us. Inevitably there was not enough time to put forward all our observations and recommendations so this report aims to put those in writing for the Committee to consider. Links to threads from the rightsnet discussion forum¹ (a forum for welfare rights advisers to raise issues and provide peer support) and case studies highlighting problem areas are included in the Appendix to demonstrate some of the key issues.

Why might particularly disabled claimants struggle to access the online UC application?

2. Reasons include –
 - Some claimants cannot and will never be able to use IT and so will never be able to make or manage a claim online – eg some learning difficulties, sensory impairments.
 - Computers in jobcentres do not generally have assistive technology.
 - Difficulties being able to access a computer – eg due to availability, transport.
 - The level of universal support is lacking – in one area digital support was available 2-4pm on a Thursday only.
 - Difficulty or delays in getting a home visit.
 - Claimants do not understand the requirement and necessity to book and attend their first appointment at the jobcentre – a quarter of claims made do not go on to result in an award and, of these, two thirds are closed for failure to make or failure to attend the first appointment.²
 - People who are very ill or in hospital are often not in a position to make an online claim or to manage their claim once it is set up - they are reliant on third parties - either advisers or family members/friends/carers to help them. However, they are also not in a position to give explicit consent via the journal
 - The process for appointees is difficult due to the system not accepting repeat email addresses which is required for corporate appointees. Also, where it is an individual appointee, the form does not ask for the address. Some appointees are very elderly (typically parents of an adult child with, for example, learning difficulties) who are not able to manage a claim online.

How could it be made easier for disabled claimants to apply online for UC and use their online accounts?

3. NAWRA would recommend –

¹ <https://www.rightsnet.org.uk/forums/viewforum/30/>

² https://www.whatdotheyknow.com/request/reasons_for_universal_credit_cla#incoming-1153572

- Ensuring all jobcentres have some computers with assistive technology.
- Producing helpnotes to support the online claim which are available in different formats eg large print, easyread etc.
- Ensuring that every jobcentre area has access to universal support - both digital and budgeting support - which is accessible both in the times that it is available and locations.
- Providing clear criteria and referral process for a home visit and ensuring it is adequately staffed so there is no delay to a person's claim as a result of requiring a home visit.
- Setting up a fast track process for claimants who are terminally ill. Additionally, for these claimants there should be no requirement to attend an appointment at the jobcentre.
- No claim should be closed for failure to make, or failure to attend, the first appointment without making contact with the claimant.
- The process of implicit consent as used in the legacy system³ should be applied to universal credit so that if claimants are unable to manage their claim either intermittently, or on an ongoing basis, they can be supported by advisers or family members. While there is a process of explicit consent, this is made very difficult as even when written in the journal it only lasts for that assessment period and one further one (one to two months) irrespective of whether the problem has been resolved and some claimants may not be in a position to access their journals to give explicit consent.
- The process for appointees needs to be addressed so that corporate appointees can use one email address for all the claimants that it is appointee for. In addition, there needs to be a process for individual appointees who cannot manage an online claim on an ongoing basis to receive communications by letter.

Is Jobcentre Plus doing enough to accommodate reasonable adjustments for disabled claimants?

4. NAWRA does not believe enough is being done to accommodate reasonable adjustments. NAWRA recommends –
 - A paper form should be provided for those who cannot manage a claim online or by phone. In addition, claimants should be able to request that communications including award notices are sent by post

³ <https://www.gov.uk/government/publications/working-with-representatives-guidance-for-dwp-staff>

- There should be clear information about how to access a claim by phone and claimants should not be pressurised into using the online process if they do not feel able to.
- Every jobcentre should have private rooms for work coaches to see claimants, and their availability should be publicised through posters in the jobcentre, and offered by work coaches if they can see a claimant may be in need.
- The caseload of work coaches should be adjusted so that they can give sufficient time to disabled claimants – 62 per cent of work coach interviews are less than 20 minutes⁴.

Work Coaches are required to decide on interim conditionality regimes for UC claimants awaiting Work Capability Assessments. Can you explain the implications of this for both Work Coaches and claimants?

5. NAWRA believes conditionality should not be applied while a claimant is waiting for a work capability assessment for the following reasons –
 - Pending the work capability assessment the work coach has no information about the claimant’s health issues. This makes it very difficult for a work coach to ask appropriate questions and give the required support. Once an assessment has taken place there will be the UC50 questionnaire completed by the claimant, the report by the health care professional and any other evidence the claimant has sent in as part of their assessment. It is imperative that the work coach should be given this information (not currently standard practice for employment and support allowance claims). They can then go into an appointment with the claimant with background knowledge and be in a better position to ask appropriate questions, to support the claimant, and to tailor any claimant commitment accordingly.
 - Putting conditionality on a claimant with disability/health issues at the start of a claim, or at the point they fall ill, puts unnecessary pressure on them. The focus should be on enabling the claimant to concentrate on managing their health issues, and any other issues eg getting digital or budgeting support.

Are we seeing any issues emerging for claimants so far related to this process?

6. Work capability assessments are often taking several months to happen (see case study 6 where after a year the claimant was placed in the support (limited capability for work-related activity group)). This is a stressful process in itself and applying conditionality when it is not appropriate adds to this.
7. Other claimants are being inappropriately sanctioned (see case study 7 who had 17 sanctions in the space of a year). Because the conditionality is inappropriate

⁴ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-10-06/105447>

claimants may fail to meet the requirements leading to sanctions, financial hardship and stress leading to a deterioration in their condition

Do Work Coaches have sufficient flexibility to modify disabled claimants' claimant commitments? If so, are they doing this routinely?

If not, is this due to Work Coach expertise, or inflexibilities in the conditionality system?

8. Work coaches are not routinely modifying disabled claimants' conditionality. It is difficult to know whether this is due to lack of expertise or other inflexibilities.

NAWRA believes the following are likely to be influencing factors –

- Work coaches lacking training or the confidence to make changes based on the conversation with the claimant.
- Work coaches failing to properly listen to claimants about what their problems are.
- Lack of privacy being available for the appointments when claimant commitments are either set up or reviewed making it difficult for the claimant to be open about their difficulties.
- Work coaches having too large a caseload to be able to give enough time to disabled claimants – the recent NAO report states that the current workload is 83 due to rise to 373 in 2024/25.⁵

Is the disability employment advisor model working well for Work coaches and Claimants? How might it be enhanced?

9. Advisers report that there is little evidence of the disability employment advisers (DEAs). No information is given to claimants about the presence of the DEAs or how they may be able to assist. One adviser had to go to the partnership liaison officer and to the jobcentre manager to get a DEA involved (see case study x). However, once involved the DEA was helpful in negotiating a more realistic claimant commitment.

In conclusion, NAWRA recommends –

- No conditionality, and therefore no sanctions, should be applied while a claimant is waiting to be assessed under the work capability assessment.
- During this period work coaches should focus on supporting the claimant manage their claim and their health/disability issues – not only will this help the claimant but it will also help build a relationship of trust between the claimant and the work coach.
- Where disabled claimants are assessed as having limited capability for work, or as fit for work, the work coach should make an appointment to draw up the claimant commitment. This should be in a private place, scheduled for a minimum of an hour, and should focus on hearing from the claimant how their disability/health condition impacts on what they can do. Only when the work coach has established this information should the claimant commitment be drawn up.

⁵ <https://www.nao.org.uk/report/rolling-out-universal-credit/>

- The expected workload of work coaches should be reviewed to ensure that they have adequate time to support claimants effectively.
- Claimant commitments should recognise fluctuating conditions, and a process should be set up for the claimant to notify when they are unable to meet their commitment.
- There should be a clear process, communicated to claimants, setting out how a disability employment adviser can be used to support the claimant/work coach and how to request this.
- Where there is disagreement between a work coach and claimant about the level of claimant commitment the work coach should involve the DEA and other specialists as required.
- There should be an appeal process if a claimant is unhappy with a claimant commitment and no sanctions should be applied until it has been exhausted.

Appendix – discussion threads and case studies

The following discussion threads on the rightsnet website give contemporaneous evidence of issues raised by advisers –

- The need for implicit consent -
<https://www.rightsnet.org.uk/forums/viewthread/11063>
- Lack of appropriate process for terminally ill claimants -
<https://www.rightsnet.org.uk/forums/viewthread/11941>
- Conditionality pending work capability assessment -
<https://www.rightsnet.org.uk/forums/viewthread/12269/>
- Difficulty getting help to do online claim –
<https://www.rightsnet.org.uk/forums/viewthread/12999/>

Case studies

Case Study 1 - In full service – cannot make or maintain an online claim

ESA stopped when he went to prison on remand. Rehoused in a full service area; unable to manage to claim UC online even with support as has a severe learning disability and a cognitive age of 6-7 years. Concerns raised with DWP that –

- He struggles with reading and writing
- He will not be able to claim online without significant support
- He is unable to manage an online claim and will never be able to do so
- He has little or no ID
- His lifestyle is chaotic, he will not be able consistently to attend appointments, owing to his leaning difficulties, without considerable support
- He will need support in obtaining medical evidence
- There have been safeguarding issues raised by local council (financial exploitation, self-harm, substance abuse)
- There is going to be a need for possibly quite intense budgeting support
- APA for rent will be needed from the start
- He is probably going to need supported accommodation, but it is not clear what is going to happen with this
- Consideration would have to be given to reduced conditionality from the beginning of the claim, and for a new WCA to be carried out asap, with arrangements made to ensure that he was supported to attend the WCA appointment.

Nothing came of above request and claimant went without money for three months. Then, owing to severity of his behaviour he was hospitalised in a non full service area enabling him to make a paper-based claim for ESA. The change to legacy benefits also allowed the Council to be appointee.

Case study 2 – difficulty making online claim

Client with recently acquired brain injury with significant memory problems living alone (with domiciliary care) in a rural area with no appropriate person willing / able to act as appointee. Support worker had to make repeated home visits to assist with making online claim (inc. locating relevant documents etc.) and to take him to new claim interview at Jobcentre. It remains uncertain what support (if any) will be provided by Jobcentre or other organisation to enable claimant to maintain their claim.

Case study 3 – difficulty making online claim

Joint clients, a married couple, who both have some learning difficulties. They find the computer process incredibly confusing. The wife has breast cancer and has had to go on long term sick from her cleaning job. They were unable to cope with making the UC claim online and had nobody to help them. They went without income for months and had considerable rent arrears by the time they came to adviser who was able to sort this out and fortunately she received a large backdated amount of PIP which helped them pay off the debt (although it seems very unfair that the client ended up having to use PIP money, which is supposed to help her with the additional costs of living due to long term illness, to cover debt accrued because the UC system was inaccessible to her and her husband). However they still find the UC process incredibly difficult to manage – for example, if they are asked to update information on their journals, it's fairly common for them to accidentally enter the wrong thing or click the wrong button because they don't understand exactly what they're being asked. Pretty much every time they need any assistance with their UC claim or need to make any changes, they have to come in to see adviser at the office who has to do it for them. They get none of the supposed benefits of the UC system being available online all the time because they cannot access it on their own. If anything things take longer for them now than when they were on legacy benefits because they have to wait for me to be available to assist them. If they did not have access to adviser they would still not be claiming universal credit.

Case study 4 – appointee issues

76 year old is appointee for her grandson. She has no digital skills. She has limited mobility and would find it extremely difficult to attend Jobcentre or other provider for support to make an online UC application. It took a total of 4.5 hours of interventions to persuade DWP to make a home visit to complete the claim and proof of ID. It remains uncertain what support DWP will provide to enable her to maintain the claim.

Case study 5 – appointee issues

Elderly couple (80+) with no digital skills living in a rural area. One is appointee for learning disabled son receiving legacy benefits who was living in an 'out of county' placement. He is now being moving back to the local area and an application for UC required. Son's care manager and new social landlord were unable / unwilling to provide support with claim. Couple eventually contacted MP for assistance (including

whether the new accommodation was 'specified accommodation' and therefore a claim for HB would also be required.

Case study 6 - failure to ease conditionality

The claimant was on UC 'live service' but fell ill, suffering both physical and mental health problems.

He handed in medical certificates from November 2016 but remained subject to 'all-work conditionality'. This included a commitment to seeking working hours of 48 hours a week, even though the UC definition of full-time work is 35 hours a week.

The Claimant Commitment was finally reduced in September 2017 at the request of Welfare Rights service. UC had previously required the claimant to request this from his Work Coach even though they were aware of his illnesses. Welfare Rights argued that owing to his condition, the claimant lacked the confidence to make such a request, and the law allowed the Work Coach to make the adjustments without waiting to be asked as evidence was available.

Work capability assessment finally completed a year later and claimant was awarded the 'limited capability for work and work related activity' element of UC – too unwell to work or to undertake work-related activity.

Case study 7 - inappropriate conditionality leading to sanctions

Client was on incapacity benefit / ESA for years. Failed one WCA and ended up on UC. Has received 17+ sanctions over a 12 month period and is currently on the 3 year maximum sanction. Client says she has Electromagnetic hypersensitivity - GP prefers "delusional disorder" - basically she can't be around electricity for long periods. Picked up her first sanction for failing to send her CV in with a job application and continued to be sanctioned for failing to adequately jobsearch.

Case study 8 – inappropriate conditionality leading to sanctions

Client single male aged 60yrs lives in 1 bedroom housing association flat.

Client has mental health problems (anxiety, stress and depression) and he found it extremely difficult to explain things and within the timescale.

Client had problems with his Work Coach since being found fit for work and tried to submit new sick-note as GP stated client unfit for work. This resulted in being sanctioned for failure to comply with job search requirements. Client had tried to deal with this himself and ended up being sanctioned time and again resulting in no income for client. After deductions for the sanction and housing costs client left with no money.

Following help from adviser, late mandatory reconsiderations were submitted and all sanction decisions were overturned. Additionally, the claimant was helped with his work capability assessment and put in the support group.

