

# DWP's progress in implementing universal credit

## Public Accounts Committee Inquiry

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### NAWRA Response

February 2024

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## **The National Association of Welfare Rights Advisers**

1. The National Association of Welfare Rights Advisers (NAWRA) was established in 1975 as the Welfare Rights Officers' Group, and then the National Welfare Rights Officers' Group before becoming NAWRA in 1992. It represents advisers from local authorities, the voluntary sector, trade unions, solicitors, and other organisations that provide legal advice on social security and tax credits. NAWRA currently has more than 200 member organisations.
2. We strive to challenge, influence and improve welfare rights policy and legislation, as well as identifying and sharing good practice amongst our members.
3. NAWRA holds four conferences throughout the year across the UK, attended by members from all sectors of the industry. An integral part of these events are workshops that help to develop and lead good practice.
4. Our members have much experience in providing both front line legal advice on benefits and in providing training and information as well as policy support and development. As such NAWRA is able to bring much knowledge and insight to this consultation exercise.
5. NAWRA is happy to be contacted to provide clarification on anything contained within this document. NAWRA is happy for details and contents of this response to be made public.

### **Executive summary**

6. NAWRA's response to this inquiry was informed by an online survey to which 40 different organisations responded and by issues reported in the rightsnet discussion forum<sup>1</sup>. Some organisations expressed concern that they had not seen as many clients as they expected given the level of migration that has happened already and that maybe the current migration cohort – who will mostly be working – do not know about, or are not able to access, advice services.
7. While it is quite possible that some people are migrating safely and easily, NAWRA members were seeing people experiencing a number of difficulties arising both in what to do before migration and how to manage the claim after. The big push towards claiming online is particularly worrying as migration moves towards claimant groups that may have less digital literacy.
8. In particular, there seems to be a lack of support or easements being put in place for the more vulnerable, as well as a lack of understanding of issues around self-employment. NAWRA also has concerns about the migration of pensioners on tax credits onto universal credit which is a working age benefit.

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<sup>1</sup> <https://www.rightsnet.org.uk/forums/viewforum/39/>

9. Going forward, NAWRA has concerns that DWP do not seem to know why around a quarter of claimants issued with a migration notice are not moving over to universal credit even though they are losing on average around £300 per month (see below).
10. In addition, jobcentre staff are at 'breaking point' and there appears to be an ongoing recruitment crisis (see below). Until these issues are resolved, it seems premature to be continuing with migration at the current pace

### **Are claimants migrating effectively**

11. Of the organisations that responded, just over half reported seeing 1-10 claimants who had received a migration notice and a further quarter had seen 10-20 claimants who had received a notice – the claimants presented anywhere along the journey from the first month to after final deadline day. 14% had seen claimants who had failed to migrate successfully before the final deadline day.
12. There was a general feeling of surprise at how few claimants had presented at advice services and the reasons for this are not clear – it could be that as cohort of working people, it is harder to access advice or that they are less aware of the availability of advice. DWP has refused to supply information on anything other than a national basis regarding the number of Migration Notices issued and the lack of localised detail makes it difficult for advisers to understand how many people have been notified in their area, where advice needs may still arise (given the four-month period, including the grace period, in which claimants may make a successful UC claim after being notified), and at what point.
13. Where advice was sought, typical issues that claimants needed help with included –
  - Understanding how universal credit works
  - Understanding the migration notice, including what was and wasn't a migration notice – this was particularly important to ensure that claimants did not migrate too early thereby losing transitional protection
  - Making a claim and getting the timing right (e.g. making a UC claim just after a tax credit payments has been made, thus helping to mitigate the five-week wait for the first UC payment and reducing the need to apply for a repayable UC advance, or understanding that whereas a tax credit claim ends at once on making a UC claim, other 'legacy benefits' have a two- week run-on )
  - Checking transitional protection
  - Understanding how conditionality might affect the claimant, and the considerable differences between the UC regime and tax credits
  - Understanding why they didn't qualify for a health/disability element in universal credit when they were getting the disabled worker element in tax credits
  - Understanding the differences in 'passporting' benefit entitlements, such as free prescriptions. No information is available to claimants to explain this (see case study 1 below)

14. For those that failed to migrate safely, reasons included –
- Mental health problems meant claimant was unable to engage with services to understand what they needed to do
  - Claimant didn't want to declare capital
  - Claimant struggled with claiming process and online claims management
  - Conscious choice not to migrate as didn't feel additional requirements and responsibilities were worth it

## What issues are claimants facing on trying to migrate

15. Generally, the current cohort of claimants that are migrating – tax credit only – are working people and it appears that they are not engaging with advice services as much as might be expected. However, where they are contacting advisers, issues that are arising include –
- The onus is firmly upon the claimant to make and manage the claim and navigate any pitfalls – while DWP refers to the process as 'managed migration', its role is very limited
  - While there are exemptions from the migration process, cases where migration may be postponed, and 'extension' procedures to allow a later date of claim, claimants are unaware of these as they are not publicised in any way and were only disclosed to advisers as the result of a Freedom of Information request<sup>2</sup>
  - Claimants unable to engage with services sufficiently to understand the process.
  - Difficulty accessing advice as services are overstretched and underfunded.
  - Where joint claimants have successfully requested an extension, the DWP has only extended the deadline for one of the two partners - meaning that tax credits terminated from the original deadline day<sup>3</sup>.
  - Claimant not receiving migration notice as had been evicted and had not notified HMRC of change of address<sup>4</sup>.
  - Difficulty with making a phone claim e.g. persuading the DWP that a phone claim was appropriate. The migration notice does not explain that a phone claim is possible – it just says 'If you cannot claim online, call the universal credit migration notice helpline for free on 0800 169 0328'. This means the claimant does not know that a phone claim is possible and therefore to ask for it. Advisers report long wait times on the helpline and staff 'gatekeeping', trying to direct people to an online claim instead of advising about the possibility of a telephone claim.
  - On 10/1/24, Neil Couling, SRO for UC, stated<sup>5</sup> that '*... around 14 per cent of income support claimants, for example, want to claim on the telephone...we need to adapt our processes to cope with that because we can't go back to people say, well, I'm sorry, you're going have to claim online. We're going have to support those people on*

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<sup>2</sup> <https://www.whatdotheyknow.com/request/guidance-for-teams-working-on-ma>

<sup>3</sup> <https://www.rightsnet.org.uk/forums/viewthread/19980/>

<sup>4</sup> <https://www.rightsnet.org.uk/forums/viewthread/19505/>

<sup>5</sup> <https://committees.parliament.uk/oralevidence/14052/html/>

*the telephone.*'. This is a very welcome development but needs to be clearly confirmed as DWP policy and in staff training.

- Difficulty adapting to a monthly budget, and lack of information about alternative payment arrangements such as more frequent payments
- Not understanding how transitional protection is calculated, what information is used, and where it comes from as DWP provides no explanation of the calculation
- Where transitional protection calculations are challenged, a number have proved to be inaccurate – including one that was challenged as the legacy benefit entitlement was compared with the universal credit in the first assessment period instead of with the indicative universal credit as provided for in regulations<sup>6</sup>.
- Not getting advice on health journey in universal credit (for claimants in receipt of working tax credit and PIP who were working 16+ hours and getting the disabled worker element), the need for fit notes and how to get them, and how the process works
- Difficulty getting childcare costs paid owing to not understanding the evidence requirements – which were felt to be much more difficult than under tax credits.
- Difficulties managing an online claim due to lack of digital access or IT skills.
- Treatment of self-employed claimants – work coaches not understanding issues relating to self-employment, claimants unclear about the gainful self-employment test or reporting requirements.
- Finding the claimant commitment process stressful and often not focused on the individual claimant
- While the claimant commitment sets out what penalties claimants will suffer for non-compliance, it is silent on what support the claimant will receive from the Jobcentre
- The application of conditionality is a substantial shock for people who were previously not subject to any such regime and who are often disabled and already working, to the fullest extent appropriate to their condition.
- Inappropriate conditionality applied to people who are ill and disabled but who, although 'disabled workers' under tax credits, are not recognised as 'disabled' under UC rules
- Lack of information on the 'work capability assessment' (see above), and how a successful WCA application may affect the UC transitional element

#### **Comments from claimants on migrating –**

- "I credit being here today with not having to deal with the Jobcentre" from a disabled worker on WTC
- "The scheme is humiliating on every level, from the initial interview whereby I had to prove that I was 'gainfully employed' and that my choice of career was of some worth"
- "The Universal Credit system has dialled that anxiety up to uncomfortable levels."
- "I don't think of myself as a jobcentre person. I'm a 52 year old working mum. I used to claim jobseekers, but I've been off that for years. I then claimed WTC &

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<sup>6</sup> <https://www.legislation.gov.uk/uksi/2014/1230/part/4>

CTC. I have a good career and I do good work, I just don't earn very much because that's how the industry works."

- "UC is just exasperating. It is obvious whoever put the UC package together for the Self Employed hasn't/didn't realize that payment for SE is not standard."

## Provision of information by DWP

16. Almost three-quarters of respondents to our survey felt that little or no information at all had been provided to the general public. While there was talk of universal credit, information about when and how to migrate was lacking.
17. DWP stated that it had undertaken a publicity campaign to raise awareness of Move to UC, but advisers have seen little evidence of this publicity, or of it stimulating any noticeable public response.
18. The DWP initially were reluctant to signpost to independent advice from the migration notice and appeared unwilling to acknowledge how much support might be needed during the migration process e.g. around timing the claim to fit in best with when wages come in or childcare costs are due. Following considerable pressure from the advice sector in stakeholder meetings, DWP does now signpost on the migration notice to both Help to Claim and to [advice.local](https://advice.local.uk/)<sup>7</sup> (which provides information about advice services in the person's postcode area wherever they are in the UK)
19. Where information was provided, it has been misleading. A prime example of this is the leaflet that was sent to all tax credit claimants in September 2023<sup>8</sup> (including to those also in receipt of legacy benefits and therefore not due to migrate until 2024/2025). DWP did not consult with stakeholders, or give any warning of its being issued before it was sent out. The message was misleading as some people mistakenly thought this was the migration notice and claimed universal credit – this meant that they did not qualify for transitional protection as it counted as 'voluntary migration'. This is particularly concerning as the latest statistics<sup>9</sup> show that around two-thirds of claimants migrating are qualifying for transitional protection.
20. Receipt of the leaflet, for others, has led them to believe their migration notice is imminent and the wait for it to arrive – which may be many months – has caused considerable stress and anxiety – claimants feel it is 'hanging over them'.
21. Claimants who had successfully migrated had difficulty understanding the award notice and why it was sometimes less than their benefits had been previously particularly since

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<sup>7</sup> <https://advice.local.uk/>

<sup>8</sup> <https://twitter.com/NeilCouling/status/1701628607464890735>

<sup>9</sup> <https://www.gov.uk/government/statistics/move-to-universal-credit-statistics-july-2022-to-december-2023>

the migration notice says you get a top up if your existing benefits are more than you would get on universal credit.

22. The migration notice refers to the fact that 'certain debts' may affect the final award of UC, but does not explain that this refers to debts owed to DWP/HMRC (some of which may be 10 years old or more) which have previously gone uncollected, and which will be deducted from the UC award without the claimant's consent
23. Some tax credit claimants may believe they cannot qualify for UC owing to their earnings, and so may not bother claiming. The migration notice does say that UC may be claimed if working but gives no indication that UC migration rules allow entitlement for those earners whose UC would otherwise be Nil. This provision is too complicated to sum up in the notice letter, but more and better information is needed to encourage working people to seek full advice.
24. There is little or no information to alert claimants to differences in entitlement to 'passported' benefits such as health costs - see below.

#### **Case study 1**

A Tax Credit claimant (working, disabled) has recently had a £100 penalty imposed for claiming free prescriptions as a UC claimant. They were exempt under the Tax Credits system, but although their income is unchanged, it is too high under the UC rules. This claimant now has less money under UC owing to regular multiple prescription costs and feels misled by being told they would not be 'worse off' on migrating from Tax Credits.

### **Support for vulnerable claimants**

25. There is insufficient support for vulnerable claimants for a number of reasons –
  - DWP has not shown that it is working to any clear definition of 'vulnerability' - definitions of vulnerability such as those used for agreeing Alternative Payment Arrangements have been suggested by advisers, without any response from DWP
  - Jobcentre staff do not have the resources nor the benefits knowledge, the time or the independence to support vulnerable claimants
  - Since April 2022, the Help to Claim service has been online or telephone only with no provision for face-to-face appointments – the DWP reduced support at the very time when it was clear that there was going to be a higher need. The Department's response is that people who need face to face support can go to the jobcentre instead<sup>10</sup> – this is not appropriate as set out above

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<sup>10</sup> <https://hansard.parliament.uk/commons/2022-01-26/debates/22012644000008/HelpToClaim>

- In addition, Help to Claim only supports a person up to their first correct payment – many vulnerable claimants need ongoing support to manage the claim and ensure that they are not sanctioned
- Advice services are continually facing cuts and are stretched to the limit – while they are helping as much as they can, they are limited by their resources
- The ability of advisers to assist is also hampered by the fact that DWP does not operate an implicit consent model<sup>11</sup> in universal credit. The current ‘explicit consent’ model is applied inconsistently by DWP, and promised improvements to the system have not been delivered. This not only makes it much harder for advisers to support claimants, it makes the process much more time consuming for all concerned
- Work coaches are not applying discretion appropriately (and possibly breaching equalities legislation), for example, by inappropriately calling people with severe health problems into the jobcentre and refusing to make reasonable adjustments – see case study below

### Case study 2

Client had complex PTSD. His Work Coach asked him to come in the Jobcentre every fortnight while waiting for a WCA. This is despite a letter from the client's CPN to state that he is a risk to others. This letter was seen by the Work Coach, the Work Coach's manager and Disability Employment Adviser. The Work Coach said he has to ask him to attend the Jobcentre. This only stopped when the regional ACSSL/Safeguarding Manager got involved.

26. DWP does not appear to have a clear plan or process about how vulnerable claimants should be supported. Some advisers reported ‘brick walls’ when trying to get help for their clients. While some had contact with their local Vulnerable Customer Lead and found this useful for raising individual cases, they found it difficult to get emerging trends addressed and resolved. Clear and consistently applied processes are required across the board, to avoid a fragmented approach to assisting vulnerable claimants and resolving their problems. See also the need (at 28 below) to consult with Adult Care providers and others who can give perspectives on dealing with vulnerable and difficult to reach claimants.
27. It was also raised by a number of advisers that, even where there was support to get claimants through the migration process, ongoing support was needed and there was nowhere to refer people to. This will be an increasingly urgent problem as more vulnerable claimants come into the UC system.
28. Some advisers expressed a concern that DWP were not consulting enough to ensure they had support in place for vulnerable claimants. For example, they have not met with Adult

<sup>11</sup> <https://www.gov.uk/government/publications/working-with-representatives-guidance-for-dwp-staff>



Care Providers (despite agreeing to do this in principle at a meeting with stakeholders in November 2022) to put plans in place to ensure that people did not slip through the net, and to ensure that information can be shared about how to protect vulnerable claimants from financial exploitation by third parties

### Case study 3

The DWP felt our client was too unpredictable to see in person. They needed to verify her self employment status. We ended up having her in our office and doing the meeting over zoom. I felt that DWP had not addressed her complex needs and had not offered enough support. I also felt that the self employment adviser with Maidstone JCP did not have enough welfare benefit experience. They contradicted themselves which caused our client extreme distress and anxiety and suggested they put her in LCWRA but could not explain how that would impact any transitional protection due to a change in circumstances.

## Timelines and plans for moving claimants to UC

29. A number of NAWRA members expressed concerns about the number of tax credit claimants that are failing to safely migrate – around a quarter<sup>12</sup> - and that the average loss of income was around £300 per month<sup>13</sup>. Yet despite these alarming numbers, the DWP does not appear to have an understanding of why this is happening or a plan for how it will ensure a safer migration going forward. The NAO has already highlighted that the DWP needs to do more to understand why this is happening.<sup>14</sup>
30. Concern has also been raised about the message that ESA claimants are not migrating until 2028/2029 whereas, in fact, those who are in receipt of child tax credit with ESA will be migrating from July 2024. Although, the DWP has announced this through a ministerial statement<sup>15</sup>, this information is not accessible to the public at large and it is possible that ESA claimants may ignore migration notices, thinking it does not apply to them.
31. NAWRA also has grave concerns about the planned migration of pensioners from tax credits – including single people, mixed-age couples (one above and one below pensioner age). The only information that has been made public about the DWP's intentions for this cohort is in a written statement on 25 January 2024<sup>16</sup> which states

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<sup>12</sup> <https://cpag.org.uk/news/worrying-proportion-tax-credit-claimants-not-moving-universal-credit-and-losing-their-benefits>

<sup>13</sup> <https://z2k.org/wp-content/uploads/2023/11/MM-FOI-non-claims.pdf>

<sup>14</sup> <https://www.nao.org.uk/reports/progress-in-implementing-universal-credit/>

<sup>15</sup> <https://questions-statements.parliament.uk/written-statements/detail/2024-01-25/hcws213>

<sup>16</sup> <https://questions-statements.parliament.uk/written-statements/detail/2024-01-25/hcws213>

*'From August, we will also contact those claiming tax credits who are over state pension age, with households being asked to apply for either universal credit or pension credit, depending on their circumstances.'* Despite the fact that this is only five months away, no further information has been given, or legislation laid, to clarify what will happen to this potentially vulnerable group. This makes it very difficult for both pensioners and advisers to plan to ensure that any migration happens as smoothly as possible.

32. There are still problems within the universal credit system which have not been resolved even though DWP are aware of them e.g. a carer element not being automatically included in the maximum award when carer's allowance is in place and being deducted in the entitlement calculation. Priority should be given to getting things right and learning from mistakes in the current system before moving more people on.
33. As more people move onto universal credit it is going to require a larger number of suitably trained work coaches; yet the PCS union has made it clear that work coaches are 'at breaking point' already<sup>17</sup> and that there is a 20% shortfall in staffing<sup>18</sup>. It does not seem safe to continue migration at speed without sufficient resources in place, especially staff with sufficient training and time to support vulnerable claimants .

## **Conclusion**

34. In conclusion, NAWRA finds that there are a significant number of people, albeit they may be the minority, who are struggling with the migration process and with maintaining their claim after. NAWRA believes there needs to be flexibility in allowing different ways to claim the benefit and to manage the claim afterwards, and there should be funding of independent advice to support this. DWP also needs to examine what is preventing people migrating safely and establish ways to remove any hurdles. Universal credit is a safety net benefit designed to meet people's basic needs. It is not acceptable for anyone to slip through that net.

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<sup>17</sup> <https://www.pcs.org.uk/news-events/news/pcs-delivers-devastating-dossier-dwp-staff-services-breaking-point>

<sup>18</sup> <https://www.pcs.org.uk/news-events/news/dwp-staffing-crisis-meeting-hears-pain-understaffing>