

# Safeguarding vulnerable claimants

## Work and Pensions Committee Inquiry

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NAWRA supplementary submission

November 2024

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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. This submission is sent in response to the Committee's request for new evidence that has come to light since our previous submission was sent in October 2023.
3. NAWRA is extremely concerned about the government's recent announcement<sup>1</sup> to close the Move to UC programme at the end of March 2025 and the impact that this will have on the claimants who are migrating from employment and support allowance (ESA) This is the most vulnerable groups of claimants undergoing the migration process and they are not due to complete migration until a year later. These concerns are set out below.
4. NAWRA is also concerned about the potential changes to the work capability assessment<sup>2</sup> (WCA) that were put forward by the previous administration. Although the current government has not confirmed whether or not it plans to continue with the proposals as they stand, it has indicated that it intends to achieve the same savings.<sup>3</sup>

## **Ensuring benefits are accessible – the move to UC**

5. Given that universal credit full service completed rollout in December 2018 (with the exception of some claimants to whom the severe disability premium applied), the majority of ESA claimants will have been in receipt of the benefit for at least six years, many a lot longer. They will have long-standing and severe health problems and are likely to experience varying degrees of vulnerability. They will not have had to submit a new claim for many years and they will be used to communicating by letter, or maybe phone, at very infrequent intervals. Some ESA claimants may have partners who are also vulnerable and have never needed to interact with the benefit system. On UC, they will be expected to make their own claim and could be expected to look for work or have a work capability assessment.
6. The move to UC will throw up a lot of new things to manage including but not limited to –
  - Coping with a short deadline
  - A completely different claim process – an expectation to go online and failing that, an option to claim by phone – no option for a paper claim
  - A need for support and advice which may be face to face
  - A change in payment date and frequency necessitating different budgeting skills

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<sup>1</sup> <https://questions-statements.parliament.uk/written-statements/detail/2024-11-12/hcws205>

<sup>2</sup> <https://www.gov.uk/government/consultations/work-capability-assessment-activities-and-descriptors>

<sup>3</sup> <https://www.gov.uk/government/speeches/autumn-budget-2024-speech>

- An expectation for regular meetings with the jobcentre
7. Adjustments will be needed to the process to accommodate more vulnerable claimants such as –
- The need for consideration of suitable alternative arrangements where Jobcentre meetings are concerned – there is currently often an insistence on face-to-face meetings which is at odds with the circumstances of many disabled claimants
  - The requirement for all claimants to complete a claimant commitment, the lack of which can block payment or end a claim – DWP will need to make more use of the appropriate legislation<sup>4</sup> allowing exemption from the requirement for claimants in exceptional circumstances
  - Where the most vulnerable claimants are concerned, DWP should look at expanding the scope of exemptions from the claimant commitment requirement and/or creating a short-form commitment for claimants in the LCWRA group which applies automatically
  - The application of longer deadlines for supporting evidence - current DWP guidance appears to advise claim closure if such evidence is not produced within one month. This is contrary to the actual legislation,<sup>5</sup> and clearly inappropriate for vulnerable claimants

### **The Enhanced Support Journey**

8. NAWRA welcomes the fact that the DWP has recognised that the ESA cohort are vulnerable and anyone not claiming will be put on the Enhanced Support Journey.<sup>6</sup> However, NAWRA is concerned that the end point on this journey does not ensure that vulnerable claimants will not slip through the net. It had been assumed that during home visits, a claimant would be supported with making a claim for UC if this was appropriate. This step being in place would ensure that claimants do not slip through the net as the visiting officer would leave the appointment knowing that a claim had been made. However, the Move to UC programme recently informed stakeholders that –

*‘The purpose of the Enhanced Support Journey home visit is to ensure the claimant is aware that their ESA/IS claim is coming to an end, they need to make a claim to UC and by what date to continue to receive financial support. The visiting officer will identify and respond to any barriers claimants have in making their claim, for example signpost them to help to claim. Where the visiting officer has reason to suspect the claimant may not have the capacity for dealing with their own affairs, or to manage their benefit affairs, they will discuss an appointee supporting the claimant with their claim and where appropriate complete an appointee referral form on that or subsequent visit.’*

It’s unclear why visiting officers cannot provide this necessary support.

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<sup>4</sup> <https://www.legislation.gov.uk/ukxi/2013/376/regulation/16>

<sup>5</sup> <https://www.legislation.gov.uk/ukxi/2013/380/regulation/37>

<sup>6</sup> [https://www.rightsnet.org.uk/pdfs/NC\\_March\\_2024\\_LA\\_UC\\_update\\_Final\\_\(002\)\\_1\).pdf](https://www.rightsnet.org.uk/pdfs/NC_March_2024_LA_UC_update_Final_(002)_1).pdf)

9. There appears to be a substantial gap between those that might be able to obtain support from the Help to Claim Service (which provides no face to face support and only supports through to the first payment) and those who lack capacity and are unable to manage their affairs and require an appointee (most in this situation will already have an appointee). It is worrying that the DWP seem to have not acknowledged this gap. Having an appointee takes away a claimant's freedom to manage their own benefit affairs and should not be seen as an easy solution to get vulnerable claimants onto UC. Relying on appointees rather than providing them support to stay independent is a way of safeguarding these claimants given the tight deadline (and presumably budget) that the DWP has given themselves, but it is not in the best interests of these claimants. Additionally, many of these claimants will not have someone willing to act as their appointee (it is a role with serious responsibilities), and so will need a corporate appointee which to many will feel like an imposition. In addition, local authorities will be unwilling/unable to act as an appointee for someone who does have capacity but just needs support.
10. The Enhanced Support Journey has had minimal testing so far as the ESA cohort have only recently started to receive migration notices (although there was a small scale test of 500 claimants in June 2024). The most recent Move to UC statistics<sup>7</sup> show that more than a quarter of claimants issued a migration notice did not claim universal credit and had their legacy benefits closed (although the majority of these will be tax credit only claimants who are a very different cohort).

### **Closing the Move to UC Programme**

11. Given that there has been minimal monitoring of both the enhanced support journey and of the numbers of ESA claimants who migrate safely and the barriers they face, NAWRA believes it is premature to close the Move to UC Programme. The Department has confirmed that it will be gradually increasing the number of migration notices sent with a view to reaching 63,000 per month from February 2025. To close the Programme in March 2025 just as new evidence and issues are coming to light could result in many vulnerable claimants failing to migrate safely. If this happens, not only do they lose their subsistence benefits covering both living expenses and rent, but they also lose their right to transitional protection going forward. It is worth noting that this cohort is particularly likely to be eligible for transitional protection due to the fact that they receive disability premiums in their legacy benefits.
12. Justification for closing the Move to UC Programme appears to be that there have been few complaints made about the process. NAWRA does not believe that this is good justification as complaints are often seen as a last resort. Lots of advisers have seen many issues with the managed migration process but these have been resolved by liaising with partnership managers or the Move to UC engagement team. That engagement team is an invaluable resource for benefit advisers as they have been able to resolve issues not resolved by partnership managers and investigate whether processes involved need improving. Taking this resource away just as thousands of

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<sup>7</sup> <https://www.gov.uk/government/statistics/move-to-universal-credit-july-2022-to-end-september-2024>

the most vulnerable claimants are sent migration notices will undoubtedly mean it is harder to resolve complex issues that could leave vulnerable claimants without benefits or receiving the wrong amount of support.

13. In addition to resolving issues for claimants, interaction between the stakeholder group and DWP has allowed issues to be raised with the DWP much quicker than they can be without this centralised team in place. Advisers working across the country discuss issues arising in their area and can recognise trends and raise them with the engagement team. This has undoubtedly allowed the DWP to respond to issues with safeguarding as soon as they arise, rather than needing issues to make their way through partnership managers who may or may not recognise a pattern. Again, closing this team and removing this opportunity for feedback just as the most vulnerable claimants are receiving migration notices on a large scale seems irresponsible.

#### **Help to Claim**

14. NAWRA believes that the Help to Claim service is not sufficient to support the most vulnerable people. Many claimants may require face to face support both to register a claim and to maintain it going forward. The Help to Claim service does not provide this.

#### **Universal credit helpline**

15. In addition, the universal credit helpline is not fit for purpose. Claimants from the ESA cohort are more likely to require a non-digital claim. The only way to communicate about a non-digital claim is via the universal credit helpline – advisers report that the service on this line is unacceptable with it taking many calls to resolve a problem.<sup>8</sup> Reviews from staff who work for the helpline include comments such as ‘Makes your mental health so bad so stressful and overwhelming - Just care about stats nothing else’. In general, this seems to reflect the poor training of front-line DWP staff (or their contractors) with advisers also reporting that claimants have been sent journal messages that are clearly getting UC rules wrong<sup>9</sup>. Claimants will assume that the advice given to them by a member of DWP staff (or contractor) is correct, and it is worrying that we are repeatedly seeing cases where that is not true. This is especially worrying with regards to moving vulnerable claimants onto UC as areas where we see mistakes a lot include LCW/RA and transitional protection – two issues that could have a big impact on the UC journey of these claimants.

#### **Transitional protection**

16. As already noted, the ESA cohort is more likely to be eligible for transitional protection. Advisers report numerous problems with the transitional element being calculated incorrectly and, furthermore, incorrect advice given when decisions are challenged. The DWP continue to refuse to provide claimants with details of how their transitional protection is calculated and can be obstructive when challenges are made – see case study 1.

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<sup>8</sup> <https://www.rightsnet.org.uk/forums/viewthread/20669/>

<sup>9</sup> <https://www.rightsnet.org.uk/forums/viewthread/20324/>

### **Case study 1**

Claimant was in receipt of Income Support, Carer's Allowance, Industrial Injuries Disablement Benefit, PIP.

Partner in receipt of Carer's Allowance.

They care for separate individuals.

Income Support included two Carer Premiums and a Disability Premium.

UC awarded was noticeably less than IS award – noted that although a Transitional Element was awarded, only one Carer Element was awarded in the final UC award, despite the fact that two Carer Elements are payable.

Mandatory Reconsideration requested, along with a full breakdown of the Transitional Element.

DWP response:

*What I do advise that if we did pay a carers element to yourself as well as [partner], then what would happen is your transitional benefits would decrease so in effect you wouldn't see an increase. The system has recognised you are both caring for someone but is only paying one carers element. Mandatory reconsiderations and appeals can only be done based on a decision, no one has made a decision on this claim, it is just policy and therefore all we can suggest is talk to your MP. I understand your frustration but we only implement the policy and cannot adjust it for different claimants.*

Case remains unresolved – with input from an adviser, DWP has accepted it is an appealable decision and it awaits a hearing. However, the DWP have still not supplied details of their calculation of the transitional element.

### **Provision of independent advice**

17. In order to improve support for vulnerable people, DWP needs to ensure that there is availability of quality independent advice provided through a range of channels and accessible across the UK. This will involve improving funding to the advice sector and NAWRA recommends that making provision of advice should be made a statutory duty.
18. Independent advice agencies and welfare rights services within local authorities already act as 'trusted partners' advising the DWP of issues that are arising. Placed on a statutory footing, they would be well-placed to facilitate safeguarding procedures and protecting vulnerable claimants.

## Preventing harm – proposed changes to the WCA

19. The DWP first consulted on its proposed changes to the WCA in September 2023 and NAWRA submitted its response<sup>10</sup> which outlined its opposition to all the proposals. While some of the proposals were dropped, the government at the time chose to proceed with changes to the ‘substantial risk’ criteria and to descriptors relating to mobilising and getting about.
20. NAWRA opposes all these changes but has particular concerns about those relating to substantial risk and the impact on vulnerable claimants. The proposal, which has yet to be legislated for, is to amend the provisions by which a claimant may be ‘treated as’ having limited capability for work-related activity (LCWRA) because if they were found to just have limited capability for work (LCW) there would be a risk to their, or someone else’s health.
21. This provision performs an essential safeguarding function ensuring that people are not put in a situation by the DWP that is likely to cause their health to take a downturn. The Office for Budget Responsibility estimates<sup>11</sup> that more than 160,000 claimants will be assessed as having LCW as opposed to LCWRA as a result of the changes. This means that they will be subject to sanctions and at risk of having their benefits cut if they fail to meet a requirement put on them by the jobcentre. More than 90 per cent of sanctions<sup>12</sup> are given for just failing to attend or participate in a mandatory interview.
22. NAWRA believes if the substantial risk provision is weakened in any way, the government will be failing in its duty to prevent harm.

## Conclusion

23. Both plans to close the Move to UC Programme and to restrict eligibility for the LCWRA element in UC increase the likelihood of putting vulnerable people into a position where their health will deteriorate and they are at risk of further harm. Before progressing, NAWRA recommends that a full risk assessment be undertaken to ensure that any potential harms are mitigated.

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<sup>10</sup> <https://www.nawra.org.uk/2023/10/nawras-response-to-the-dwps-consultation-on-proposed-changes-to-the-work-capability-assessment/>

<sup>11</sup> <https://www.gov.uk/government/publications/work-capability-assessment-reform-estimated-number-of-claimants-affected>

<sup>12</sup> <https://www.gov.uk/government/statistics/benefit-sanctions-statistics-to-august-2024>