

DUDLEY WELFARE RIGHTS SERVICE, DUDLEY COUNCIL – WRITTEN EVIDENCE (EUC0089)

The economics of Universal Credit

1. We are a small Local Authority welfare rights unit supporting vulnerable residents living in Dudley borough to resolve queries; ascertain benefit entitlement; assist with claims; and to support with disputes and appeals. In addition, we support other local services working with vulnerable customers by providing benefits training and second tier advice. We also offer services at some of the local food banks, and we therefore feel that we meet people from all backgrounds, who are often experiencing difficult life events, which result in a need to claim support from the welfare system. Our remit is to enable customers to maintain their independence and avoid having to receive social care and support. We support with all social security benefits and tax credits, and increasingly those dealing with Universal Credit as Dudley has been a full service area since July 2017.

2. How well has UC met its original objectives?

Our understanding is that one of the main aims of UC is to encourage people on benefits to start paid work, or increase their hours by making sure work pays. Our focus will therefore be on this aspect and how, in our opinion, the UC system actually counteracts desires to work or to develop a self-employed business. The cases below are recent cases selected from our case-load.

3. Client A: a single parent with significant mental health problems. Previously, in work, she became ill following difficult and stressful life events. Ms A spent some time in a hospital for people with mental health problems, and still remains under the care of psychiatric services. Our service was initially contacted by the community psychiatric nurse (CPN), who requested support for Ms A. Our client was highly distressed as a result of changes to her UC. It transpired that Ms A had, through her work coach, been encouraged to start her own business (grooming dogs and horses). This had worked well for her, and she was able to work when she felt well enough, and was also able to juggle this around the needs of her children (youngest age 6) and school hours. Ms A felt that she had been better off financially as a result of working, and that the work was somewhat therapeutic as she felt valued and that she was contributing something to society. However, she had now been in business for one year, and the Minimum Income Floor (MIF) had subsequently been applied. Unfortunately, this coincided with the Christmas period, and a downturn in business due to holidays. Ms A was very distressed and related that “even if she worked her butt off all day, every day” she would not be able to reach the threshold, and so there was no point with continuing with the business as she was left with insufficient money to support herself and family.

We discussed several options with her, including ending her business, visiting her GP and declaring as unfit for work. In our view, the imposition of the MIF, whereby some mythical non-existent income is used to calculate entitlement to top up income, acts against one of the main aims of UC. Resolution of this matter is still ongoing.

4. Mr B. is in a similar situation to Ms A above. We met him at the local foodbank where he was trying to obtain food that he could eat without cooking as he was without gas, and funds to top up supply. Mr B has been in the local hospital for mental ill health in the past, but felt he was making good progress and was looking to get back into work. Though he could have declared as sick, he chose not to do so, as he wanted to move away from being 'labelled' as having mental ill health, and to start to rebuild his life. In August 2019, he started a self-employed business looking to secure work in bathroom and kitchen fitting. He attended a course for book keeping in order to ensure that records were properly kept, and began to seek work. Over the course of the next couple of months, he did secure some work, but, largely, low cost plumbing work, resulting in little profit. At the time of meeting Mr B, he was waiting for a housing developer to confirm if he had secured a contract for work on a number of houses. Mr B also found himself hit with the MIF, even though he had not completed his 12 month start-up period. His work coach allegedly thought he was not doing enough to grow the business, and in January, when he expected a payment, he received nothing. There was no warning of this. Mr B explained that growing a business in construction is not like setting up a sandwich shop. Work is usually scarce in the winter; people do not have money to get home improvements done in the lead up to Christmas, or in the period afterwards, but, in spring, things start to get busier. This type of work often relies on word of mouth and recommendations. At the time of writing, our team had spent almost a day, trying to resolve this issue. Mr B had been expressing ideas of suicide to our team. He advised us that he intended to contact the media, go to the JC concerned, and make clear his reasons for the action he was about to take, and then he would end his life. He felt that this action would show how UC was damaging people's wellbeing. He clearly explained his plan, without emotion, without distress, just that he had reached the end of endurance and "wanted to go". UC could have helped this man to move forward with his life, and back to work – which is the main aim of UC – but, instead, it left him destitute – without food, or heating, and drove him to the edge of endurance, and worsening his mental health. Again, another example of the imposition of the MIF acting against the main aims of UC. We worked very closely with Mr B, the partnership team at DWP, and after securing a new work coach, at an alternative Job Centre, the MIF has been lifted. Mr B has been referred for specialist advice on self-employment, and the MIF and turnover over of the business will be reviewed again in two months.

5. Whilst we recognise that there must be some way of guarding against situations whereby a claimant may declare as self-employed and then do little to develop the business in order to secure benefits, our view is that there should be more flexibility in the system for those who are working hard within the confines of their own personal situation. The MIF only be used as a last resort when all personal factors have been considered.

6. Aim to reduce the number of people in work but still in poverty:

Mrs C is employed, with three young children. In order to work, she needs to secure childcare, and this is provided by a local nursery, and after school club. Mrs C was formerly in receipt of tax credits and, consequently, received some help with the cost of child-care. Payment was made every 4 weeks, at the same rate throughout the year. Mrs C knew exactly what she would receive and when. This of course, helped her to budget and pay her invoice from the childcare providers, for whom payment is required monthly, in advance. When Mrs C formed a new relationship, her tax credits claim was brought to an end, and this couple subsequently claimed UC.

Within UC, though the allowance for help with childcare is higher (85% in UC) compared to (70% in WTC), people are struggling. Claimants cannot claim for help with childcare until they have paid the costs.

In Mrs C's case she has an Assessment Period (AP) that runs from 23rd of each month to 22nd. The claim for UC was made 23 August 2019. On 1 September 2019, at the start of her UC claim, she was required to pay over £700 child care costs. Her first payment of UC would not be due until 29 September, and tax credits were no longer in payment. Mrs C had to pay the bill for childcare, before she was able to provide the necessary proof of payment and thus declare the costs for that AP. She therefore had to borrow this money from her parents. When the first payment of UC was issued, Mrs C expected to receive 85% of these costs included in her UC calculation. However, an error in the calculation, meant that the case manager did not include 85% of the actual costs, but instead applied the costs pro-rata resulting in only £83 being included in the calculation. Mrs C therefore had a much lower entitlement to UC than expected, and this left her with insufficient funds to pay her childcare for the following period. She was unable to borrow again, as she had not been able to pay parents back, and was then in debt to the nursery. Luckily, the childcare provider was understanding and allowed her to continue to bring her children. However, with a less understanding provider, Mrs C would have had to give up work. The way in which childcare costs are processed on the claim causes hardship and means that claimants are forced into debt in order to work – certainly not an incentive. We would add that we raised a dispute at the end of November 2019 regarding the

miscalculation of childcare costs and, as of 27 February 2020, this lady is still waiting for an outcome, and her money. -

7. One of the main issues we deal with, which in our view acts as a disincentive to work, is the process whereby earned income is taken into account in the month in which it is received, rather than the month for which payment is made. This system causes hardship, distress and also adds to work for staff at UC service centres. In principal, this should be the most straightforward way to calculate UC, but, in reality, the inflexible nature of this process, not to mention the fact that this has found to be in breach of regulations (see R (Johnson, Woods, Barrett and Stewart) v SSWP [2019] EWHC 23 (Admin)), causes much harm.

8. Mrs D is a carer, (she does not claim Carers Allowance) working part time for the local authority, as a cleaner at the local school. Her assessment period runs from 28th to 27th of each month. Her payday is the last Thursday of each month. This means that her paydays fluctuate. In 2020, pay days fall 30 Jan, 27 Feb, 26 March, 30 April, 28 May, 25 June, 30 July 27 August, 24 September, 29 October, 26 November and 31 December (which will probably be paid on 18 December, due to Christmas holidays). Though there is provision for employers to use an alternative date on the HMRC system where paydays are early due to bank holiday, to our knowledge, there is no such provision for fluctuating paydays (even though the pay period is the same i.e. a month's pay for a month's work). From this, we can deduce that 30th January, and 27th February will fall into the same AP; as will 28th May and 25th June; 30th July and 27th August. That is three occasions in the year where the claimant will be due nil UC; three occasions where the UC claim will be closed, and three new claims will thus need to be made. Of course, there will also be corresponding periods throughout the year where nil income will be recorded - this usually falls in the period following the 'double counting' thus making no overall loss for most people. The issues though relate to budgeting and the knock on effect of this. In the months that Mrs D has two paydays recorded in one AP, this will result in nil entitlement for that month. Her UC claim is then closed. This necessitates a reclaim. This is time consuming for Mrs D - she will need to make the claim and, subsequently, there will be corresponding work for UC service delivery. As Mrs D has mental ill health, her payments for rent are made directly to her Landlord. When two month's pay is recorded, the payment to her Landlord will not be made (as UC shows nil entitlement). Mrs D will therefore be required to pay her rent herself. At this time, Mrs D will not have any more disposable income with which to pay this bill. Mrs D will have been paid her wages for example, on 30th January, and again, on 27th February, (she doesn't receive a double amount) and by the time she realises that her claim has been closed (which would occur at the end of the AP ending 27th February) her pay from 30th

January has already been spent. She therefore has only one month's wages to live on and sustain herself, and to pay the rent as well (which often isn't possible on earnings of approximately £450 per month). Mrs D has never caught up from the rent arrears she incurred at the start of her claim for UC, and has arrears accrued from previous AP's in which her claim was closed. She has a court order for rent arrears, and an agreement to pay rent plus £31.78 per month towards arrears. This is taken directly from her UC. Of course when UC isn't paid, neither is her payment towards arrears – she is now in breach of her court order, and is at risk of eviction. Nothing has changed for Mrs D – her income remains exactly the same: But what has changed is the way her pay is treated due to inflexibility in the system. Mrs D is now thinking of giving up work as this cycle will continue, and the distress that this causes is simply not worth it. Mrs D doesn't want to give up work as this gives her a break from the house and caring responsibilities but the gains no longer outweigh the disadvantages. Mrs D was ill in January, and her claim was closed on 31st December due to a 'double counting' of earnings. Mrs D did not realise that this had happened as she was ill, and only discovered that her claim had been closed when she did not receive her usual payment. The delay in reclaiming UC has meant that she did not receive UC due to be paid at the end of January, and, due to the delay, will now not receive any further payment until March. The only thing that has happened across this period, is that her employer paid her wages one week early. Mrs D sent us the statement copied below:

"I've been told that I won't get that £500 for rent money so I've got to use all my wages of £469 to pay my rent so I won't have any money to live on not that that bothers UC, I'm still on sick leave and am due to have more treatment in hospital next week so I've decided to give the job up ,if I'm on benefits I get paid 52 weeks of the year without having to get up at 5am to go and clean school toilets just like 3 other cleaners who have left because of the unfairness of UC",

9. This is a clear illustration of how UC acts against the stated objective of making work pay through the way in which earnings are treated. We recommend that the decision relating to R (Johnson, Woods, Barrett and Stewart) v SSWP [2019] EWHC 23 (Admin) be implemented urgently to ensure that claimants aren't penalised just for having a non- fixed pay day.

10. Zero hours contracts/inflexible work:

When UC was originally introduced, we understood that the intention was that if a claim for UC resulted in nil payment at the end of the AP due to excess income, the claim for UC would not close. This would only be the case when a period of 6 months had elapsed without payment. We describe this,

in our training, as “a bit like a roller coaster, that peaks and falls – pay goes up, UC falls, pay goes down, UC rises”. One of the selling points of this intention was that it was easier than the stop/start process of JSA where claims would stop and then subsequently need to be reclaimed if a claimant worked less than 16 hours, or income fell below applicable amount. We believe that this system was established in ‘UC live’ but then abandoned in UC full service.

We feel that the failure to implement this as a process acts against the aim of making the system more simple, and transparent. As demonstrated by the case of Mrs D, a simple oversight through lack of knowledge, or illness, can result in extended periods without benefit, and causes much distress and inconvenience (not to mention an increased workload for UC) and it is our recommendation that this system be re-established. This would make inflexible, and zero hour’s contract work, more attractive. Claimants would know that if they worked less hours one month, they would receive support from UC. If they worked more hours, though it may be the case that they would not receive a payment of UC, they would not have to go through all the stress of registering a new claim.

11. Debt and high levels of deductions:

The requirement to claim UC has, as a consequence, the certainty that a claimant will be in debt as a result of claiming - legacy benefits such as ESA, tax credits, and HB will end, and unless people have savings to sustain them (or other non means tested benefits) they will be forced to take advantage of a budgeting advance. This is a loan which is required to be repaid over a 12 month period. Deductions can be over £120 per month, for a family with children. Often claimants are left with rent arrears and many will never catch up. Rent arrears will depend on whether the claimant understands that they need to pay the rent from the advance, but if they do not understand (or they fail to make the payment), many will find a further £31 or £49 deducted from UC to clear arrears of rent.

In addition, there are often delays in tax credits and HB ending, which results in overpayments of these benefits – this will also be deducted from UC. Often we see claimants with very old overpayments of tax credits (our oldest dated back to 2006-2007 tax year). Such payments have often not been pursued by tax credits for many years, but have now been passed to DWP who are just starting recovery from UC, (often without notification). Claimants usually do not know what the overpayment is for and are out of time to challenge/dispute the decision.

Mrs E was such a claimant – with two overpayments of tax credits (one 06/07 tax year, one 12/13 tax year). It has taken over 6 months to resolve this matter, during which time deductions continued to be made. Both overpayments resulted from official error of HMRC. One decision was

eventually revised, and one written off. However, Mrs E was left with much reduced income whilst this was ongoing. It is not uncommon to see single claimants left with less than £55 per week to live on after such deductions for loans and overpayments are made. This leaves people in poverty. The applicable amount for legacy benefits (and indeed UC) for a single claimant without disability/illness or children is £73.10 (25 years +). This amount has not increased for many years, but was arrived at by factoring costs for expenditure such as heat, light, food, water bills, TV licence – the basic necessities of life; with rent and council tax being taken care of through the Housing Benefit and Council Tax Support system. With such high levels of deductions, as well as the fact that many councils require even people on basic benefits to make a contribution towards council tax (our own requires 23% as a minimum), this means that claimants have insufficient funds to meet even the most basic of needs. This is in our view one of the reasons that foodbank usage has increased so dramatically. This will only get worse under managed migration.

12. In our view, there are several simple fixes that can be made to smooth out the UC process, and ensure that it actually meets some of the aims:

- Legacy benefits should continue in payment up to the end of the first AP for UC. This will mean that most people will not need a loan and ensures that the new claims start off with a 'clear slate';
- Those needing to claim benefits for the first time (due to loss of job for example) should be given a non-repayable 'hardship' type payment. The amount will depend on family composition but also will take into account payments on leaving work. The advance should cover basic food/heat/shelter requirements – again to avoid a debt at the start of the claim;
- A tax credit amnesty - all tax credits overpayments, older than maybe 5 years, should be written off;
- The outcome of R (Johnson, Woods, Barrett and Stewart) v SSWP [2019] EWHC 23 (Admin) should be applied forthwith, and earnings therefore taken into account for the month in which they are paid. There should be no double counting of earnings in one month;
- Child care costs – tax credits should give a one off final payment of the child care costs reported in claim when transfer is made from TC to UC. This will avoid lengthy waits for payments;
- The system for MIF needs an urgent review – our suggestion is that this should be discretionary, with no need to impose this as long as the claimant can show they are trying sufficiently hard to build a business;
- Claims for UC should not be closed until nil entitlement for 6 months to ensure a smoother system.

27 February 2020