

NATIONAL ASSOCIATION OF WELFARE RIGHTS ADVISERS (NAWRA) – WRITTEN EVIDENCE (EUC0098)

The economics of Universal Credit

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. This response is informed by a survey of NAWRA members carried out over just two weeks (due to the short deadline) in January/February 2020 that received 63 responses. It is also informed by the discussion forum on the rightsnet website¹ - used by welfare rights advisers across the UK to get casework support, share the experiences of their claimants, and to network with other advisers - which is an ideal source of contemporaneous evidence. Examples of points raised which have come up in the rightsnet discussion forum are referenced in the footnotes.

How well has universal credit met its original objectives?

7. Iain Duncan-Smith said in 2010² -
'Universal Credit will mean that people will be consistently and transparently better off for each hour they work and every pound they earn. It will cut through the complexity of the existing benefit system to make it easier for people to get the help they need, when they need it. By utilising tried and proven information technology, we will streamline the system to reduce administration costs and minimise opportunities for error or fraud.'

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

² pg 1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/48897/universal-credit-full-document.pdf

8. **Better off in work?**

There are design features in universal credit which means that this is not always the case –

- Zero earnings rule for loan for mortgage interest – the loss of this support in the month that you earn and for the following nine months (as you have to serve the waiting period again) means that it is necessary to earn at least enough to cover your mortgage payments before any work will pay.
- The removal of work allowances for those without children or limited capability for work/work-related activity (LCW/LCWRA) mean that any earnings are clawed back at a rate of 63%. As people often have additional expenses in work (clothes/travel/ increased council tax) this can mean they are worse off in work. (The decision to separate out and localize council tax support adds a further taper of 20% in Wales and Scotland and from 20% to 40% in England.)
- The reduction of work allowances for those with LCW/LCWRA or children also means that the financial advantages of moving into work are much reduced for similar reasons.
- The application of the Minimum Income Floor (MIF) means self-employed people may be worse off in work than not in work – the MIF is unrealistic as TUC analysis shows that two million self-employed adults earn less than the minimum wage.³
- UC compares poorly with 'legacy benefits' in terms of supporting claimants with health conditions into work -
 - previously those working under 16 hours had the security of a separate 'permitted work' category that gave some re-assurance that they would not have their LCW/LCWRA status called into question while exploring the potential for some limited work.
 - Those ready to take the next step could go further with extra support from tax credits based on past long term sickness or an ongoing disability benefit. And if it proved a step too far, linking rules allowed them to return to ESA – there are no linking rules in UC.

9. NAWRA members have reported examples of people having to leave work because of the UC system –

- Not able to pay childcare costs up front – although the Flexible Support Fund will help with the first month's childcare, it is then not possible to claim the costs back via the universal credit payment for that month⁴, so then the same situation arises the following month in that there is no money to pay the childcare up front
- Self-employed people having to give up work because they cannot meet the MIF

10. **Simplicity?**

While the basic structure of universal credit has some simplifying features – one benefit, one organisation to contact – the rules within it are, at times, horrendously complicated and it can be difficult to get the help you need, for example –

- If you do not have computer literacy skills it is difficult to make a claim – the alternative is a phone claim and decision letters are not sent consistently which may mean claimants are not aware of their appeal rights. If someone has been assisted to make an online claim it is very difficult to change to a non-digital

³ <https://www.tuc.org.uk/news/two-million-self-employed-adults-earn-less-minimum-wage>

⁴ pg 6 http://data.parliament.uk/DepositedPapers/Files/DEP2019-0465/Childcare_costs_v11.0.pdf

claim if the claimant is having difficulty managing it.⁵ It is not advertised that it is possible to have a non-digital claim if required.

- Lack of access to a computer, or to broadband, can make it difficult to both make and maintain a claim – in rural and more deprived areas it may be impossible to access a computer eg in a library, jobcentre or community centre
- Lack of clarity about when a claim is made – the online claim has a 'make a claim' button to press to start and the information says you have 28 days to provide the information once you have pressed the button whereas in fact the DWP only accept the date of claim as the date the 'submit your claim' button has been pressed at the end of the process. Additionally, where a claim is made via the Help to Claim service, the DWP will not accept the date of first contact as the date of claim even if the delay is because the claimant is waiting for an appointment.⁶ Both points have been raised with the DWP but its response is that the only thing a claimant can do is request backdating⁷. However, there are very limited rules about backdating⁸ and nowhere on the claim form are you asked if you want backdating so claimants are not aware that it is something they can ask for.
- If a claim is closed, there is difficulty challenging the decision as the claimant can no longer write in the online journal.
- If earnings take a claimant out on universal credit for any month, they have to 'reclaim' – while this isn't a full claim, just a matter of pressing a button and confirming no change of circumstances – claimants do not necessarily realise they have to do it and can lose money as a result. Under the live service there was no need to reclaim – the system picked up reduced wages and automatically reassessed. There does not seem to be any reason why the full service cannot do the same.
- Award notices are difficult to understand⁹ (although it is acknowledged there have been some improvements) particularly around deductions from benefit and what housing costs are included. Also if an award for an assessment period is subsequently changed the original award notice is changed so the claimant cannot see what they were paid when, and what changes have happened. This was raised with the DWP via the stakeholder group in 2017, as evidenced in the rightsnet forum¹⁰, but despite the response in July 2017 that they were aware that it was an issue, nothing has been done about it.
- Getting help with your claim is not easy. Journal enquiries can go weeks without being answered and getting help in the jobcentre is not always possible. One member commented 'Jobcentre staff are often well intentioned but lack in depth understanding of UC' and this was often the experience. The Help to Claim service only supports up to the first payment being made correctly so there is no ongoing support to help manage a claim.
- The process of getting assessed with LCW/LCWRA can be difficult to initiate and take a very long time, particularly if the claimant is working eg they have reduced hours due to sickness and need assessment of LCW/LCWRA to qualify for a work allowance (under working tax credit a claimant simply had to show PIP entitlement to qualify as a disabled worker and be entitled to extra allowances). Claimants are not always able to get a fitnote if they are working and there is a lack of understanding within the jobcentre of the necessity to

⁵ see for example <https://www.rightsnet.org.uk/forums/viewthread/14657/>

⁶ see for example <https://www.rightsnet.org.uk/forums/viewthread/15537/>

⁷ <https://www.nawra.org.uk/2019/06/date-of-claim-for-uc-nawras-letter-to-the-secretary-of-state-for-work-and-pensions/>

⁸ <https://www.legislation.gov.uk/ukxi/2013/380/regulation/26>

⁹ see for example <https://www.rightsnet.org.uk/forums/viewthread/15601/#73975>

¹⁰ <https://www.rightsnet.org.uk/forums/viewthread/11258>

carry out a work capability assessment. One member reported an 8 month delay in being sent the UC50 form (the start of the work capability assessment) and after 15 months still no decision has been made.

- Being paid monthly but not necessarily having one month's earnings taken into account on each assessment period due to timing of payday with assessment day, or employers not complying with HMRC guidance on reporting earnings, leads to wildly fluctuating payments and also loss of money if the benefit cap is applied in an assessment period where no earnings are recorded, or a work allowance is lost for the same reason. Similar issues apply for weekly cycles and are made more complex for couples and those with different rent cycles.
- The minimum income floor rules are complex and unfair – a self-employed person could earn the equivalent of the minimum wage over the course of a year and yet be penalised for not having earned the equivalent in one or more months in that year.
- Surplus earnings rules are very complex. A person who comes off UC as earnings increase will not be aware that if they earn above a certain amount then they may not have full, or any, entitlement immediately if they need to return to UC within six months leading to debt situations.
- Moving from UC to pension credit – unless you make an advance claim for pension credit your UC cannot end on the day you turn pension age meaning you lose any UC that would have been due in the last assessment period.¹¹

11. NAWRA members report that, while the digital approach can work well for people who are computer literate and have ready access to the internet, there is a lack of support for those who are more vulnerable and, even when adjustments are requested, they do not happen.

12. **Minimise opportunities for fraud?**

As is well documented there has been widespread occurrence of fraudsters starting up claims and using the advance payment option without a person's knowledge – in October 2019 the Permanent Secretary confirmed there were approximately 85,000 cases.¹² It was the digital system that allowed this to happen as fraudsters were able to make the claim and request the advance online without seeing anyone. NAWRA wrote to the Secretary of State in June 2019¹³ raising its concerns and recommending that the ability to request an advance online was removed until the claimant had visited the jobcentre. It took the government over three months to act on that recommendation and it finally updated its guidance on 18 September 2019.¹⁴

Were the original objectives the right ones? How should they change?

13. The three objectives discussed above all good objectives but, as we have evidenced, they have not been met for many people. Without addressing the issues we have set out they will not be achieved.

¹¹ see <https://www.rightsnet.org.uk/forums/viewthread/15279>

¹² <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/the-work-of-the-secretary-of-state-for-work-and-pensions/oral/106392.html>

¹³ <https://www.nawra.org.uk/2019/07/fraudulent-universal-credit-claims-being-made-to-obtain-advance-payments/>

¹⁴ <https://www.gov.uk/guidance/universal-credit-advances#history>

14. While NAWRA agrees that people should be supported into work if that is what is right for them, the objective should be to listen to the claimant's needs and respond accordingly. UC should be about social security – ensuring people have enough to live on - support rather than sanction. The case study below highlights some of the issues –

'Claimants are often given inappropriate Claimant Commitments which pay no attention to limitations upon their ability to seek work or try work-related activities. I recently dealt with a profoundly deaf claimant whose deafness (and other serious family-related issues) was not referred to at all in the CC. The claimant states that she was told to seek work or be sanctioned, took inappropriate work as a panic measure, and owing to this suffered a breakdown. Owing to the ages of her children, and her disability, she should not have been told to seek work at all. This claimant stated that she did in fact wish to work, but only when she was well enough to do so and in a working situation that did not require telephone work or a noisy environment. Had her wishes been properly recorded and appropriate support and encouragement (as opposed to threats of sanctions) been provided, she may have been back to work and better off by now, but she remains at home, too unwell to work.'

15. There should be an objective to properly support disabled people both in and out of work. The design of UC has meant that disabled people have lost out hugely compared to the legacy system The Disability Benefits Consortium has produced a report¹⁵ setting out ten recommendations to help remove the income losses and work disincentives for disabled people that exist in UC in its current design. NAWRA fully supports all the measures put forward which would move towards mitigating some of the biggest injustices in UC and also provide some simplification. DWP's own research suggests that currently the benefits system incentivises individuals to avoid engaging with the DWP for work-related support due to the high risks involved.¹⁶

What have been the positive and negative economic effects of universal credit?

16. NAWRA believes that there have been wide-ranging negative economic effects of universal credit. By reducing incomes (through cuts as set out in points at 17 below) and increasing pressures (conditionality and sanctions) the health and wellbeing of claimants and their families has been adversely affected. This has led to increased demands in other areas such as health services, housing, social care and education.
17. While the growth of foodbanks demonstrates an increased community spirit, it reflects the negative economic effect that claimants do not have enough to buy the essentials, let alone any luxuries, and that will impact on local businesses.

What effect has fiscal retrenchment had on the ability of universal credit to successfully deliver its objectives?

¹⁵ <https://disabilitybenefitsconsortium.wordpress.com/2019/10/18/dbc-launches-new-report-on-universal-credit/>

¹⁶ <https://www.gov.uk/government/publications/work-aspirations-and-support-needs-of-claimants-in-the-esa-support-group-and-universal-credit-equivalent>

18. Fiscal retrenchment has negatively impacted on the ability of UC to meet its objectives because –
- The four year freeze on benefits has meant that people do not have enough to live off – not only does this impact massively on their health and wellbeing¹⁷ but also on their ability to work search effectively.
 - The freeze on local housing allowance has meant that very few rents (in some areas no rents) are affordable meaning claimants have to use some of their money meant for living expenses on housing costs or fall into arrears.
 - The benefit cap and two child policy means that universal credit is not meeting the basic needs that a household needs to live off exacerbating the above two points even further.
 - The removal of the LCW element has reduced the income of disabled people again impacting on health and wellbeing and affecting ability to move back towards work.
 - The removal of additional payments with long-term disabilities (linked to PIP) as compared to the legacy system also adds to the impoverishment of disabled people.
 - The removal or reduction of the work allowances taking away or minimizing work incentives for many people.
 - No pensioner premium equivalent for mixed age couples and so failing to reflect increased needs of older people.
 - The loss of the original UC plans of an all inclusive taper of 55%, in favour of 63%, plus council tax reduction tapers has made it both harder for work to pay and less clear to see when it does.

Which claimants have benefited most from the universal credit reforms and which have lost out?

19. Claimants who have benefited from UC reforms are –
- people without disabilities or vulnerabilities; **and**
 - who are digitally literate; **and**
 - whose housing costs are within the local housing allowance; **and**
 - who either have regular work or are in temporary and variable work where wage information is collected reliably via the Real Time Information system; **and**
 - have the resources to manage monthly budgeting.
20. Claimants who have lost out include those who are –
- Disabled claimants in and out of work
 - Families with disabled children
 - Vulnerable
 - Self-employed
 - Lone parents
 - In abusive relationships
 - Larger families
 - Not digitally literate
 - Mixed age couples (those where one member is above pension age and one below)
 - Disabled students (no automatic eligibility as in legacy benefits but have to complete LCW/LCWRA assessment)

¹⁷ see for example <http://www.instituteofhealthequity.org/resources-reports/marmot-review-10-years-on/marmot-review-10-years-on-full-report.pdf>

- Without resources to manage the five week wait – if an advance is needed the claimant is in debt from the start and struggles to manage

21. A discussion thread on rightsnet sets out many of the less obvious ways in which claimants have lost out.¹⁸

How has the world of work changed since the introduction of universal credit? Does universal credit's design adequately reflect the reality of low-paid work?

22. There is more uncertainty in work – more temporary contracts, more zero hours contracts. For claimants who are able to deal with UC (see 18 above) then UC responds well as, being one benefit, there is no need to stop and start claims, and the award can go up and down in response to changing wages.
23. However, UC does not reflect the reality of low-paid work, most of which is not paid monthly so does not fit well with the monthly assessment period.
24. Additionally, claimant commitments often expect claimants to spend 35 hours looking for work and 'to cold call employers' or 'hand in CVs'. Large organisations do not recruit people in this way and expecting claimants to do that is putting undue pressure on them, and reducing their confidence as it will inevitably lead to rejection. The support to find work does not appear to be realistic. For people who are a long way from the labour market, more genuine support and handholding is required. For many there may not be the jobs available to match their experience due to the changing job market eg less industrial work, more work requiring digital skills. The caseloads of work coaches is very high and, however well-meaning, they often do not have time to provide the necessary support. This is likely to get worse as the service is scaled up.
25. UC fails to take into account the reality of self-employed work which may have uneven cashflow, and where claimants may work very hard and yet not take home the equivalent of the minimum wage. Also the requirement to report incomings/outgoings monthly, which does not tie in with reporting to HMRC is an added administrative burden. Imposition of the MIF is forcing people out of work when their chances of getting other work may not be high. There needs to be recognition that low paid self employment can be worthwhile to do, and support given to enable people to build on their self-employment rather than sending them into hardship.

If universal credit does not adequately reflect the lived experiences of low-paid work, how should it be reformed?

26. A number of reforms are needed including –
- Remove the MIF.
 - Acknowledge the temporary and changing nature of the job market and be realistic about jobseeking so that claimants are only encouraged to apply for jobs where there is a realistic chance of being successful.
 - Recognise that as people reach retirement age, full-time work may not be appropriate, eg for health or caring reasons, and have more flexibility on expectations for that claimant group.

¹⁸ <https://www.rightsnet.org.uk/forums/viewthread/15598>

- Implement the judgment in *R (on the application of Johnson and others) v Secretary of State For Work and Pensions* [2019] EWHC 23 (Admin)¹⁹, as opposed to appealing it further, and allow flexibility as to what assessment period earnings are assigned to so that income stream remains steady.
- Those recommended by reports including that of the Disability Benefits Consortium (see point 15) and CPAG²⁰.

Conclusion

27. While UC may work well for the majority of claimants at present, NAWRA believes that it is not working well for a very significant minority, and that the proportion of claimants that it does not work for will only increase when managed migration starts, and the numbers of vulnerable claimants increases.
28. The UC system in its current state is complex and inflexible, and causes unnecessary hardship and suffering. Good work is done within it, but often by imaginative workarounds in spite of it rather than because of UC approaches. NAWRA believes that a substantial overhaul is needed before the most vulnerable claimants are migrated.

28 February 2020

¹⁹ <https://www.bailii.org/ew/cases/EWHC/Admin/2019/23.html>

²⁰ <https://cpag.org.uk/policy-and-campaigns/report/computer-says-no-stage-one-information-provision> and <https://cpag.org.uk/policy-and-campaigns/report/computer-says-no-stage-two-challenging-decisions>