Written evidence from Mr Gareth Morgan [UCW0016]

Summary

1. Although envisaged as a simplification of the previous benefits system, Universal Credit has become an extremely complex, and increasingly complicated, benefit. Changes to its design and structure have proven to have unintended, and unforeseen, consequences and we should, therefore, be cautious about far-reaching changes.

2. The suggestions in this submission have been carefully examined in order to minimise consequential effects.

3. The proposal has a dual effect, which would reduce, and in many cases remove two Universal Credit issues which seriously affect many claimants:
    a. The five-week wait before the first payment of Universal Credit is received
    b. The rigid Universal Credit treatment of earnings, because they are taken into account on the day received, which frequently causes extremely irregular amounts of benefit to be paid.

4. The proposal makes use of existing data, delivered through the HMRC RTI system, and could thus be delivered entirely within DWP control.

5. The current earnings assessment, using any earnings received during an assessment period, often leads to additional weeks or months earnings being taken into account in some assessment periods, leading to large fluctuations in benefit.

6. This proposal suggests moving to an easily assessed day-rate, which would reflect in-month changes, with a following month reconciliation, where necessary, which would be unlikely to cause difficulty.

7. This day-rate could be estimated on the day of claim, for the first month, and thus a Universal Credit payment could be made immediately

Ferret and Gareth Morgan

8. Ferret Information Systems, founded originally as a Citizens' Advice Bureau project in 1981, works in the area of welfare benefits, producing advice and assessment systems, training in benefits law and practice and carries out modelling and consultancy in areas of social welfare law.

9. Gareth Morgan focuses on assessing the impacts of changes to the benefits system, in particular, the ways in which the broader tax and benefits systems interact with citizens' day to day circumstances, their financial decisions and options and the resultant effects. His Blog https://benefitsinthefuture.com/ has been following and commenting on the development of Universal Credit since the publication of the Welfare Reform Bill in February 2011. He is also chair of Welfare Rights Advisers Cymru, the umbrella body for benefits advisers in Wales and a committee member of the National Association of Welfare Rights Advisers.

The Issues

10. The consequences of the five-week wait before the first payment of Universal Credit have been explored exhaustively and are well known. I shall not look at them in detail here.

11. The reasons behind the method by which Universal Credit takes circumstances of regular income and housing expenditure and converts them into a regular income have not been so widely examined, so I describe them in this note.

12. When considering whether there was a practical way in which these issues could be addressed, I limited the available options to those which seemed workable. Those constraints are that:
    - it can be done with existing data
    - it permits an immediate assessment of entitlement so that an early payment can be made
    - it smooths the Universal Credit assessment over varying pay periods

13. I also took account of the 'Johnson case'[1] where the High Court found

> *On a proper interpretation of regulation 54 of the 2013 Regulations, read in context, the amount of the earned income of a claimant in respect of an assessment period is to be based on, but will not necessarily be the same as, the amount of earned income actually received in that assessment period. There will need to be an adjustment where, as in the present case, the claimants actually received two months' salary in one assessment period but the combined salaries do not, in fact, constitute earned income in respect of the period of time included in that assessment period. The defendant, therefore, erred in treating the combined salary for those two months' as earned income in respect of that assessment period for the purposes of calculating the amount of universal credit payable.*

14. Although the government have been given leave to appeal this decision, I wanted to respect the logic of the court's findings, which meant that I excluded averaging over longer periods.

The proposal

15. The five-week wait affects new claims for Universal Credit. The majority of these claims will be made because the claimant's circumstances have changed. That change may be to the composition or circumstances of the family; for example, who is in the household or their health conditions. The change may be because of changes in financial circumstance, starting or finishing employment or they may have been a change in circumstance which has 'naturally migrated 'them from another benefit.

16. In all these cases, two core assessments must be made
    - the needs of the household
    - the resources of the household

17. The needs of the household will tend to be steady. Relatively few households will see changes during the first month of a claim, except perhaps for the birth of the child. Rent is

[1] https://www.judiciary.uk/wp-content/uploads/2019/01/johnson-and-others-judgment-final.pdf

already assessed by averaging over 12 months. The assessment of needs, currently set for the whole assessment period by the circumstances on the last day, could, in many ways more easily, be those of the day of claim or the first day of the period.

18. Many resources will tend to be constant; the exception being earnings. The current design of Universal Credit takes all earnings received within an assessment period into account. This appears to be the fundamental justification for making no payment, other than an advance, during the first five weeks. It may be claimed that this is the most accurate method of calculation, but the consequences are severe, and the accuracy undermined, in particular, by employers errors in submitting RTI data to HMRC.

19. For those with no earnings, there seems to be little justification in not using their circumstances at the date of claim, as the resources for an initial assessment.

20. For those who are entering employment, there will be a confidence, or an expectation, of earnings over the first claim period. Universal Credit is assessed net of income tax and National Insurance but there is already a process within the benefit, for estimating this for self-employed earnings, which could be used, and the calculation is not difficult. Where employment starts, stops or changes during the month, the day-pay method suggested here copes more easily with the changes than the current system.

21. For those already in employment, and for continuing claims, it is worth looking in more detail at the current process and its consequences.

22. The existing data, for people in employment, consists of that passed across to HMRC by the employer and HMRC's calculation of tax and National Insurance (NI), which together provide the net income figure used by DWP. Other income and expenditure, such as pension contributions, fall outside this exercise.

23. The employer submits, using a payroll software package, a Full Payment Submission (FPS) to HMRC on or before the date an employee is paid. This provides details of the employee, their pay and deductions. Employers and pension providers have to send an FPS 'on or before' they make a payment to an employee.
24. The relevant fields, and field numbers, in the FPS are shown in table 1 below

41A Taxable pay to date	41B Total tax to date	42 Pay frequency	43 Payment Date	48 Number of earnings period(s) covered by payment	58 Taxable pay in this pay period	60 Value of benefits in kind on which PAYE has been operated,

Table 1

25. The employer submits gross taxable pay which HMRC passes across to DWP after deducting tax and NI. For my examples, I have assumed that the pay is in respect of a period ending on the payment date. While there have been many concerns about employers incorrectly using the date in field 43, to record the date that they make their payment to the employee, the correct usage is to enter the date that pay is due. This removes problems caused by such issues as weekends and bank holidays. HMRC guidance is clear.

You must enter the usual date that you pay your employees, even if you pay them earlier or later. For example, if you pay your employees early because your usual payday falls on a Bank Holiday, you should still enter your regular payday.

Early reporting

You can send an FPS before your regular payday, for example if your payroll staff are going on holiday.[2]

26. These data items mean that I have been able in my modelling to assess the dates for which pay is made, assuming that it ends on the date submitted. From that, I can determine the number of days falling within each assessment period (AP) for each pay period. That gives me the number of paid-days in total within each AP. I use a rather crude calculation for the

Figure 1

day rate of:

27. This generates what I call the Day-Pay Rate (DPR), which is the daily net pay for that pay period. It's important to stress that there may be different pay periods, varying in length or rate of pay, running within, or across, APs and thus each with potentially different DPR's.

28. If HMRC collected the start and end dates of the period for which he has been made, it would enable a much more accurate assignment of earnings, for example, a common practice is to make a payment on the 25th of the month for a period covering from the 1st to the 30th. Many software products collect and use the dates, for assessing maternity pay dates for example.

29. The current system of assessing earnings within an AP generates irregularity from a regular pattern of earnings because of its inflexibility. It takes account only of the date paid. Because of that, within the calendar month, which may start on any day of the month, there can only be whole pay periods used within the assessment. Table 2 shows the rigid results that creates.

Pay period	**Number of periods used**
Weekly	Four weeks or five weeks

[2] https://www.gov.uk/running-payroll/reporting-to-hmrc

Two weekly	Four weeks or six weeks
Four weekly	Four weeks or eight weeks
Monthly	Zero, one or two months depending upon the date of pay and date of UC claim

Table 2

30. Contrast that with table 3 which shows that it is possible, given existing data, to place the number of days within weekly pay periods into a UC AP.

Person 2	W1								
Payment Date	Frequency	no of periods	start date	days	AP1	Ap2	AP3	AP4	AP5
03/01/2020	W1	1	28/12/2019	7	3	0	0	0	0
10/01/2020	W1	1	04/01/2020	7	7	0	0	0	0
17/01/2020	W1	1	11/01/2020	7	7	0	0	0	0
24/01/2020	W1	1	18/01/2020	7	7	0	0	0	0
31/01/2020	W1	1	25/01/2020	7	7	0	0	0	0
07/02/2020	W1	1	01/02/2020	7	0	7	0	0	0
14/02/2020	W1	1	08/02/2020	7	0	7	0	0	0
21/02/2020	W1	1	15/02/2020	7	0	7	0	0	0
28/02/2020	W1	1	22/02/2020	7	0	7	0	0	0
06/03/2020	W1	1	29/02/2020	7	0	1	6	0	0
13/03/2020	W1	1	07/03/2020	7	0	0	7	0	0
20/03/2020	W1	1	14/03/2020	7	0	0	7	0	0
27/03/2020	W1	1	21/03/2020	7	0	0	7	0	0
03/04/2020	W1	1	28/03/2020	7	0	0	4	3	0
10/04/2020	W1	1	04/04/2020	7	0	0	0	7	0
17/04/2020	W1	1	11/04/2020	7	0	0	0	7	0
24/04/2020	W1	1	18/04/2020	7	0	0	0	7	0
01/05/2020	W1	1	25/04/2020	7	0	0	0	6	1

Table 3

31. The matrix shows, in the columns, the days within each assessment period which are composed of days within pay periods and, in the rows for each pay period, how many DPR's fall into each assessment period.

32. Table 4 shows the same for a monthly cycle.

Person 1	LWD									
Payment Date	Frequency	no of periods	start date	days	AP1	Ap2	AP3	AP4	AP5	AP6
29/12/2019	LWD	1	30/11/2019	30	0	0	0	0	0	0
29/01/2020	LWD	1	30/12/2019	31	29	0	0	0	0	0
28/02/2020	LWD	1	30/01/2020	30	2	28	0	0	0	0
28/03/2020	LWD	1	29/02/2020	29	0	1	28	0	0	0
28/04/2020	LWD	1	29/03/2020	31	0	0	3	28	0	0
28/05/2020	LWD	1	29/04/2020	30	0	0	0	2	28	0
28/06/2020	LWD	1	29/05/2020	31	0	0	0	0	3	28
28/07/2020	LWD	1	29/06/2020	30	0	0	0	0	0	2

Table 4

33. This approach brings a number of advantages over the current system. Where people are regularly paid, and will therefore have consistent DPR, the assessment period will simply

have that rate times the number of days in the period. Under the current system there can be anything from no days pay to 62 days pay used in the assessment. People are paid three monthly, six monthly or annually, as payroll systems permit, the situation can be even worse, as all the pay is compressed into one assessment period. Although employers have to calculate their own day rate sometimes, for example when people start or leave employment mid-month, this is not passed to HMRC.

34. Where pay or periods are not regular, the DPR approach deals much more satisfactorily with changes in dates of pay or in amounts of earnings (see responsiveness later). This approach works particularly well for couples with different pay cycles where the current system may produce exaggerated differences.

35. Figure 2, below, shows the current Universal Credit entitlement for the couple in the previous post. They both work on the 2019/20 National Minimum Wage level of £8.21 an hour. One works for 35 hours a week, paid monthly, and the other works for 10 hours a week paid weekly. They have two children and pay rent to a social landlord of £150 a week.

36. The full-time worker is paid £1116.31 a month net and the part-time worker earns £355.77 a month net. Their rent works out to £650 a month. On the basis of those figures, they would be entitled to £907.70 Universal Credit every month.

37. That would leave them with £1,779.78 after paying their rent. Having consistent income and outgoings would make their budgeting and planning much easier.

38. Under the current rules, using all income received during the assessment period, their earnings are treated as being irregular, because the weekly paid worker will have either four or five pay days in each period and the monthly worker will have no paydays one payday or two paydays, because they are paid on the last working day of the month and the Universal Credit claim was also made at the end of the month. The very large difference in earnings used, month-to-month, creates a consequential large difference in Universal Credit.

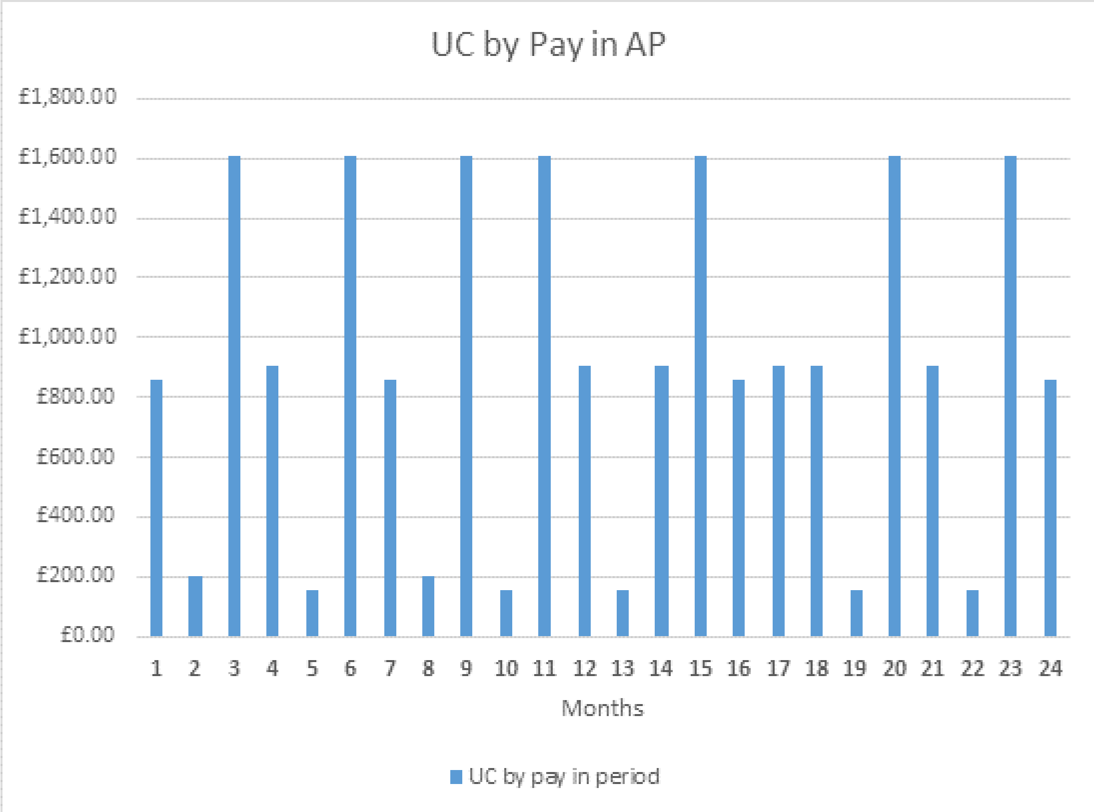
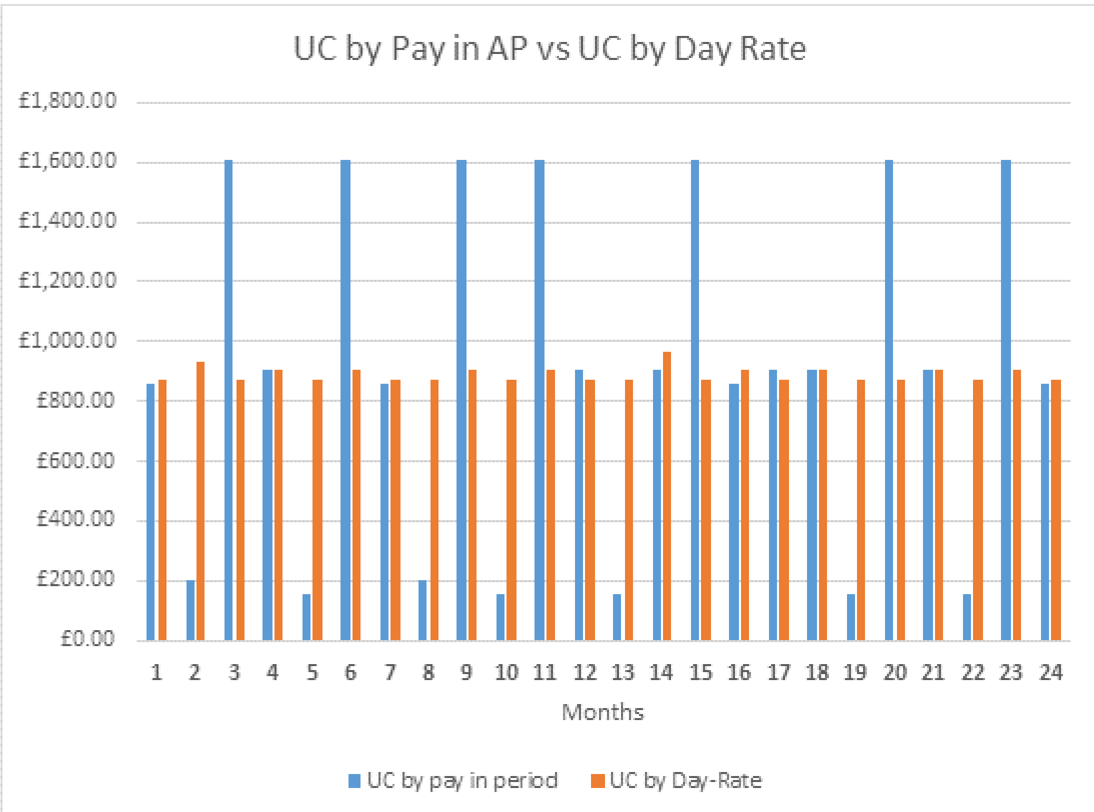


Figure 2

39. Using a day-rate calculation instead, smooths the entitlement almost entirely as shown in figure 3. The small variations are due to the varying number of days in the AP.
40. For reasons best known to themselves, but probably the assumption that housing costs are more predictable, Universal Credit takes rent into account by assessing an annual total and dividing by 12. For people with weekly rent cycles this can mean that they will have either four or five rent days in each AP and the Universal Credit assessment will use a figure slightly more than four weekly rent amounts.



41. Figure 4 shows the current and day rate income, from earnings and Universal Credit, that is left after meeting the rent payments in each AP.

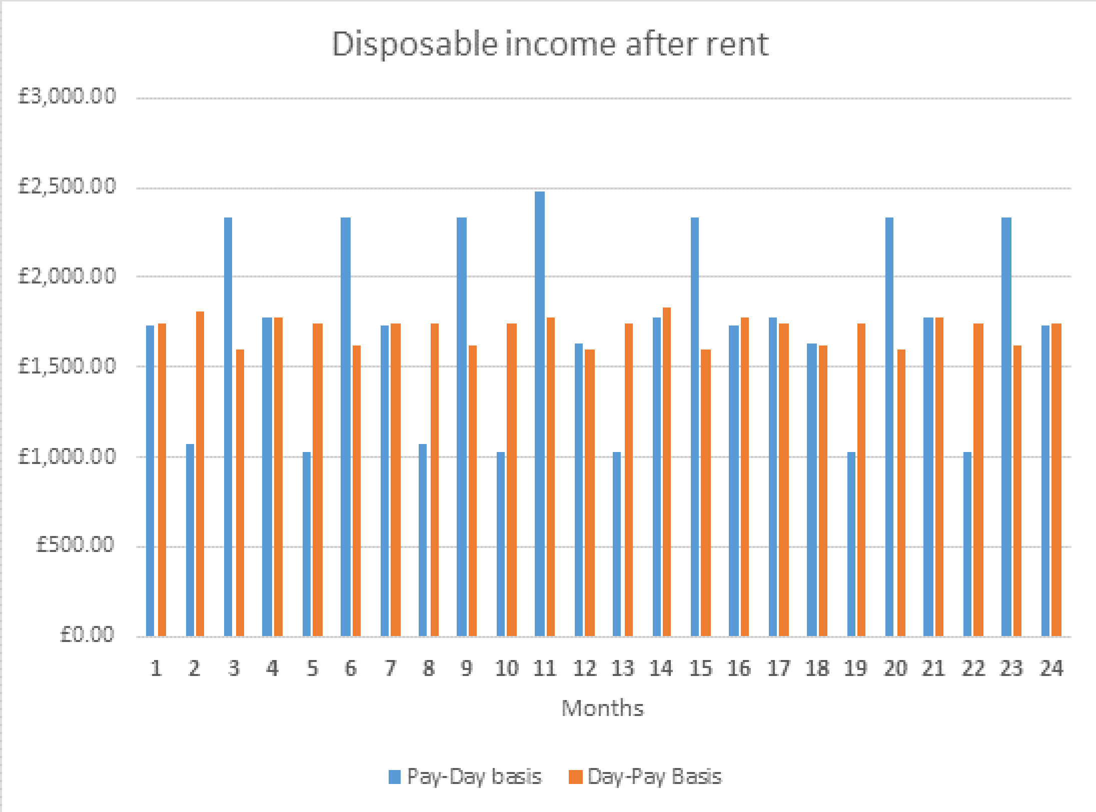


Figure 4

42. It is clear that, even after the variations caused by the number of rent days, the resultant disposable income is much more even, easily understood and amenable to budgeting and planning.

Irregular earnings and periods

43. The day rate approach is not limited to regular periods or regular earnings. It works very well as a method of assessing periods of different lengths and of different, or no, earnings. The example in table 5 shows some output from my model with these variations.

Person 1													
Payment Date	Frequency	no of periods	start date	days	Net Pay	Day Rate	AP1	Ap2	AP3	AP4	AP5	AP6	AP7
29/12/2019	LWD	1	30/11/2019	30	£1,000.00	£33.33	0	0	0	0	0	0	
05/01/2020	w1	1	30/12/2019	7	£200.00	£28.57	5	0	0	0	0	0	
19/01/2020	w2	1	06/01/2020	14	£300.00	£21.43	14	0	0	0	0	0	
26/01/2020	w1	1	20/01/2020	7	£0.00	£0.00	7	0	0	0	0	0	
02/02/2020	w1	1	27/01/2020	7	£400.00	£57.14	5	2	0	0	0	0	
09/02/2020	w1	1	03/02/2020	7	£150.00	£21.43	0	7	0	0	0	0	
09/03/2020	m1	1	10/02/2020	29	£1,200.00	£41.38	0	20	9	0	0	0	
09/06/2020	m3	1	10/03/2020	92	£3,500.00	£38.04	0	0	22	30	31	9	
09/07/2020	LWD	1	10/06/2020	30	£1,200.00	£40.00	0	0	0	0	0	21	
09/08/2020	LWD	1	10/07/2020	31	£850.00	£27.42	0	0	0	0	0	0	
[illegible]	[illegible]	1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	0	
09/11/2028	LWD	1	10/10/2028	31	£1,200.00	£38.71	0	0	0	0	0	0	
09/12/2028	LWD	1	10/11/2028	30	£1,200.00	£40.00	0	0	0	0	0	0	
					Days		31	29	31	30	31	30	3
					AP Pay		£728.57	£1,091.87	£1,209.37	£1,141.30	£1,179.35	£1,182.39	£96

Table 5

44. Different frequencies of payment are shown in the table, ranging from weekly to 3 monthly and including two weekly, calendar monthly and last working day payments. Each of these has a separately calculated day rate and the number of days in each assessment period, at the relevant day rate, is used to determine total net pay within the AP.

45. It is likely that there could be a smoothing effect from this approach, but varying earnings within a means tested benefit must be reflected in the amount payable.

Reconciliation

46. The glaring problem of this approach is, of course, that the income, taken into account in an assessment period, may not actually have been paid, or even earned, yet.

47. That means that an assessment may need to use an estimated day rate for some of the assessment period. This estimation will be particularly important for the first assessment period of a new claim but there is little evidence that unrealistic expectations of employed earnings will be made.

48. That is unlikely to be difficult in practice where, as in most of these examples, pay rates and periods are regular but a move to a day-pay assessment would need to be applicable across the wide range of earnings and pay periods that can exist.

49. That will inevitably mean some form of reconciliation, where the estimated day rates differ from the actual amounts paid later. The estimated rate could be derived from a period of past earnings that was long enough to reflect patterns of employment, such as seasonality. In new employment, or changed pay or hours, the expected pay could be used. Even the

worker's expectations, particularly, for self-employment could be used, as it is, effectively, in tax credits. Reconciliation could also take place over a more extended period.

50. This is the approach that has been used with Tax Credits for many years. Implementing it within the monthly AP can be expected to make the assessment more responsive to change. To an extent, this already happens, for example, employers use the previous 52 weeks' pay to determine the value of a week's holiday pay.

51. The issue is more difficult with self-employed earnings where it can be very difficult to attribute earnings to a particular period. In Universal Credit it's also necessary to decide on a tax and NI figure that leaves net earnings in the assessment, unlike tax credits where gross earnings are used. Universal Credit's 'all-income' vs 'all expenses' approach also means that expenditure has to be assigned to an AP as well. A longer period of estimation and assessment may be the only practical approach.

Responsiveness

52. Universal Credit, although intended originally to quickly reflect changes in earnings and circumstance, is poor at responding to such changes. It depends upon a single day's snapshot of circumstances during the month, as well as its crude capture of all payments within that period.

53. Its harsh rigidity takes little account of possible patterns of life and work outside its monthly ideal. It is clear that attempting to impose this ideal on people, especially the self-employed, with irregular employment or earnings can be even more baffling than the effect it can have on those in regular circumstances.

54. Recognising and responding to such variances quickly will be particularly important over the next months as the coronavirus impacts continue.

55. One very important advantage that would come if the principle of future estimation, and subsequent reconciliation were accepted would be that the five-week wait would no longer be required. Estimations of earnings and income, including Statutory Sick Pay, New Style ESA and other support could be used as the basis for immediate assessment and rapid payment of Universal Credit.

Conclusion

56. Universal Credit is struggling. It struggles to meet the needs of those it supports who, rightly, are often baffled by the amounts they receive, even after they have succeeded in claiming and waited for their payment. The DWP is struggling with administration and systems. Those who provide support and advice to claimants are struggling with insufficient resources and poor access to officials.

57. The current crisis can only make things much worse, and support system will inevitably have to change to meet the needs of the time. My suggestion undoubtedly has flaws and difficulties but I do not think that they will be unsurmountable or challenging to solve. I believe that it is possible that this change to assessment methods could be made quickly, and relatively easily.

58. I believe that the adoption of a day rate system, with generally small reconciliation within the following month, will allow an immediate payment of Universal Credit, without the five week wait, and will go on to smooth payments, regardless of pay cycles, for the continuing claim, and I hope that the committee will consider the proposal carefully.

April 2020