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UNIVERSAL CREDIT UPDATE – Briefing for Unions - January 2019

Universal Credit Update

Has there been an overhaul or reset of Universal Credit? Despite some fanfare over the latest tweaks to the policy, the answer is no, it is business as usual with Universal Credit.

Just before Parliament returned from the Christmas break, there were welcome headlines suggesting the next stage of Universal Credit (UC) rollout was to be scaled back following a major Government rethink. The reality, however, was that there was no U turn on UC, merely a confirmation of Esther McVey's November announcement[1] that only 10,000 people will be migrating from legacy benefits to UC (known as managed migration) from July 2019, with the roll-out of managed migration to increase from 2020 onwards. There would be no change to the timetable of completing managed migration of UC by December 2023. The only new news was the delay in passing the managed migration regulations in Parliament, with Government now intending to initially seek powers for the 10,000 pilot of UC only.

While the recent focus has been on the relatively small number of claimants to be moved from legacy benefits to UC later this year, this underplays the total number of claimants who will be on UC this year. UC has now been rolled out to all jobcentres and there are already 1.4 million claimants on UC who have 'naturally migrated'. This is the language used when a claimant receives UC because they are making a new claim or have experienced a change of circumstances. It is expected around 1.6 million claimants will naturally migrate over 2019, so by 2020 there will be around 3 million claimants of UC. This is no small number.

Later details confirmed the replacing of the current regulations laid before the House, with two separate Statutory Instruments in January.

- The first a negative Statutory Instrument to provide for the Severe Disability Premium Gateway. This prevents legacy claimants who are in receipt of the Severe Disability Premium from moving naturally to Universal Credit and allows them to continue to claim legacy benefits until they are moved over as part of the managed migration process, when they can get transitional protection.
- The second was an affirmative Statutory Instrument, the new draft regulations were for the 10,000 pilot of managed migration of UC commencing in July 2019. These are still to be debated.

A later speech by Secretary of State for Work and Pensions Amber Rudd equally lacked in substantive changes.[2] The new news included a few changes to child care support. Jobcentres were instructed that if the initial upfront month's childcare costs prevent a claimant from starting work, the discretionary Flexible Support Fund should be used to help

[1] https://hansard.parliament.uk/Commons/2018-11-05/debates/D15809FF-EAF7-4556-9552-BFD6E05EA9EB/UniversalCredit

[2] https://www.gov.uk/government/speeches/universal-credit-personal-welfare

smooth the transition for this priority group. And secondly, they were told to be flexible when parents are unable to report their childcare costs immediately, so that these costs will be reimbursed.

These changes to child care support do not address the fundamental design flaw of families having to cover massive upfront child care costs every month before claiming them back. Many of affected households are in precarious financial positions which the move to UC could exacerbate.

Rudd's speech also confirmed the announcement which had been trailed earlier in the morning on the cancellation of the extension of the two-child policy. To be clear, this is not cancelling the policy itself, only the scheduled plan of applying the two-child limit to families applying for UC who had their children before the cap was announced – in-effect children born before April 2017. This will only help 15,000 families.

The financial cost of the two-child policy to a family is up to £2,780 in child tax credit for each extra child, and its introduction will inevitably increase child poverty. Previous analysis shows the two-child policy will lead to an extra 200,000 children in poverty.[3]

The more noteworthy announcement in the speech was about household payments going directly to the main carer, which is usually the woman. We would welcome more detail on this.

There was also an announcement of some flexibility on payments. The department would build an online system for private landlords, so they can request for their tenant's rent to be paid directly to them. Further support could also be provided to those who find monthly payments hard to manage, as job centres will do some pilots on how to improve the provision of more frequent payments.

This does not solve the problems caused by the five-week wait for the initial UC payment or the rigid monthly assessment period which is highly complex and can cause large fluctuations in the amount of UC received. The monthly assessment periods are set arbitrarily, based on the date of a claim, rather than being aligned with pay cycles. Those paid non-monthly wages may earn a sufficient amount to take them over the earnings threshold for UC altogether in a single period, for example, where two four-weekly wage packets happen to fall in a single assessment period). And if a claimant is paid early because of a weekend or bank holiday the system counts this as having been paid twice in that month and therefore reduces or withdraws UC.

On the same day as, Amber Rudd's speech the High Court found this system of assessing income to be unlawful. The judicial review case, brought by Child Poverty Action Group and solicitors Leigh Day on behalf of four lone mothers, challenged the rigid, automated assessment system in universal credit.

The judges ruled that the DWP has been wrongly interpreting the universal credit regulations. They said in the government's treatment of claimants as earning twice as much as they do if they happen to receive two pay cheques in one monthly assessment period,

3 http://cpag.org.uk/content/austerity-generation-impact-decade-cuts-family-incomes-and-child-poverty

and as having no earnings in the next assessment period is "odd in the extreme" and "…. could be said to lead to nonsensical situations".

They added that the DWP's incorrect interpretation of the regulations had caused "…severe cash flow problems for the claimants living as they do on low incomes with little or no savings". [4]

This high court ruling was the significant news that day and not the Secretary of State's speech. We await to hear from the DWP.

The ruling is further evidence of the shortcomings of the design of UC and the suffering it is causing. So why is the roll out of UC going ahead when the experience so far has been shambolic? We have reported extensively on the problems within UC.

Fundamental problems within Universal Credit

- **There is a payment gap for the first payment built in to UC**. The 2017 Budget reduced the waiting time from six to five weeks. This is still unacceptably long. And there is no rationale for a five-week wait in payment other than to save money

  The DWP's response to the delay that claimants can get a repayable advance payment does not resolve the fundamental issues within UC. And advances have to be paid back from UC payments.

  The two weeks of legacy benefits run-on announced in Budget 2018 will not cover five weeks of living costs, and this measure does not include tax credits run-on, and will only apply from July 2020.

- **Delays in receiving the first payment are common**. The five-week wait is the minimum wait time for the first payment. The National Audit Office (NAO) reported that in March 2018, 21 per cent of new claimants did not receive their full entitlement on time and 13 per cent received no payment on time. [5]
- **The complex online application process is difficult for claimants**. The DWP's own survey showed only half (54 per cent) of claimants were able to register their claim online unassisted, with a further fifth (21 per cent) completing it online but with help.[6]
- **The model is based on the idea that people get paid monthly - which many do not in real life.** Rigid monthly assessment periods do not work for everyone.
- **Money has been taken out of UC.** The 2015 summer Budget reduced work allowances by £3 billion, and the recent Budget only partially restored this by £1.7 billion. In addition, the 2015 summer budget froze benefit levels and reduced support to families with more than two children.

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[4] http://cpag.org.uk/content/high-court-finds-dwp-unlawful-universal-credit-assessments

[5] https://www.nao.org.uk/report/rolling-out-universal-credit/

[6] https://www.gov.uk/government/publications/universal-credit-full-service-claimant-survey

- **If the aim of UC is to make work pay, the taper rate (the rate at which benefits are reduced as income from work rises) needs to be looked at.** And second earners, who are often women, miss out on the entitlement to a work allowance as it is only paid to one person in the household.
- **Families with a self-employed earner will face reductions in the level of support they receive on UC if they do not meet the 'Minimum Income Floor' (MIF).** This requires them to earn the equivalent of 35 hours a week at the National Minimum Wage. This financial saving to the Treasury is in effect coming out of the pockets of the low-paid self-employed.
- **We are also seriously concerned about the process of managed migration.**
  - Rather than automatic migration as the process of 'managed migration' suggests, the process requires claimants to end an existing claim and making a completely new claim.
  - The process of managed migration places the responsibility for transferring to UC from legacy benefit on the claimant. This will cause considerable stress and anxiety to some claimants. If they are unable to understand and follow the UC rules, claimants can find their legacy benefits have ceased and they have no new benefit to move on to. While the DWP claim that this will not happen to those who are vulnerable, we question how they guarantee this under the regulations as they stand.

UC is causing severe hardship. In areas where it has been rolled out, there are more people turning to foodbanks, falling into rent arrears, getting into problem debt and suffering from physical and mental health problems.

Amber Rudd says "the overall product that is Universal Credit is absolutely compassionate… Some of the criticisms that have come from various publications have been based on one or two particular individuals where the advice hasn't worked for them."[7]

The evidence of the effects of UC seriously contradicts the Secretary of State.

The UN Special Rapporteur on extreme poverty and human rights on his visit to the UK said

"I have heard countless stories from people who told me of the severe hardships they have suffered under Universal Credit. When asked about these problems, Government ministers were almost entirely dismissive…"[8]

The policy and design of UC is fundamentally flawed; no amount of tinkering with the policy and design can fix it. The roll out of UC (whether this be natural or managed migration) needs to stop immediately, and the policy scrapped before it does any more damage.

[7] https://www.mirror.co.uk/news/politics/tory-amber-rudd-suggests-heartbreaking-13843492
[8] https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881&LangID=E

We are looking for feedback on experiences of Universal Credit – especially for those who are in work. Please contact Anjum Klair – email aklair@tuc.org.uk
Unfortunately, the TUC is not in a position to give welfare/legal advice on individual cases