



Early Warning System report – Universal Credit

The Early Warning System was developed by Child Poverty Action Group (CPAG) in Scotland to collect and analyse case evidence about how social security changes are affecting the wellbeing of children, their families, and the communities and services that support them. This briefing provides an overview of evidence in relation to universal credit (UC) from October to December 2019.

Summary of findings

Confusion about when to claim UC or the benefits it is replacing has led to some people claiming UC prematurely or missing out on benefits that they would have been entitled to, had they know which one to claim earlier.

Some claimants need expert advice to access protection from the severe disability premium gateway, including people leaving prison.

Monthly calculation of entitlement continues to cause hardship for people in work who receive variable numbers of pay packets in an assessment period due to their pay cycles.

There is considerable evidence of people being under or overpaid UC. Overpayments are particularly problematic because all overpayments are recoverable, even when caused by DWP error.

Making and maintaining UC claims online continues to be a barrier to claiming, checking their journal and providing information to DWP.

EU nationals are often refused UC that they should be entitled to, or given misleading information about entitlement.

Evidence highlights the following groups are often worse off on UC: disabled workers; disabled people who were receiving a disability premium but not the severe disability premium; people who are receiving the severe disability transitional amount at a lower rate than the severe disability premium; mixed age couples.

Recommendations

- Ensure appropriate advice is given about which benefits to claim.
- Notify claimants if they have claimed the wrong benefit promptly to ensure they do not lose out on money they would otherwise be entitled to.
- Provide tailored advice to people leaving prison.
- Expand provision and access to support for people struggling to make and maintain claims online.
- Take steps to improve accuracy of UC payments.

- Establish a way of treating earnings received in one assessment period that does not cause UC entitlement to fluctuate in a way that causes claimants financial hardship.
- Improve DWP's staff knowledge of benefit entitlement for people from abroad so that the necessary evidence can be gathered in order to make a correct decision about entitlement.
- Review the impact of UC on identified vulnerable groups.

Confusion about claiming UC or the benefits it is replacing

Early Warning System evidence highlights a number of people have been told by DWP, HMRC and local authorities to claim UC unnecessarily.

Adviser reports three cases in the last six months where claimants have reported the birth of their second child to HMRC and been told that they could no longer claim tax credits and would have to claim UC instead - which they did. #8625

Client has moved house within the same local authority and been told (wrongly) that her housing benefit (HB) will stop and she will have to claim UC. #8706

Delays in notifying people they have claimed the wrong benefit can lead to people missing out on benefits they would have been entitled to had they known to claim sooner.

A couple claimed HB after their income from employment dropped. HB did not notify them that they were not entitled and should claim UC for 3 months, leaving them with 3 months' rent arrears as UC cannot be backdated. #7732

Severe disability premium gateway

People who received the severe disability premium* in the last month are excluded from claiming UC. (*an additional amount in means-tested benefits paid to people in receipt of certain disability benefits.) However it would appear that a number of people in receipt of the severe disability premium are being advised to claim UC incorrectly.

Client stopped receiving income support (IS) after she stopped receiving carer's allowance (CA). She was advised by IS that she would have to claim UC, even though her award for IS had included the severe disability premium. When the client's adviser tried to call employment and support allowance (ESA), they also said she would have to make a claim for UC, as did the UC priority helpline. The adviser explained that this was not the case, and that the online claim would not progress once she got to the question about the severe disability premium. The UC helpline said there was no such question and re-iterated that she would have to claim UC. Adviser eventually got the ESA claim number by working her way through the UC online claim, until she got to the question about the severe disability premium that stopped the claim progressing. #8215

For people who were receiving the severe disability premium before they went to prison, expert advice on which benefits to claim on their release may determine whether they have to claim UC or the benefits that it is replacing.

DWP advised a client that she must claim UC on her release from prison as she does not currently have the severe disability premium in payment. However the client's HB continued to be paid while she was in prison and once her personal independence payment (PIP) is put back into payment, the severe disability premium will be included in her HB award. She will then be excluded from claiming UC and eligible to claim income-related ESA. If claimant were to claim UC she would be significantly worse off with no access to the transitional severe disability premium amount. #8805

People who were receiving the severe disability premium prior to moving to UC may be entitled to a transitional amount of £120 a month.

Client claimed UC pending a mandatory reconsideration of a decision stopping their ESA, which has now been overturned. The client may be entitled to a severe disability premium transitional amount, but at a lower amount than he would have been entitled to under income-related ESA. #8933

Assessment periods

UC entitlement is based on circumstances and income in a monthly assessment period. On the whole changes in circumstances are applied from the beginning of the period, regardless of when the change took place.

A single claimant died on the last day of the assessment period and as a result is not entitled to any UC for that period at all. There are some circumstances that allow a run on of UC following a death but not for single claimants. #8414

People who are paid monthly, but not on the same date each month, may receive two wages in one assessment period and none in another. The effect of receiving two wages in one assessment period is that the UC award will be reduced, or stopped - forcing the claimant to make a new claim for UC the following month.

A lone parent student is paid four weekly which means that once per year she is paid twice in the one assessment period, causing her subsequent UC payment to be reduced dramatically causing her financial hardship and to accrue rent arrears. DWP's response was 'can your employer not switch to monthly pay' which they will not. #8549

Even if the employer did switch to monthly pay, the same issue may arise, for example if someone is paid on the last Friday of the month, in March this year that will be the 27th and in April the 24th. If someone's assessment period runs from the 26th to 25th, the pay days in March and April will fall in the same assessment period.

To calculate a claimant's income, UC rely on employers reporting how much employees have been paid through 'real time information' (RTI). A number of case studies highlight reporting

RTI errors or delays causing claimants' UC to be reduced or stopped, causing financial hardship. Regulations do allow DWP to correct RTI errors, but case evidence suggests they are reluctant to do so.

Client's employer paid her in the month she started work, but failed to report it until the following month, when two months wages were reported at once. Client got not no UC the following month as a result. Client tried to dispute this with DWP but was told they had applied the policy correctly. Client would have been £152.64 better off if the wages had been apportioned over the 2 months they were actually paid. #9070

For more information on the issues of assessment period see [CPAG UK's report: Rough Justice – problems with monthly assessment of pay and circumstances](#)

Calculation wrong

UC entitlement is calculated by working out what the maximum amount of UC someone would be entitled to and reducing that in line with any income, capital and deductions. Early Warning System evidence highlights that these calculations often include errors.

The maximum amount of UC is built by adding different elements. Everyone is entitled to a standard element and depending on their circumstances may also be entitled to additional elements for housing costs, children, childcare, ill health or disability, or because they have caring responsibilities. Case studies highlight examples of elements not being included in calculations when they should be.

A client was receiving ESA including the limited capability for work component (since before April 2017) until she made a joint UC claim with her partner. She should have been awarded the limited capability for work element automatically, but was not and has been underpaid UC for a year as a result. #8974

Rules about how income and capital should be treated are not always applied correctly.

Client's UC stopped because amounts paid for redundancy and annual leave were taken into account as income, whereas the redundancy payment should have been treated as capital which would have meant the claim didn't stop. #8989

Reductions to the UC award are not always made appropriately

UC are deducting a housing costs contribution for client's adult daughter who works, but as the daughter is a joint tenant, she should not be treated as a non-dependant and therefore no deduction should be made. #8705

Client lives in a 4 bedroom house with her partner. She is receipt of PIP and her partner is receiving carer's allowance. The 'bedroom tax' should have been deducted from her UC award, but the housing costs element has been included in full. Adviser queried this and was told no deduction was taken because she is entitled to a disability benefit and her husband is entitled to a carer's benefit. There is a similar exemption for the benefit cap but not for the bedroom tax.

All overpayments are recoverable in UC even if caused by DWP error, although DWP do have the discretion not to recover. In the case above the client would be entitled to discretionary housing payments to mitigate the bedroom tax, but this may be difficult to obtain retrospectively if the overpayment is identified and recovered.

Online claims and maintenance

Case evidence continues to highlight that making and maintaining a UC claim online can be a barrier to claiming, checking and providing information.

Client is moving in with her partner who works full time, causing her ESA and HB to stop. The couple would be entitled to some UC once the limited capability for work-related activity element and carer element are included, but they are unable to submit a claim online because of the question asking if they have received the severe disability premium in the last month. The client has, but will cease to be entitled to the severe disability premium when her partner moves in and no longer be excluded by the gateway. #8830

Client claimed UC in August but was never paid any. He then claimed with his partner when they moved in together just over a month later. One partner accepted the claimant commitment, the other did not, stating that the 'to do' did not appear in the journal. It is not possible to check as the journal has been locked since the claim was refused. The decision states that they are not entitled from the date that the client made his lone claim back in August. #7844

Client's daughter took client's fit note into the Jobcentre in person and asked if her Mum could post them in future as she is registered blind and unable to get to the Jobcentre without taking a taxi which costs £14. Daughter works full time so she can't continue to hand them in. Jobcentre said they could post them, but they would most likely go missing. Client needed her daughter's help to make an online claim and will require her help anytime she has to login to her journal. The work coach has agreed there should be no work related requirements and to have phone appointments rather than in person. #9059

Benefits for people from abroad

As benefits for people from abroad is a particularly complex area of social security, it is an area that CPAG in Scotland's second tier advice line receives a lot of queries about and these high numbers are replicated in the Early Warning System.

The complexity means that EU nationals are often refused benefits that they should be entitled to, or given misleading information about entitlement.

EU national was refused UC on the basis that they do not have a right to reside. The appeal papers state that the client does not qualify as the family member of an EU national with a right to reside, however the client is married to, but separated from, an EU national. Client's wife works full time in the UK and they have a son together who is at school. She has also supported the client financially while he has had no income recently. A spouse is a family

member and case law - Diatta v Land Berlin [1985] ECR567 - confirms that separated spouses retain family member status up until divorce. #7841

EU national has been unable to sustain employment due to ill-health and is struggling to establish a right to reside that will entitle to her to means-tested benefits. UC told her she would not be entitled to UC until she had been in the UK for six months. There is no rule that says you must be in the country for 6 months in order to claim benefit. #8991

DWP have delayed acting on tribunal decisions establishing entitlement to UC

A first-tier tribunal decided two months ago that an EU national had a permanent right to reside that would entitle him to UC and calculated the backdated period for which benefit is owed. DWP has not responded, sought leave to appeal or put benefit back into payment. They have ignored requests for information about when benefit will be put back into payment. HMCTS said there is nothing they can do. #8988

Mixed age couples

Mixed age couples – a couple where one partner has reached pension age but the other partner has not.

From May 2019 most mixed age couples are not able to make a new claim for pension credit (PC) or housing benefit (HB), but have to claim UC instead. Mixed age couples who were receiving PC and HB in May can continue to do so, until entitlement to both come to an end, in which case they would then have to claim UC. This does not appear to be clearly understood.

Client was receiving PC and HB until he notified PC that his wife was off work sick and receiving statutory sick pay at which point he was incorrectly advised that he and his wife would have to claim UC as a mixed age couple. They are not entitled to any UC due to the client's pension and wife's income. PC and HB stopped when they claimed UC and cannot now be reclaimed, so the couple are significantly worse off. #8550

Clients are a couple, she has just claimed her state pension. He is on income-related ESA and HB. They have a letter from the council incorrectly stating that their HB will end when her pension starts and they'll have to claim UC. #8319

Worse off on UC than on the benefits it is replacing

There are examples in the Early Warning System of people who are better off on UC, but these are significantly outweighed by the number of examples of people who are worse off.

Premiums

Disability premiums payable in means-tested benefits do not exist in UC.

Client's Mum took him abroad on holiday for a fortnight. He had been receiving JSA and PIP but temporary absence from the UK meant his jobseeker's allowance stopped and he will

have to claim UC on his return leaving him £35 a week worse off a result of the loss of the disability premium. #8389

An individual cannot receive the limited capability for work or limited capability for work-related activity element and the carer's element at the same time, whereas it was possible to receive limited capability for work or limited capability for work-related activity element and the carer's premium in income-related ESA.

A couple are worse off on UC than they were on legacy benefits because one partner cannot get both the limited capability for work-related activity element and the carer element. #8940

Disabled workers

The process for disabled workers transitioning from working tax credit (WTC) to UC can leave claimants worse off, and not receiving money they could be entitled to, if they do not know to request a work capability assessment.

Client with an acquired brain injury and learning difficulty was receiving WTC (the disabled worker element) until he claimed UC early because he misunderstood a letter from HMRC. His WTC stopped and his claim for UC was refused because his earnings were too high. Adviser supported him to reclaim UC and to request a work capability assessment so that a work allowance could be included in his UC award if he is awarded the limited capability for work or limited capability for work-related activity element. #8425

For more information on this report, please contact
Kirsty McKechnie
kmckechnie@cpagscotland.org.uk
0141 611 7091