



June 2022

Briefing note for the Work and Pensions Select Committee – early insight into managed migration

Now that DWP have published the draft amending regulations which will permit the wider rollout of universal credit (UC)ⁱ we have a good early understanding of the way in which people will experience managed migration. Furthermore, CPAG has some direct experience of the way in which people managed migrated to UC will be treated by DWP.

The managed migration process will require all remaining legacy benefitⁱⁱ claimants to submit a claim for UC or, ultimately, have their benefits stopped.

DWP estimates that 1.7m people will need to be managed migrated to UC, almost half of whom will be long term ESA claimantsⁱⁱⁱ. DWP estimates that of, the 2.6 million people remaining on legacy benefits in April 2022, 900,000 would be worse off on UC and so would qualify for transitional protection if they were managed migrated to UC^{iv}. Transitional protection is an element of UC entitlement which ensures that people are not worse off at the point of managed migration, but does not protect them from being worse off at a later date. With the exception of claimants who were formerly entitled to additional amounts for severe disability in their legacy benefits, no transitional protection is payable to people who have naturally migrated to UC^v.

Transitional protection erodes when an element is added to a UC award or when an existing element increases (besides the childcare costs element). The DWP do not explain erosion of transitional protection on the current managed migration notices which makes it hard for claimants to understand when best to time their managed migration to UC. Some changes cause transitional protection to end entirely, such as relationship changes or a period of unemployment.

Erosion of transitional protection

Erosion of transitional protection as a result of annual uprating

Annual uprating of benefits erodes transitional protection. This can already be seen in cases involving the transitional severe disability premium (SDP) element.

There is no equivalent of the SDP in UC. People who naturally migrate to UC and who received the SDP^{vi} in their legacy benefits are entitled to receive a transitional SDP element to mitigate the loss^{vii}. The transitional SDP element erodes in much the same way that transitional protection for managed migration will erode. So these cases provide insight into the way in which managed migration transitional protection will work^{viii}.

‘Martin’ naturally migrated onto UC from ESA – his ESA included an SDP and so he was entitled to a transitional SDP element in his UC. On checking his UC payment statement in April he realised that his transitional SDP element had reduced. He sought advice and was told that this was because the transitional SDP element ‘erodes’ as other elements increase – his standard allowance and his LCWRA element had each increased due to annual benefit uprating and this had eroded his transitional SDP element.

The Institute for Fiscal Studies has pointed out that this will create inequality between people being managed migrated before and after annual uprating – particularly in years with high annual uprating^{ix}. Those migrated before the 2023 annual uprating, which is expected to be over 9%, will not see the benefit of the uprating as the increase will simply erode their transitional protection.

CPAG recommends that DWP amend the regulations so that transitional protection for managed migration does not erode as a result of annual uprating until everyone has been managed migrated to UC.

Erosion of transitional protection when moving to settled accommodation

Transitional protection is eroded when someone moves from temporary accommodation, or specified accommodation such as women’s refuges or accommodation for the homeless, into a ‘mainstream’ rented property. This can already be seen in cases involving the transitional SDP element (which erodes in much the same way that transitional protection for managed migration will erode).

‘Joan’ was receiving UC which included a transitional SDP element. Her health took a turn for the worse and she moved to supported accommodation. As a result her UC award no longer included a housing element (the UC housing element does not cover specified accommodation or temporary accommodation) and she started getting her housing costs covered through housing benefit. After an improvement in her health she moved again to standard accommodation which was covered through the UC housing costs element rather than housing benefit. The addition of the UC housing costs element to her award completely eroded Joan’s transitional SDP element so that she no longer had any transitional element left. Despite no significant change in the amount of housing costs she had in each property she was left much worse off.

Transitional protection erodes when a new element^x is included in the calculation of a UC award or when an existing element increases. Having the UC housing costs element (HCE) added to her UC calculation when she moved to a new home eroded Joan’s transitional protection because it was a new element. This was despite her being entitled to help with housing costs throughout the whole period covered in the case study, initially through UC, then through HB, and subsequently through UC again. Transitional protection was eroded by the full amount of the UC HCE rather than the difference between her housing benefit and her UC HCE.

The failure to account for people moving between properties covered by the UC HCE and housing benefit means that people become much worse off once they try to establish a more settled and independent way of life. Transitional protection rules should support people to become more settled and independent rather than making it more difficult to do so.

CPAG recommends that the regulations are amended so that a UC claimant moving from a property covered by housing benefit (e.g. temporary accommodation) to a property covered by the UC housing costs element does not have their transitional element eroded.

Transitional protection is eroded by changes in elements rather than changes in the overall award

Transitional protection is eroded by the amount of the new element or by the amount of the increase in the existing element – but the award itself may not have increased by that amount.

One group who will lose out because of this rule are carers who experience a deterioration in their health and become entitled to the health related limited capability for work related activity (LCWRA) element^{xi}. A UC award cannot include both a carer element and an LCWRA element in respect of the same person so the LCWRA element is included instead of the carer element (although in practice the claimant retains caring responsibilities alongside a decline in their health).

‘Maureen’, from Oxford, was receiving UC which included a transitional SDP element. She was caring for her neighbour and so her UC award included a carer element. After Maureen’s health deteriorated she was assessed as having LCWRA and the LCWRA element was included in the award. The inclusion of the new element both eroded, in its entirety, her transitional SDP element and also meant that she could no longer have the carer element included in her award (despite her continuing to care for her neighbour). The overall effect of this meant that she was almost £100 worse off each month. Maureen’s adviser notes that DWP provided no break-down of the erosion calculation, making it difficult for a claimant to understand or challenge.

The transitional element erodes by the full amount of the LCWRA element rather than the difference between the carer element and the LCWRA element, or by the difference in her award – this leaves vulnerable claimants worse off.

This problem also occurs when two or more changes affecting entitlement take place during an assessment period, where one of the changes means that elements are added or increased and one of the changes means that elements are removed or reduced. There are many possible scenarios – for example, if someone discovers they are terminally ill (and so immediately qualifies for an LCWRA element) and is moved to a smaller, more manageable, property (which is cheaper, and so reduces the housing costs element) then, under the current system the transitional element would erode by the full amount of the LCWRA element rather than by the overall increase (if any) in the award.

CPAG recommends that the regulations are amended so that transitional protection is eroded by the net change in an award rather than by the full amount of new elements added to an award.

CPAG recommends that DWP ensure that erosion of transitional protection is clearly explained and communicated to claimants on UC award statements.

Transitional protection is lost when partner dies

Transitional protection comes to an end when joint claimants cease to be a couple.

One of the scenarios in which a joint claimant ceases to be a couple is when a claimant’s partner dies. The bereaved member of the couple would not only have to deal with the loss but would also lose all

of their transitional protection. It is unclear whether the loss of the transitional protection occurs immediately or (due to the application of the run-on after death – which means that bereaved UC claimants are usually protected from an immediate drop in entitlement) after a couple of months.

CPAG recommends that the regulations are amended so that claimants do not lose their transitional protection as a result of a bereavement.

Transitional protection is lost when someone leaves an abusive partner

Transitional protection can also be lost when somebody leaves an abusive partner. Someone in this situation would immediately lose all their transitional protection at a time when they need the extra income to establish an independent life away from their abuser. This loss of income may be something which could act as a financial barrier to leaving an abusive partner.

CPAG recommends that the regulations are amended so that claimants leaving abusive partners do not lose their transitional protection.

Supporting people through the managed migration UC claim

Identifying support needs and providing appropriate support

In CPAG's experience DWP can fail to identify and properly support claimants that are struggling or to apply reasonable adjustments for disabled people when it is appropriate to do so (as required by the Equality Act 2010^{xii}). If these experiences are replicated in the managed migration process then many vulnerable and/or disabled claimants will be unsuccessful in claiming the full award or support they are entitled to.

'Tom' is 21 years old and lives in London. He receives enhanced rates of PIP and has an appointee for benefit purposes due to severe autism and disabilities. Jobcentre staff proposed a UC claimant commitment that required Tom to spend 35 hours a week looking for full time work and required him to attend weekly meetings at the jobcentre. Tom's appointee saw no option but to agree to these requirements despite them obviously being unsuitable and no reasonable adjustments having been made. It quickly became clear that Tom was unable to comply with the requirements.

The Social Security Advisory Committee (SSAC) raised safety concerns over DWP plans to require new claims for UC in all instances of managed migration. The DWP response stated the requirement would remain and that DWP's 'focus will be on safeguarding claimants' through the process^{xiii}. However, SSAC remained 'concerned by the degree to which the safeguards in the migration process depend on the Secretary of State's discretion and administrative practice, rather than as rights^{xiv}'. Tom's experience asking for adjustments indicates that shows SSAC were right to be concerned.

Tom's welfare rights adviser explained Tom's need for adjustments to conditionality and managed to achieve a reduction in Tom's expected hours of job search to 16 hours but the jobcentre work coach team leader was adamant that under no circumstances would anyone be offered lower than 16 hours despite the adviser making it clear that this was not achievable for Tom and was not reasonable. The adviser escalated the case to a DWP Advanced Customer Senior Support Leader (ACSSL) but no change resulted from this.

Around this time Tom moved to a new jobcentre area. This new jobcentre also required him to look for work for 16 hours per week and to attend weekly meetings.

DWP research shows that the planned managed migration process risks causing and exacerbating vulnerability^{xv}, Tom independence was undermined by DWP's failure to properly support him:

Due to his autism Tom is unable to use public transport. In order to attend these weekly meetings his appointee had to visit him (he cannot travel independently), involving a lengthy trip on public transport, and they had to take a taxi to the jobcentre – Tom had very little money left for other needs and so was unable to afford transport to have days out, something that had helped him to manage his conditions and feel independent. Tom's adviser stated that DWP ignored the difficulties that Tom had with travelling to the jobcentre and continued to ask him to attend the jobcentre on a weekly basis.

Eventually, Tom was supported to send a pre-action letter to DWP. In response DWP agreed to reduce Tom's expected hours from 16 hours to 4 hours per week, DWP acknowledged that it was unclear whether the Tom's work coach had given sufficient consideration' to making reasonable adjustments and agreed that all future meetings could take place by phone.

There is little information as to what support DWP will offer to claimants. The available support listed by DWP doesn't appear to involve anything specifically designed to identify, support, and safeguard disabled claimants through the migration process^{xvi}.

The Equality and Human Rights Commission (EHRC) recently expressed concern that DWP are not doing enough to ensure that disabled claimants are offered reasonable adjustments and are seeking to come to an agreement with DWP to improve the treatment of disabled benefit claimants^{xvii}. The DWP's failure to apply reasonable adjustments have also been shown in CPAG's own research – in which none of the disabled claimants interviewed had been asked by DWP about their disabilities and whether they needed reasonable adjustments^{xviii}. The DWP's plans to identify and support claimants in need of help with the migration process must be seen in this context.

The DWP's failure to provide Tom with appropriate support, despite his obvious difficulties, shows that the concerns raised by SSAC, EHRC, and CPAG are well founded.

CPAG recommends that DWP must show that they can identify support needs and safely migrate claimants to UC before limits on managed migration are removed.

Help with claiming UC and protecting the date of claim

The date of a UC claim is the date on which it is submitted – whether online or by phone. People who are unable to claim themselves can receive assistance from the Citizens Advice *Help to Claim* service, which is funded by DWP. The date of the claim is the date on which that person submits their claim regardless of whether there was a delay in getting assistance from the Help to Claim service. People who are unable to claim with help from Citizen Advice are able to receive help from DWP staff in jobcentres or through a home visit – the date of claim is the date of the request for this help rather than the date on which the claim is submitted.

'Rose', who lives in London, had her legacy benefit come to an end. She was advised by DWP to make a claim for UC and was signposted to the CAB Help to Claim service rather than offered assistance at the jobcentre. It took nearly a week before she was able to submit a claim with assistance from the CAB. The date of claim was the date that she submitted the

claim rather than the date that she requested help and was signposted to the CAB. This meant that Rose missed out on a week's worth of her entitlement.

The date of a UC claim is important, both to ensure access to transitional protection and also to avoid problems with counting wages^{xix}. A delay in accessing help from a service could make the difference between meeting a final deadline for claiming UC, and so qualifying for transitional protection, or missing that deadline and so missing out on transitional protection.

CPAG recommends that the date on which someone requests help from the CAB Help to Claim service rather than the date on which they end up submitting their claim should be the date of claim.

The need for testing, transparency, and accountability

DWP had committed to pilot managed migration 'to learn how we can best facilitate the transition – before returning to Parliament with the legislation which we will need for future managed migration'^{xx} and 'to identify the characteristics that successfully move people onto UC without resorting to stopping benefits'^{xxi}. Instead of continuing with a pilot DWP now intend to learn about managed migration through a 'discovery phase' starting with 500 claimants.

There are important differences in the promised transparency between DWP's approach to the pilot and their approach to the discovery phase. DWP planned to publish an evaluation strategy for the pilot^{xxii}, they do not plan to do so for the discovery phase. DWP planned to publish an evaluation of the pilot^{xxiii}, they do not plan to do so for the discovery phase.

The evaluation strategy would have set out key evaluation questions, and the monitoring, research and analytical methods DWP would use to evaluate the pilot^{xxiv}. The evaluation strategy was never published so Parliament cannot properly assess the results of either the pilot phase or the discovery phase against these predetermined criteria.

The evaluation of the pilot would have enabled DWP to report on the extent to which they had achieved their aims (as set out in the evaluation strategy), and also to understand how they could improve the design and delivery of managed migration^{xxv}. Without the publication of an evaluation strategy and an evaluation Parliament cannot hold DWP to account before managed migration is rolled out. The documents that DWP has published about the Harrogate pilot do not fulfil DWP's promise to have published an evaluation strategy and an evaluation.

DWP promised a cap of 10,000 cases being migrated through the pilot, after which they would return to Parliament. They now plan to remove the 10,000 cap without having published an evaluation and without having carried out meaningful testing.

DWP had planned to engage at least 5,000 people in the pilot, through a mix of engagement methods, before returning to Parliament^{xxvi}. Now DWP plan to return to Parliament^{xxvii} having only migrated 38 individuals^{xxviii}, all engaged through DWP work coaches. Six people missed their deadline for claiming UC^{xxix} – it is so far unknown whether these people had disabilities.

This creates a risky situation for claimants remaining on legacy benefit. The concern is that disabled or vulnerable claimants have to rely on assurances that they will be safeguarded to ensure that their benefits do not stop as they go through the managed migration process but are having to entrust their safety to process which is still developing and which will not be properly tested or evaluated.

CPAG recommends that DWP retain the 10,000 cap on cases until managed migration plans have been properly tested and evaluated.

CPAG recommends that DWP publish the evaluation strategy, and subsequent evaluation for the discovery phase, and any learning phases that follow.

CPAG recommends that DWP publish equality impact assessments for managed migration, updated to take into account learning from the discovery phase and any subsequent learning phases.

ⁱ The Draft Universal Credit (Transitional Provisions) Amendment Regulations 2022

ⁱⁱ Income support, child tax credit, working tax credit, housing benefit, income-based jobseekers allowance and income-related employment and support allowance

ⁱⁱⁱ Para.66

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1056553/explanatory-memorandum-for-ssac.pdf

^{iv}

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1070847/completing-the-move-to-universal-credit.pdf

^v The Secretary of State has also committed to introduce a remedy in response to the case of *TD, AD & Reynolds*. This is expected to take the form of transitional protection but as yet no remedy has been forthcoming

^{vi} SDP is paid to people receiving a disability benefit, such as personal independence payment (PIP) daily living component, that have no-one providing care for them

^{vii} Articles on the transitional SDP amount and the transitional SDP element can be found here:

<https://cpag.org.uk/welfare-rights/resources/article/transitional-sdp-amount> &

<https://askcpag.org.uk/content/206411/the-new-transitional-sdp-element>

^{viii} An article on erosion of TSDPE can be found here: <https://askcpag.org.uk/content/207613/erode-to-nowhere>

^{ix} <https://ifs.org.uk/publications/16049>

^x Other than the childcare costs element

^{xi} Paid to people who are determined to be unfit either for work or for work related activity, often after a work capability assessment, and “automatically” to claimants who are terminally ill or undergoing treatments like chemotherapy.

^{xii} <https://www.equalityours.org.uk/handbook-human-rights-and-welfare-benefits-advice/a-z-equality-rights/#reasonable>

^{xiii}

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/753714/draft-universal-credit-managed-migration-regulations-2018-report.pdf

^{xiv} <https://www.gov.uk/government/publications/universal-credit-managed-migration-regulations-2018-ssac-correspondence/ssac-response-to-dwp-universal-credit-managed-migration-regulations-2018>

^{xv} Paras. 7 & 8 http://data.parliament.uk/DepositedPapers/Files/DEP2021-0836/7G-UCPB_16-04-19-Paper6-Move_to_Universal_Credit_Update.pdf

^{xvi} <https://committees.parliament.uk/publications/22289/documents/164915/default/> & <https://questions-statements.parliament.uk/written-questions/detail/2022-05-23/6674>

^{xvii} <https://www.equalityhumanrights.com/en/our-work/news/ehrc-taking-action-improve-treatment-disabled-benefit-claimants>

^{xviii} <https://cpag.org.uk/policy-and-campaigns/briefing/making-adjustments-experiences-universal-credit-claimants>

^{xix} <https://cpag.org.uk/policy-and-campaigns/briefing/policy-briefing-problem-universal-credit-assessment-periods>

^{xx} <https://www.gov.uk/government/speeches/universal-credit-personal-welfare>

^{xxi} https://data.parliament.uk/DepositedPapers/Files/DEP2021-0836/7G-UCPB_16-04-19-Paper6-Move_to_Universal_Credit_Update.pdf

^{xxii} Publication had been planned for December 2019 but was delayed to March 2020 due to the general election and then scrapped due to the pandemic, [https://data.parliament.uk/DepositedPapers/Files/DEP2022-0377/4-UCPB_12-11-19 - Paper 3 - PB Dashboard R.pdf](https://data.parliament.uk/DepositedPapers/Files/DEP2022-0377/4-UCPB_12-11-19_-_Paper_3_-_PB_Dashboard_R.pdf) (see right side of first page), para.26
[https://data.parliament.uk/DepositedPapers/Files/DEP2022-0377/6-UCPB12-11-19-Paper5-MovetoUC_UpdatePilotEvaluation R.pdf](https://data.parliament.uk/DepositedPapers/Files/DEP2022-0377/6-UCPB12-11-19-Paper5-MovetoUC_UpdatePilotEvaluation_R.pdf)

^{xxiii} [https://data.parliament.uk/DepositedPapers/Files/DEP2022-0377/6-UCPB12-11-19-Paper5-MovetoUC_UpdatePilotEvaluation R.pdf](https://data.parliament.uk/DepositedPapers/Files/DEP2022-0377/6-UCPB12-11-19-Paper5-MovetoUC_UpdatePilotEvaluation_R.pdf)

^{xxiv} <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/2499/2499.pdf>

^{xxv} <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/2499/2499.pdf>

^{xxvi} [https://data.parliament.uk/DepositedPapers/Files/DEP2022-0377/23-UCPB_18-02-20-Paper_5a-Move to UC Update R.pdf](https://data.parliament.uk/DepositedPapers/Files/DEP2022-0377/23-UCPB_18-02-20-Paper_5a-Move_to_UC_Update_R.pdf)

^{xxvii} <https://www.gov.uk/government/news/the-universal-credit-transitional-provisions-regulations-2022>

^{xxviii}

<https://www.whatdotheyknow.com/request/805093/response/2021020/attach/3/IR2%20IR2021%2099324.pdf>

^{xxix} Unpublished correspondence, Baroness Stedman-Scott to Baroness Lister, regarding PQ HL7970, 11/05/2022