



Digitalisation and rights in universal credit

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Users of a public library, in London, might only be able to access the internet using such facilities.



The rule of law means many things to many people, but its common thread is, first, that everyone must know, or be able to find out, the rules and laws by which their lives are regulated; and secondly, that everyone is entitled to challenge ... the lawfulness of their treatment.

The Rt Hon Sir Stephen Sedley, former Lord Justice of Appeal

When the coalition government published its flagship paper on universal credit (UC) in 2010, it promised a ‘digital first’ benefit.¹ Since then we have seen the digitalisation of the UK’s working-age social security system, a process that continues today. But what impact has this transformation had on claimants and their rights?

CPAG is undertaking a four-year research project, Access to Justice and Digitalisation in Universal Credit, to examine the extent to which UC upholds important rule of law principles such as transparency and accessibility. We have been talking to people about their experience of claiming and maintaining their benefit online, and to advisers about their experience of supporting UC claimants. This article shares some early findings from this project.

Transparency and accessibility in UC

There are clearly many advantages to a digital approach to delivering benefits. Welfare rights workers talk about the previous challenges of sifting through a client’s bag of benefit decision letters, trying to determine why a benefit has not been paid as expected and how they can best support their

client. Those days are over with UC. Having an online account where claimants can receive information about their UC award and communicate with the Department for Work and Pensions (DWP) via an online journal, has fundamentally changed the way both claimants and officials access and manage information about benefits. In theory, there is an accessible, chronological record available to claimants of everything relating to their benefit in one place. Many of the claimants we have interviewed as part of our research have spoken positively about elements of the UC online account and journal.

However, scratch beneath the surface and problems start to emerge. Two examples illustrate how, rather than increasing transparency and accessibility, some aspects of the digitalisation of UC have made the benefits system more opaque for claimants. These examples are the problems claimants face understanding benefit calculations, and when UC claims are ‘closed’.

Key term

Access to justice means people are able to exercise their rights and challenge decisions.

Understanding benefit calculations

UC payments are decided via a system of automated calculations. A claimant provides information about their personal circumstances, including their housing costs, the number of children they have, and any health issues or disabilities, and the system automatically calculates their UC award using this information. Because UC is an in-work and out-of-work benefit, the system also takes into account employee earnings directly from HM Revenues & Customs, reducing a claimant's UC award accordingly. The result is that there are a number of factors that determine how much a claimant receives each month.

Unfortunately, claimants can struggle to understand how their awards have been calculated or identify any mistakes because the system has been designed in a way that undermines transparency. Firstly, the monthly payment statement provided to claimants does not have enough detailed information about all of the potential factors that may affect an award calculation. This makes it difficult for claimants to recognise if anything is missing. Secondly, these payment statements are overwritten and replaced if an award is changed retrospectively, which one research participant described as being like a bank 'changing a bank statement' after the fact. Finally, claimants can experience difficulties trying to get a satisfactory explanation of their UC payment from DWP officials, as one research participant told us:

'To this day I don't know if what I'm getting for universal credit is correct. Because no human was able to tell me if it was the correct amount, because we were having different benefits and our case was classed as quite complicated. No human could give me a figure that matched another human's figure. Like I say, to this day I don't know if we are getting the correct amount or not, if the computer has calculated it correctly, because nobody seems to be able to tell me and confirm that it has.'

Problems with payment decisions can cause real financial hardship for claimants when things go wrong. A UC claimant who challenged the calculation of her UC award, which had incorrectly taken into account earnings she had never received from her employer, told us:

'I think they need to be extremely transparent with how they work it out, the same way a bank has to tell you exactly what the interest is. How did you come up to that sum? ... they talk about

The Early Warning System (EWS) was set up by CPAG to collect and analyse case evidence about how social security changes are affecting the wellbeing of children, their families and the communities that support them.

A claimant accesses their UC journal online from home.

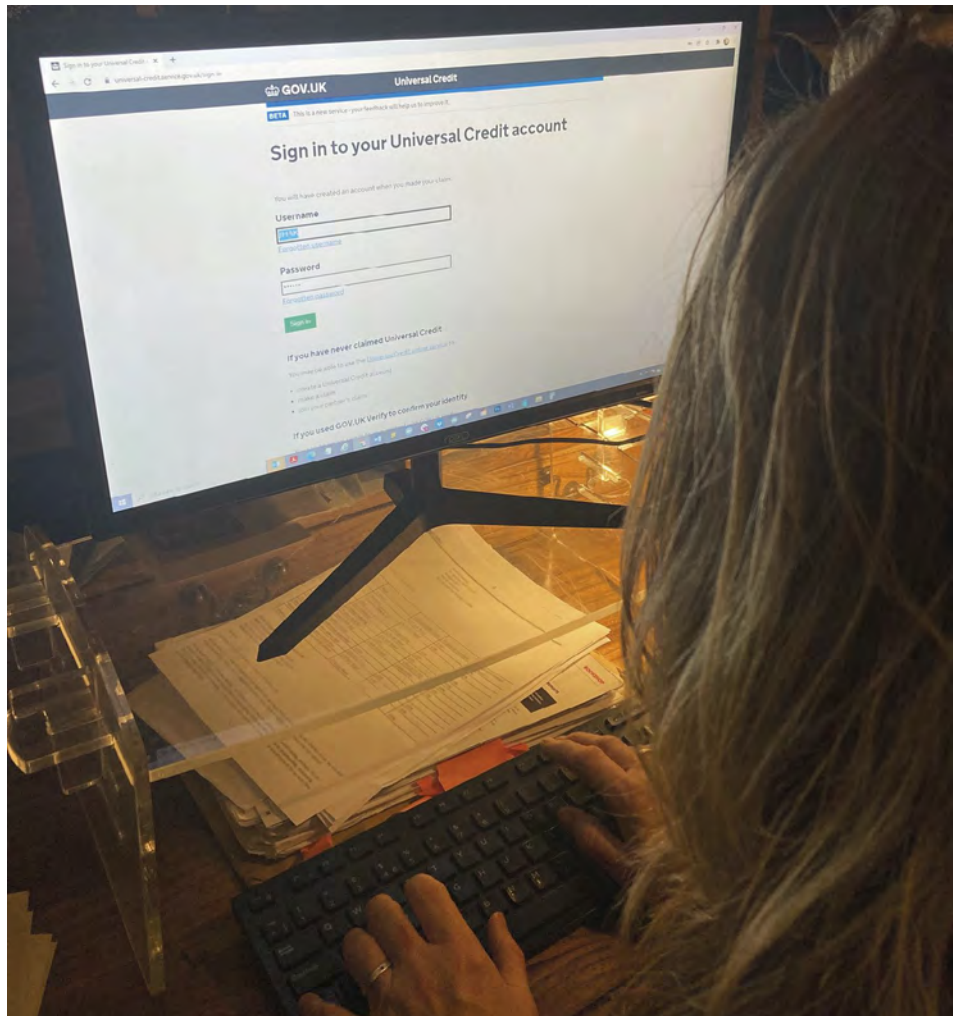
what the formula is, but I think they just need to be a little bit more open with it.... They are quite happy to blame the next man, the next man blames the other person, payroll blames the other person, and you are left with these three people you are fighting around. But while you are trying to fight these three massive entities [the DWP, HMRC, the employer] you are also left trying to scratch together and scrape money together to pay that bill or to meet your rent or whatever your financial commitment is.'

Claim closure

Another example of how access to justice is affected by digital elements of the system is the issue of closed claims. 'Claim closure' is a concept with no legal meaning in social security legislation. The process that the DWP describes as claim closure can refer to a number of different decision-making processes, including the refusal of a claim and the ending or termination of benefit awards.



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If a claimant has their UC claim refused or their award brought to an end, they are notified that their claim has been closed and their journal is frozen, so they can no longer make contact with the DWP via this digital route. This can be particularly problematic for claimants who disagree with the decision to refuse their claim or end their award, because it is a significant barrier to submitting a mandatory reconsideration (the first step in the appeals process in UC). Furthermore, if that claimant goes on to make a new claim for UC, their journal is overwritten and replaced with a new one, so they no longer have access to their previous communication history or decision records.

One claimant interviewed as part of the project had had a claim wrongly refused and closed as a result of failing the habitual residency test (all claimants have to pass, or be exempt from, the habitual residence test to claim most benefits). He told us:

‘I did try to manage it on my own [without welfare rights advice] and then I thought, “Oh, this is just pointless and useless.” They closed my claim, and I can’t even reach them and well, now what?... my intuition immediately said that that’s not right. That I should have passed the residency... they closed the account so I couldn’t – I could read the messages, I think from my journal, but I couldn’t reply to anything. So, that was a bit odd... calling was the only option how to reach them... I began calling them and that wasn’t easy to get through to them and challenging their decision and saying to them that, “Look, I think I should have passed the test. What’s behind your reasoning? How did you make your decision?” I had to wait for them to call me. I think that’s how it went and some of the calls never happened.’

With the support of a welfare rights adviser, this claimant successfully challenged the decision and was eventually awarded UC. But this case illustrates just how difficult this can be when people are unable to communicate with the DWP once their claim has been refused and their journal has been frozen.

The issue of closed claims has had particular relevance in recent months, as the DWP has gone through a process of reverifying UC claims made during the pandemic when some evidence checks were temporarily eased.² In some cases, claimants have returned to work and are no longer receiving any UC or checking their journal, therefore they have missed requests for further evidence from the DWP. Because they have not provided evidence proving they were eligible for UC, these claimants have been told they now owe thousands of pounds to the DWP. But their journals have been frozen, making it very difficult for them to challenge these decisions. In many cases these decisions have been unlawful because the DWP treated a failure to respond to evidence requests as sufficient evidence that claimants were never entitled to their benefit award in the first place.

Conclusion

There is no doubt that digitalisation of the social security system has the potential to bring many benefits, both for the users of services and those responsible for administering those services.

However, this potential is undermined when a system is designed in a way that fails to uphold the rule of law principles of accessibility and transparency, and ensuring access to justice for claimants. As Richard Pope argues in his report, *Universal Credit: digital welfare*,³ it is crucial that the advantages of digitalisation are shared more equally between the DWP and claimants, and as things currently stand, it appears the balance is stacked firmly in favour of the DWP.

This is particularly important in areas that would support claimants to exercise their rights. Our research has found that information claimants get about decision making, and the process of challenging decisions, have been fundamentally altered by the move to a ‘digital first’ benefit. In some cases, this is causing real practical difficulties for claimants trying to exercise their rights. It is clear that improvements could be made to UC to ensure that the protection of people’s rights is prioritised and built into the UC digital system, rather than being treated as an afterthought. We will be exploring what these changes might look like in the next stage of our research.

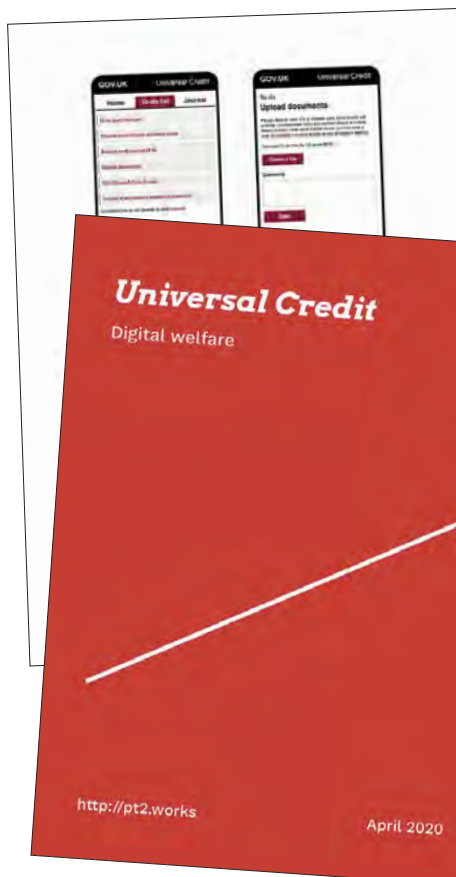
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Footnotes

1. Department for Work and Pensions, *Universal Credit: welfare that works*, 2010
2. ‘Universal credit claimants were sent unlawful demands to repay, says charity’, *The Guardian*, 13 November 2021, [theguardian.com/society/2021/nov/13/universal-credit-claimants-were-sent-unlawful-demands-to-repay-says-charity](https://www.theguardian.com/society/2021/nov/13/universal-credit-claimants-were-sent-unlawful-demands-to-repay-says-charity)
3. R Pope, *Universal Credit: digital welfare*, Pt2, 2020



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Digital platforms are changing government and society. Richard Pope, former senior fellow at the Harvard Kennedy School and product manager at the UK’s Government Digital Service, produced a report that provides a description of UC as a digital welfare system and makes recommendations for its future development.

