



CPAG's response to Social Security Advisory Committee consultation on  
Universal Credit managed migration

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## CPAG's view on managed migration: a note of alarm

1. UC has been described as the biggest change to welfare benefits since the inception of the Welfare State, and is a change imposed on claimants by the State that is not of claimants' making nor under their control. We therefore believe it is incumbent on the Government to do everything in its power to make the process as easy and seamless as possible for claimants, to minimise disruption to their lives, to ensure as far as reasonably possible that all claimants migrate successfully, to support them in any difficulties they may have with the transition, and to prevent any financial disadvantage or hardship to them.
2. Sadly we believe that the Government's proposed 'managed migration' measures fall far short of this principle. Indeed the term 'managed migration' – implying a seamless movement of people en masse from one benefit to another which is organised by the government on their behalf - seems a complete misnomer for what is essentially a process of terminating existing benefits and telling people to make new claims, with very limited support to assist them to do this and few protections should they fail to do so.
3. The draft regulations seem designed to place both the burden of arranging migration and the financial risks associated with it almost entirely on to the shoulders of claimants. By definition this is a group who are least able to bear these risks: they are already living on a relatively low income with limited savings or assets, and are disproportionately likely to have children (particularly young children), to have children with disabilities or additional needs, to be suffering from ill-health or disability themselves, to be single parents, to be care-leavers, to be at risk of homelessness or to be in low-waged or insecure employment.
4. If the migration goes ahead as planned, it is very likely to lead to significant numbers of people, particularly those who are vulnerable, failing to establish a successful claim and as a result being plunged into hardship, rent arrears and debt. Some will face destitution and homelessness.
5. Our experience and that of other frontline organisations indicates that many people are likely to struggle to claim, for numerous reasons including lack of digital access or literacy, vulnerability, illness and disability, caring responsibilities, childcare and work commitments, and so on. A young person with learning disabilities may not understand the letters he receives and have no idea where to seek help. A single mother who does not have a computer may have no opportunity to go to the library to make a claim if her days consist of long shifts as a care worker, hurrying to collecting her children from the childminder, feeding them and putting them to bed, with no time to spare and no family or friends who can help with extra childcare. A full-time worker may claim online, but be unable to miss work to attend their initial interview. Box 1 gives examples from our early warning system.
6. The DWP has released information showing that 1 in 5 claims have been closed due to 'non-compliance with the process'.<sup>1</sup> This includes 10% who failed to book an initial interview, 6% who did not accept their claimant commitment, and 4% who booked but failed to attend an interview. This high rate of non-compliance suggests that the process for establishing a claim for UC is not

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[https://www.whatdotheyknow.com/request/479176/response/1153572/attach/2/FoI%202025%20reply.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/479176/response/1153572/attach/2/FoI%202025%20reply.pdf?cookie_passthrough=1)

realistic or flexible enough given the realities of claimants' lives, and does not offer enough support to assist people with their claims. Unless different arrangements are put in place for the managed migration, we can expect as many as 1 in 5 people attempting to claim to see their claims fail – roughly 400,000 households of the 2 million expected to go through this process.

7. Furthermore the most recent DWP survey of claimants finds that a full 30% found the process of claiming online either 'very difficult' or 'fairly difficult' and 43% agreed that they 'needed more support setting up my Universal Credit claim'.<sup>2</sup> The process as it stands is clearly not fit for purpose.
8. The department has now invited a range of charities, housing associations and other organisations to assist it in ensuring that claimants understand the migration process and encouraging them to claim, acknowledging that 'we also know that some claimants don't respond as planned, and may not read communications from DWP, or might only act at the last moment. Around half of these new claimants won't be existing customers of DWP at all, so may not recognise the relevance of a communication from DWP to them. This is where we need your help'.<sup>3</sup> Of course CPAG and others will do everything we can to assist claimants with the process of transition, but is unrealistic to expect that all claimants who will struggle to claim are in contact with these organisations. The most vulnerable may have no such relationship. Yet we know that all are – by virtue of their existing benefit claims – known to one or more of the DWP, HMRC or their local authority. This seems to us to be an abrogation of responsibility by the government.
9. **We therefore call for a fundamentally altered process, in which the DWP moves claimants from existing benefits across to UC without the requirement for each household to make a new claim. This would substantially reduce the risks to claimants associated with the migration.** The next section sets out our proposals as to how this could work.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/714842/universal-credit-full-service-claimant-survey.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714842/universal-credit-full-service-claimant-survey.pdf) see P.35 and p.38

<sup>3</sup> Letter from Neil Couling to Alison Garnham, Chief Executive of Child Poverty Action Group, dated 16 August 2018

**Box 1. Examples from CPAG's early warning system showing the difficulties some claimants face in making successful claims and the inadequacy of support**

A single mother in London with learning disabilities and no computer access received no UC for four months because of difficulties arranging a home visit.

A part-time worker who was receiving UC in a live service area was asked to "engage with online claim" when her area went full service. She was unable to navigate the system and received no help from the jobcentre. As a result her UC stopped, with no payments for three months, leading to rent arrears of £2,000.

A woman living in Suffolk suffers with severe phobias meaning that she finds leaving the house difficult. She also has a learning disability and is not computer-literate. After several attempts an advice worker from her local CAB was given a telephone claim number for UC for her to use, but after a twenty minute wait on this line she was told she would have to claim online because she had support from CAB and could do it using their computer. DWP staff recommended that future communication with her work coach be done using CAB computers, although there was no agreement between the CAB and DWP that this CAB would provide such a service and no guarantee that CAB would have a computer available.

A man in the later stages of terminal illness lacked the ability to make a UC claim because his medication caused confusion and difficulties in retaining complex information. His family attempted to claim UC on his behalf but UC refused to take their calls or explain what support would be made available to them. Only after the intervention of a support worker did the DWP visiting service send a representative to verify the paperwork, delaying payment.

A woman living in a rural area claimed UC and was given an identity verification interview a two hour train ride away. She cannot afford the upfront cost of a ticket, but will only be reimbursed if she can get there. Her adviser tried to get the interview rearranged or carried out over the phone, but to no avail.

## How a truly 'managed' migration could work

10. The department could simply move claimants across to UC and write to claimants with information about UC and how to set up an online journal. This is not a novel idea, but reasonable and fair to claimants. Claimants were not required to make a new claim when they were migrated from Incapacity Benefit, Income Support or Severe Disablement Allowance on to ESA, for example.
11. The first UC amount could be calculated based on the information used for their legacy benefits. In Reg 54 (7) of the draft Universal Credit (Transitional Provisions) (Managed Migration) Amendment Regulations 2018 the Government proposes to base 'the calculation of the indicative UC amount' (used to calculate the transitional element) 'on the information that is used for calculating the total legacy amount' (i.e. the information held by the legacy benefit). If the legacy benefit information can be used to calculate the indicative UC amount for the purposes of the transitional element, there is no reason it cannot be used to determine initial UC entitlement. The possibility that this will create over- or under-payments (for example if circumstances change or if the department lacks a piece of information needed to calculate UC with complete accuracy) is on balance preferable to the risk of simply stopping the benefits of hundreds of thousands of people.
12. People could then be invited to an appointment to provide any further information and to sign their claimant commitment. At the same appointment the claimant could be assisted by the DWP work coach to set up an online UC journal if they have not done so beforehand. This would have the added advantage of providing support and assistance to those who struggle to set up an online journal independently.
13. Consideration should be given to permitting claimants who are earning above the relevant earnings thresholds, those who have been assessed as having limited capability for work-related activity, and those who for any other reason are not subject to any work-related requirements to sign their claimant commitment through the post or online, to avoid claimants having to miss work or make difficult journeys to attend a jobcentre appointment. This would also reduce the demands on jobcentre staff. If banks and HMRC are now happy to deal with customers solely online, there is no reason why the DWP should require all claimants to attend in person when they already hold all necessary information on many claimants. It should be a seamless process, like an insurance renewal.
14. The DWP should then offer a reasonable timetable for people to attend their first appointment or submit any necessary evidence, in recognition of the magnitude of the transition to UC. These interviews could take place within, say, the first three months after someone is moved across to UC, with overpayments suspended for this period.
15. We understand that the department may be concerned to 'weed out' legacy benefit claims which should have stopped because a claimant has moved abroad, become ineligible or died. But requiring all claimants to make their own claim, risking plunging large numbers of people into financial crisis, is too big a price to pay for the opportunity to remove the likely small number of such claims from the books. The department already has robust anti-fraud measures in place. Furthermore if the department requires specific further evidence or has a concern it can ask claimants to attend a jobcentre interview with this evidence, and use existing powers to suspend or terminate claims if they do not meet this requirement.

## Amending the migration procedure as proposed

16. **This section only applies in the event that our principal recommendation, that existing benefit claimants are automatically transferred to UC, is not accepted.** We propose a number of additional safeguards to be added to the migration process.
17. First, one month is far too short a minimum period between the notification letter and the deadline day. Compare this, for example, with the long period permitted for people to submit their tax returns to HMRC. We recommend that this be extended to a minimum of three months, with a requirement for at least two reminders to be sent and for this requirement to be specified in regulations. (We welcome the Secretary of State's intention to send two reminders in the weeks before the deadline day but this is not contained in the regulations; specifying this in law would ensure that this procedure is followed.) If the claimant requests an extension of the deadline day this should be extended by another month without requiring good reason.
18. We also recommend that the regulations should allow for the deadline day to be moved if the request is made *after* the deadline day has passed. Additionally/alternatively we propose that the backdating provisions for UC are made more generous; specifically there should be no time limit for backdating in the case of official error, and backdating of up to 6 months should be allowed if the claimant had 'good reason' for failing to claim before the deadline day. Box 2 gives examples from CPAG's early warning system of claimants who have faced delays in their claims through no fault of their own.
19. We support the recommendation from UNISON that a duty be placed on the Secretary of State to satisfy her/himself that a claimant will not experience hardship as a result of the termination of legacy benefits, in the event that a claimant has not claimed UC before their deadline day. If the Secretary of State cannot satisfy her/himself of this, the deadline ought to be extended.
20. It is our experience that many claimants are only alerted to a problem with their benefits when their money stops, regardless of advance communications which may be sent. We therefore recommend that rather than simply terminating existing benefits on deadline day if claimants have not made a claim, existing benefits ought to be *suspended* and the deadline day automatically moved a month back. As soon as a UC claim is made, legacy benefits can then be reinstated for the period between the date of suspension and the date of the UC claim resulting in an immediate payment. This would have the advantage of strongly incentivising people to take action and make a UC claim (as their previous benefits would stop) while avoiding the hardship associated with complete termination of legacy benefits. This is illustrated in Figure 1.
21. We note the recent NAO report which found significant delays in some UC claimants receiving their payments of UC. The report found that 25% of claims were not paid in full on time, with 40% of those affected waiting 11 weeks or more and 20% of those affected waiting almost 5 months.<sup>4</sup> With the additional complexity of calculating the transitional element, we believe that it is likely that during managed migration these delays will only get worse. To prevent claimants being left without financial support and the means to pay their rent, we recommend that legacy benefits not be terminated until an award of UC has been calculated.

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<sup>4</sup> <https://www.nao.org.uk/report/rolling-out-universal-credit/>

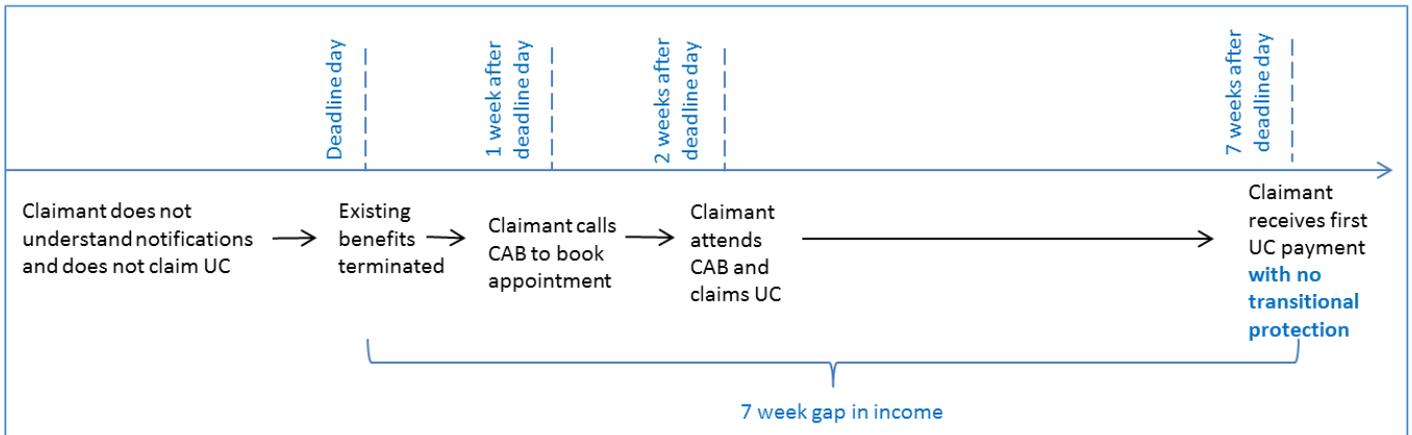
**Box 2. Examples from CPAG’s early warning system of delays to UC claims caused through no fault of the claimant**

A woman who has separated from her partner who lives in a separate household in the same building as they still have a joint mortgage, was initially told by the DWP that she must claim UC as a couple. This led to a delay in establishing a correct claim.

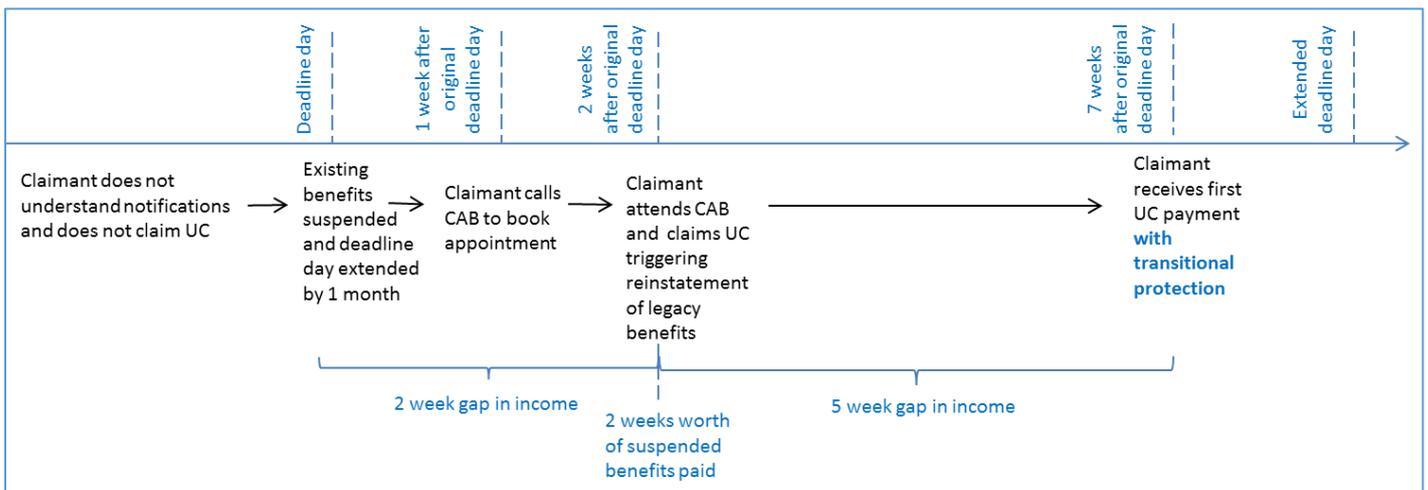
An Italian national who had established a permanent right to reside (as a worker for over five years in the UK) claimed UC when her employer was no longer able to offer her suitable work, but had her claim for UC refused on right to reside grounds in spite of her history establishing a permanent right to reside.

Figure 1: A more flexible approach to the migration process for those who initially fail to claim

a. Example of the process as currently described in regulations



b. Proposed alternative process



## Additional support during the wait for a first UC payment

22. It is our experience that the payment of UC monthly in arrears (meaning a minimum 5 week wait for a first payment when claiming) has already caused financial hardship, including rent arrears, debt and reliance on foodbanks, for many thousands of people. With managed migration where claimants will be moved from benefits paid fortnightly to UC paid monthly, millions more people will therefore be at risk of financial hardship during the initial wait.
23. **As these are exceptional circumstances, we recommend that provision is made, in addition to the provision to pay Housing Benefit for a further two weeks, for all legacy benefits to be paid for two weeks after the date of the UC claim.** Although we recognise that this will be a cost to the public purse we believe it is both justifiable and reasonable in order to prevent financial hardship to claimants migrating to UC, and as a one-off investment to ensure a successful transition. For parity we believe this provision should also be extended to claimants who move to UC via ‘natural’ migration.
24. In spite of the welcome introduction of a housing benefit run-on and improved availability of advances, it is our experience that the initial wait for payment still creates difficulties for claimants. First because some experience much longer waits for their full payment than the intended five weeks (as highlighted by the NAO) and second because repayment levels for advances can mean that they simply create hardship later in someone’s claim (see Box 3). Some claimants do not accept an advance for this reason. The Secretary of State herself has acknowledged that changes are needed to debt repayments within universal credit.<sup>5</sup> We also know that some claimants refuse advances because they have calculated that repayments will not be affordable, even if this causes them hardship in the first weeks of their claim.

### Box 3. Examples from CPAG’s Early Warning System of advance repayments causing hardship

A single claimant has been left with just £44 per week (£191 a month) to live on after his standard allowance of UC (£317.82 a month) was reduced by £52 each month for rent arrears and water charges and by £75 each month for repayment of an advance.

A disabled single parent’s award is reduced to an unmanageable level by £155 in deductions each month, comprising repayments of an advance, a budgeting loan and a social fund loan. She has not been able to reduce the amount of deductions.

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<sup>5</sup> <http://www.reform.uk/publication/speech-by-rt-hon-esther-mcvey-mp/>

## Is the system ready for further migration?

25. The current problems, both systemic and administrative, with UC are well-documented and many issues identified by the National Audit Office, the Work and Pensions Select Committee, frontline and voluntary organisations, claimants themselves and the DWP's own analysis are yet to be addressed.
26. Recent analysis of cases submitted to CPAG's Early Warning System indicates widespread administrative problems including delays in processing evidence, elements for children or housing missing from claims, incorrect treatment of disabled and terminally ill claimants (for example insistence on attendance at medicals when evidence has already been provided), failure to apply exceptions to non-dependent deductions for disabled claimants, and incorrect right to reside decisions.<sup>6</sup>
27. The Secretary of State herself recently acknowledged that changes are needed to the design of several aspects of UC, specifically 'debt repayments, support for the self-employed, payment cycles for those in work and an extension of outreach work and an extension of flexible support for claimants'.<sup>7</sup> These have all been demonstrated through independent research to be causing difficulties for claimants.<sup>8</sup>
28. The department's own claimant survey found that claimant commitments are often poorly tailored (just 54% said it took account of their circumstances and 37% said it was very or fairly difficult to meet their job search requirements) and a high percentage of claimants experience hardship eight months into their claim: 28% of claimants said they were either having 'real financial problems' (15%) or 'falling behind with some bills/credit commitments' (13%). Half of claimants had had to seek additional funds to get by.<sup>9</sup>
29. The experience to date of 'natural' migration from ESA to UC raises a particular concern about the department's ability to protect this group in the transition and throws doubt on the promise in the explanatory memorandum to the regulations that 'protections will include... ensuring that a capability for work determination for ESA can be automatically applied to the UC award'. CPAG was told by DWP officials in May 2018 that this information can currently only be transferred from ESA to UC manually, and we have seen a significant number of cases of this not being done correctly leading to failure to pay the right elements within UC and incorrect work-related requirements (see Box 4 below for examples).

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<sup>6</sup> <http://www.cpag.org.uk/content/top-universal-credit-issues>

<sup>7</sup> <http://www.reform.uk/publication/speech-by-rt-hon-esther-mcvey-mp/>

<sup>8</sup> See <http://www.cpag.org.uk/content/rough-justice-problems-monthly-assessment-pay-and-circumstances-universal-credit-and-what-ca> on assessment periods, <https://www.trusselltrust.org/2018/05/22/cant-live-thin-air-wait-universal-support/> on gaps in support for claimants, <https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Universal%20Credit%20and%20Debt%20-%20final.pdf> on deductions and debt, and <https://www.litrg.org.uk/latest-news/reports/171030-self-employed-claimants-universal-credit-%E2%80%93-lifting-burdens> on self-employed people in universal credit.

<sup>9</sup> See pages 41, 60, 67 and 69 of [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/714842/universal-credit-full-service-claimant-survey.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714842/universal-credit-full-service-claimant-survey.pdf)

30. We understand that the department is working to make improvements to the IT systems but that there is a large backlog of changes waiting to be made. In the meantime the system is underperforming and many key processes are still being done manually leading to a high rate of error, including in the transfer of information about work capability assessments from ESA to UC and the application of exceptions to non-dependent deductions from housing costs where there is a DLA or PIP claim. There is also evidence that available support such as home visits and digital support is inadequate for claimants needing extra help to make or manage their claim as discussed above.
31. **Until these problems are remedied and UC is demonstrated to be fully fit for purpose, we do not believe that managed migration should be started.** These are not small problems but affect significant numbers of claimants and have serious consequences.
32. **We believe that managed migration should only start when the National Audit Office, Work and Pensions Committee and SSAC are satisfied that the department has completed the following:**
- a. A formal process to assess the readiness of automation and digital systems to accept increased claim volumes, as recommended by the NAO.
  - b. Significant progress in the automation of key processes which are currently done manually leading to delays and errors in claims, including: improved automation of verification of identity; automated transfer of WCA assessment outcomes from ESA to UC; automated application of exemptions from non-dependant deductions for households where either the claimants or non-dependants are in receipt of DLA or PIP.
  - c. A significant reduction in the proportion of current claimants experiencing financial hardship.
  - d. A full analysis of the reasons why one in five UC claims fail due to 'non-compliance with the process' and, should natural migration continue, a significant reduction in the proportion of claims which fail.
  - e. A fundamental review carried out in partnership with SSAC and representatives of frontline organisations of key problem areas already identified as causing hardship or putting vulnerable claimants at risk, including: problems with monthly assessment of pay and circumstances; single payments to a single household member; deductions (including advance repayments) and sanctions; administrative errors; communication difficulties.
  - f. Completion of the promised changes to UC in relation to pay cycles, debt repayments and support for self-employed claimants.
  - g. Improvements in the quality and tailoring of claimant commitments as reported through the DWP's claimant survey.
  - h. An assessment of the adequacy of resourcing of jobcentres, service centres, home visiting service and universal support and a published plan to meet growth in demand.
  - i. A clear plan for supporting and safeguarding claimants who are vulnerable or who require additional support with making a claim. The reasons why claimants may struggle include, but

are not limited to, homelessness, domestic violence, learning disabilities, mental health difficulties, physical disabilities or ill-health, caring commitments, terminal illness, digital exclusion, English language skills, working patterns which make contact with jobcentres difficult. This plan needs to recognise that not all claimants will have disclosed their circumstances in full to the DWP or HMRC, so the plan must be broad enough to safeguard *all* claimants rather than relying solely on targeting support to those already flagged as vulnerable, although this would be a useful starting point.

- j. A thorough review and improvement of the way decisions and information are communicated to claimants. In the interests of transparency and as an aid to budgeting and financial planning, claimants need access to a more detailed breakdown of how their UC has been calculated, for example how the housing element has been calculated and how earnings from wages have been taken into account. Information should also be easily accessible on the UC journal about deductions: how much each deduction is, what it is for (e.g. rent arrears, recovery of overpayment, recovery of an advance, utility bills), if appropriate the total amount of overpayment or debt, and how long deductions will last.

33. **Given that the majority of new claimants are expected to join UC through natural migration we also recommend that natural migration be suspended with immediate effect until these improvements are put into place.** Suspending natural migration until these steps have been taken and until a safer managed migration process is in place would also enable many more claimants to benefit from transitional protection (see below).

#### Box 4. Examples from CPAG's Early Warning System of failure to transfer information on work capability assessment outcomes from ESA to UC

A claimant in Manchester who had been in the support group on ESA claimed UC but was not paid the LCWRA element.

A claimant in Newcastle who had been in the work-related activity group for ESA made a claim for UC and the LCW element was not added to his claim until an adviser noticed the problem.

A single housing association (operating in the Midlands and East England) provided details of four tenants who had moved from ESA to UC and were not awarded their LCW or LCWRA elements. At least one was incorrectly told that he would need a new work Capability Assessment.

A single parent with a baby son, who has learning difficulties and a mental age of 12, was in the support group of ESA. When she claimed UC no LCWRA element was included even though her social worker had accompanied her to her first meeting with her work coach and provided a DWP letter confirming her entitlement to ESA and the support component. It took a further two months and the intervention of a welfare rights advice worker for the LCWRA to be awarded. In the meantime she fell into substantial rent arrears and had to use foodbanks.

A refugee with significant health problems and two children was in the ESA support group. When he claimed UC, he had help from an advisor who noted on his journal that he was entitled to the LCWRA due to his prior ESA claim. However the LCWRA element was not included in his claim and his claimant commitment included a work search requirement. In response to further querying, a note was posted on his journal stating that he had to have a new work capability assessment. It was not until a complaint was lodged that LCWRA was finally included, three months after his claim was made.

## Transitional Protection

34. As noted above, suspending natural migration until a proper managed migration process is in place, and steps have been taken to improve the functioning of UC, would allow many more claimants to benefit from the safeguard of transitional protection. This would be in line with the government's early promises that 'no-one will experience a reduction in the benefit they receive as a result of the introduction of Universal Credit'<sup>10</sup> and recognising the fact that delays in the programme have meant that just 2 million households are now expected to move on to UC through managed migration (and thus be eligible for transitional protection) compared with much larger estimates earlier in the programme's design of 12 -13 million claims moving through managed migration.<sup>11</sup>
35. We are concerned that the transitional protection regulations appear have been designed to restrict eligibility to transitional protection in ways which are not justified, and to ensure that even those who receive initial transitional protection will see it easily eroded or lost through such common and predictable events as rent increases, couple formation, couple separations, the arrival of new children, and changes in earnings.

## Eligibility and amounts of transitional protection

36. We note with great concern the proposal to deny transitional protection to claimants who are unable to successfully complete their first UC claim, even when a subsequent successful claim is made before the deadline day or is backdated to the deadline day or before. This is especially concerning given the statistic that 1 in 5 claims fail due to failure to complete key steps in the claim process.
37. This rule seems designed to penalise people who make a good faith effort to claim UC on time but who either make a mistake in their first attempt which they subsequently rectify, or who struggle to obtain the necessary documentation within the set timescales (which may be through no fault of their own). For example some claimants will have to obtain proof of ID and may not be able to control how long this takes. We continue to hear reports of long waiting times on the UC helpline and long waits for other support such as home visits. A claimant who tries to get help to make their claim but is unable to do so could also face the loss of transitional protection under these arrangements.
38. We have heard of cases where claimants whose claim was wrongly closed due to an error on the part of the DWP were subsequently advised *by the DWP* to make another claim rather than seek to have this decision revised (see Box 5). There is no justification for the loss of transitional protection in such cases.

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Universal Credit: Welfare that works; Executive Summary; CM7957; November 2010  
<https://www.gov.uk/government/publications/universal-credit-welfare-that-works>

<sup>11</sup> DWP Press release 24 May 2012 <https://www.gov.uk/government/news/iaian-duncan-smith-early-roll-out-of-universal-credit-to-go-live-in-manchester-and-cheshire>

39. Given that the change to an entirely new benefits system is being imposed upon claimants, potentially with only a month's notice, we would expect the government to recognise the difficulties which this may create for claimants and show flexibility, rather than denying transitional protection in any of these circumstances. **We recommend that this provision be removed to extend transitional protection to claims received by the deadline day regardless of the failure of a past claim, and to claims backdated to the deadline day.**
40. Reg 50(2) appears to deny transitional protection to claimants who live in supported or temporary accommodation. Although no explanation is offered for this, we can only imagine the reason is that in these cases the total legacy amount would be much higher than the indicative UC amount (due to ongoing receipt of housing benefit) creating an artificially high transitional element. We believe it is irrational and discriminatory to deny transitional protection to claimants in this situation, many of whom will be vulnerable.
41. **We therefore suggest removing “or regulation 8(3) (continuation of housing benefit in respect of specified accommodation or temporary accommodation)” from Regulation 50(2).** To avoid excessive transitional elements a regulation would need to be inserted that excludes housing benefit from the calculation of the total legacy amount where regulation 8(3) (continuation of housing benefit in respect of specified accommodation or temporary accommodation) applies, which would allow for the calculation of a transitional element for claimants in these circumstances.
42. Although we welcome the transitional capital disregard we believe it is not large enough and also recommend that sections (3) and (4) of Reg.51 are removed.
43. Reg 53(9) provides that households who either would have been subject to the benefit cap except for the fact that they are not currently receiving housing benefit, or who have been benefit capped but could not be ‘fully’ capped because their housing benefit has already been reduced to the maximum level, will not receive any transitional protection. The ‘legacy amount’ used to calculate their transitional protection will not be the actual amount of legacy benefits they receive, but instead the monthly UC amount available to a benefit capped household. The government has repeatedly stated that “no one will experience a reduction in the benefit they are receiving at the point of migration to Universal Credit where circumstances remain the same” but for this group that will not be true. **The regulations should be amended to provide full transitional protection for benefit capped households, to ensure that they do not receive less in their UC award than they did from their existing benefits.**
44. The same principle extends to self-employed claimants, who may become significantly worse off six months into their claim when the MIF is applied, even with no change of circumstances. Again we recommend that full transitional protection of their actual award (rather than only of a notional award before deductions) be offered.

**Box 5. Case from CPAG’s Early Warning System**

A terminally ill cancer sufferer’s UC claim was ceased when he failed to attend an interview. When he contacted the DWP and referred to his DS1500 form (evidence of terminal illness), staff advised him to reclaim rather than revise the decision.

## Erosion and loss of transitional protection

45. We believe that the transitional protection as outlined in the draft regulations will for the majority of claimants be quickly eroded and is therefore inadequate and affords little real protection. Our favoured solution would be for the transitional element not to be eroded at all and therefore that Reg.55 be completely removed.
46. **We welcome the decision that increases in childcare costs should not erode transitional protection but recommend that this at least be extended to include the addition of (or inflation-related increases in) child elements designed to meet the wider costs of children.**
47. Regulation 56 provides that transitional protection is lost if there is a sustained drop in a claimant's earned income for more than three months, taking them below the relevant earnings threshold. This could mean a significant loss of income for someone at precisely the time they need it most – when they have lost their job or had to give it up for health reasons, and have not yet been able to find a new one. It will unfairly penalise a claimant who loses their job and - through no fault of their own – takes four months to find a new one, compared with another claimant who lost their job in similar circumstances but finds a new one within three months.
48. It will also act as a significant work disincentive for people who are expecting to be migrated within the coming months (for example people who have received initial communications from the DWP) to take on a temporary job or a job with a trial period, or for disabled people who wish to try work or increase their hours but who are uncertain as to whether they'll be able to sustain this. People who take these chances could be penalised compared with somebody who chose not to attempt work or to take on extra hours. This works precisely against the aims of universal credit.
49. We welcome the decision to re-award transitional protection to a claimant who has increased their earnings to a level such they no longer receive UC, should they reclaim and be awarded UC again within three months. This will prevent people losing out due to fluctuating earnings or receiving two pay packets in one month. However three months is still a short period. Again this risks either deterring or punishing people who take on short contracts, jobs with a trial period of three months or more (which is not uncommon) or ill or disabled people who wish to try work or increased hours without putting their finances at risk if they are unable to continue due to their health.
50. Both of these regulations are of particular concern when it comes to seasonal workers whose earnings fluctuate through the year, sometimes rising or falling for periods of longer than three months. They will be at high risk of losing their transitional protection when compared with a worker with stable earnings who has the same annual income. For example agricultural workers, self-employed people who receive income in lumps (e.g. childminders paid by the term), and workers in the tourism industry who may earn well in summer but struggle to find enough work in the winter months.
51. **We therefore believe that transitional protection should not be lost in the event that a claimant's earnings are reduced, regardless of the duration of this reduction, and that the period within which**

a re-award of transitional protection can be made for people who reclaim UC after a period of high earnings be extended to nine months.

52. We also note that Regulation 56 provides for the loss of transitional protection when a couple separates. This will leave single parents in additional difficulty at a time when we know life is often extremely difficult and when they are at risk of moving into poverty.
53. **We recommend that in cases of a couple separating, the transitional element be divided between them and added to their new claims.** This would be a simple solution to protect newly single parents from hardship. At the very least such a protection ought to be available to people fleeing abusive partners.

### The Severe Disability Premium: restriction on new claims for UC and transitional payments

54. We welcome the secretary of state's plans to compensate severely disabled people who have who have lost a significant amount of income through natural migration. However we believe that the proposed regulations are inadequate and – unjustifiably – treat those without the Limited Capability for Work-Related Activity (LCWRA) element and those *with* that element (who are the most severely disabled group) differently.
55. Firstly, we note that the regulations would include these SDP payments in transitional protection which – as discussed above – is likely to be rapidly eroded or lost through changes of circumstance. The loss of this element on loss of transitional protection could prove catastrophic for some individuals (see next paragraph). **We believe this is inappropriate and that the SDP protection should remain as a permanent top-up recognising the additional costs facing disabled people, as long as the claimant remains eligible.**
56. Imagine a couple where one partner receives the SDP component of transitional protection, whose partner brings in earnings and also qualifies for the carer element. If the couple separate, the disabled person will be left without their partner's earnings, without the carer element, and without their transitional protection, living solely on their individual element, at a time when they have also lost the support and care of their partner. This is unjustifiable. The SDP top-up should remain with the disabled person through changes of circumstance as long as they remain eligible.
57. The proposed transitional SDP payment amounts contained in Reg.63(3) are £280, if the LCWRA is not included and £80, if the LCWRA element is included in the award. This means that claimants where the LCWRA is not included are fully compensated for the move to UC but claimants where the LCWRA is included – i.e. the most severely disabled - are not. They are still out of pocket to the tune of £103.48 per month. Section 109 of the Explanatory Memorandum asserts that the policy design of UC was intended to “ensure that financial support was targeted more effectively at claimants who are severely disabled”. However the reality of UC design and the proposed amount of transitional payment for claimants, where the LCWRA is included, ensures that it is in fact financial cuts which are being targeted at claimants who are severely disabled.

58. To redress this injustice we recommend that the transitional SDP payment if the LCWRA element is included is increased to £183 a month.<sup>12</sup>
59. We believe that the extra protection for naturally migrated claimants is too restrictive. The proposals are to pay “when the Secretary of State is made aware” of a case. **In our view the Secretary of State ought to proactively trawl cases to identify those eligible for the payment.**
60. In addition the following groups ought to be entitled to a payment:
- a. People who were not in receipt of SDP at the point of migration but who were *entitled* to it, for example because they were awaiting the result of a PIP appeal which has since been resolved.
  - b. Claimants who were entitled to the SDP at the point of migration to UC, even if their UC claim has since ended or their circumstances changes such that they are no longer eligible for the SDP. This includes claimants who have formed a couple or become single since the transition to UC and would have retained their entitlement to SDP in these circumstances if still on legacy benefits. We believe that to deny compensation to those whose circumstances have changed in this way, or whose UC has terminated, would discriminate against a significant group of severely disabled people who have already been financially disadvantaged and unlawfully discriminated against by the implementing arrangements for natural migration, and by the secretary of state’s delay in remedying that discrimination. We therefore recommend that Reg63(2)(c), (d) and (e) are removed.
61. Finally, recipients of the SDP are not the only group who have become systematically worse off through natural migration to universal credit. Disabled children, disabled people under 25 and parents under 25 all receive a lower payment under UC than under previous benefits. **We recommend that the provisions to offer transitional protection and suspend natural migration in respect of the SDP be extended to families receiving support for disabled children, to disabled adults under 25 and parents under 25.**

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<sup>12</sup> A single person in the ESA support group receiving SDP would qualify for: £16.40 per week Enhanced Disability Premium, £37.65 Support component, £64.30 Severe Disability Premium, and £73.10 Personal Allowance, totalling £191.45 per week (**equivalent to £829.61 per month**). In contrast the monthly amount for someone on UC with the LCWRA component would be £317.82 Personal Allowance and £328.82 LCWRA element, totalling **£646.14 per month**. The difference between the two is £183.47. With the government’s proposed £80 transitional protection, people will still be £103.47 per month worse off.