



MIND THE GAPS

REPORTING ON FAMILIES' INCOMES DURING THE PANDEMIC

28 May 2020

This is the sixth in a series of regular briefings, *Mind the Gaps*, which highlight some of the gaps in support that exist for children and families affected by the Covid-19 pandemic. Evidence of these gaps is drawn from our Early Warning System (EWS), which collects case studies from frontline practitioners working directly with families on the problems they are seeing with the social security system.

The issues outlined in this briefing are a selection of some of the 'top issues' emerging through the EWS. It is important to note that these briefings are not designed to capture everything we are seeing; instead the *Mind the Gaps* briefing series will feature different issues each week and return to issues that need urgent attention where necessary.

Migrants are being left without any financial support

In our first [Mind the Gaps briefing](#) we raised the issue of migrants being left without financial support from the social security system during the pandemic, despite being unable to work because of the crisis. The EWS continues to receive case studies regarding migrants who are unable to financially support themselves through work at a time when many workplaces remain closed, however they are not eligible to claim most working-age means-tested benefits due to their immigration status. These cases include families with no recourse to public funds (NRPF), and EU nationals who do not satisfy the habitual residence test required to claim most benefits.

People from outside the EU – no recourse to public funds:

Many people resident in the UK will have a condition attached to their visa that stipulates that they have no recourse to public funds. This limits the support they can access, including access to benefits. If they have been working and made sufficient national insurance contributions, they may be able to claim contributions-based jobseeker's allowance or contributions-based employment and support allowance, but they will not be able to claim the majority of benefits including: child benefit, universal credit (UC), tax credits or housing benefit.

A couple who have no recourse to public funds are struggling to make ends meet for themselves and their two children. The father was working but that has ended due to Covid-19. They have no money at all and are reliant on food banks.

A lone parent with no recourse to public funds has been working at the university she was studying at, but is unable to work due to Covid-19 so she currently has no income at all and is not eligible to claim benefits.

EU nationals – right to reside issues:

The EWS has received a significant number of cases in recent weeks concerning EU nationals who either do not have a right to reside in the UK, or appear to have a right to reside but have had their claim for benefits refused by the Department for Work and Pensions (DWP). It is very difficult for EU nationals to meet the right to reside test unless they meet one of the following requirements:

- They are currently working
- They have worked in the UK for 5 years
- They are recently unemployed and have registered at the Jobcentre, or
- They have been granted settled status

A couple who are both EU nationals are not able to work at the moment - one partner is pregnant, and the other worked full time until June 2019, but then had been working at a car wash, being paid cash in hand (below the national minimum wage) until it closed due to Covid-19. They are unlikely to be able to establish a right to reside that will entitle them to benefits at present.

A Polish woman with five children came to the UK with her husband in 2018. He was working until he was arrested and remanded in prison in December 2019. She has tried to claim UC but her claim was refused. She is not entitled to claim UC unless she herself is a worker, or relies on a family member who is a worker. She can't get any work during lockdown and would in any case struggle to manage a job alongside childcare responsibilities.

An EU national and his partner have been in the UK for less than five years and have a patchy work history. He was in his current job for less than a month when he had to stop working as he has an underlying health condition. The couple are relying on food banks and have been refused a Scottish Welfare Fund crisis grant.

A couple who are both EU nationals have been working in the UK for three years but stopped working in December following a bereavement. They have been living off their savings but cannot now return to work as planned due to Covid-19. If they have made sufficient national insurance contributions they may be able to claim contributory jobseeker's allowance, but it is unlikely that they would be able to establish a right to reside that would entitle them to other benefits required to live on (e.g. housing benefit, or UC).

Benefits for people from abroad is a complex area of law and EWS case studies highlight that EU nationals are often wrongly refused benefits that they are entitled to - which they then have to challenge through the mandatory reconsideration (MR) process.¹ We are concerned that the redeployment of staff within the DWP to deal with the high number of new claims in recent weeks may lead to a delay in MR requests and appeals being processed. During this time, people who are challenging a decision made in relation to their claim may be left without any income, or with reduced financial support until the matter is dealt with by the DWP.

¹ Mandatory reconsideration (MR) is the first step in appealing a decision that has been made in relation to a universal credit claim. Once the MR stage has been satisfied claimants can make an application to an independent tribunal if they are not satisfied with the outcome of the MR.

A Polish man has lived in the UK since 2011. He worked until he sustained a serious injury, and now remains unable to work. He has been awarded Industrial Injuries Disablement Benefit for life, but it is not enough to live on. His application for UC was refused because he doesn't have right to reside, even though his work history and injury which occurred at work should mean that he satisfies the right to reside test. He now has to pursue the lengthy MR (and potentially appeal) process to access his entitlement.

A woman from El Salvador has been unable to claim UC for herself and her two children despite having permanent residence confirmed by the Home Office. She met and lived with her British husband, the children's father, in Sweden before coming to the UK in 2011. The DWP decided that she didn't have right to reside because her husband is British, not an EU national exercising treaty rights. Her husband has now left her and the children. Her family is destitute, rent arrears are piling up and she has to rely on food banks while pursuing the MR process.

People are continuing to move to UC in error, and some are financially worse off as a result

In previous Mind the Gaps briefings,² we reported on people moving from legacy benefits to UC in error, including claimants in receipt of the severe disability premium who should not be able to make a claim for UC.³ The EWS is continuing to receive case studies on these issues, and there appears to be ongoing confusion among claimants which is made worse by a lack of accessible welfare rights advice as lockdown restrictions continue.

In some cases, people were following government advice at the time. For example, self-employed people were advised to make a claim for UC to cover the interim period of a loss of earnings until the Self Employment Income Support Scheme begins making payments in June. However, our case studies show that some self-employed people were also in receipt of legacy benefits and were not aware that their other benefits would stop if they made a claim for UC, and they would not be able to return to legacy benefits. The DWP has since introduced publicity material targeted at tax credits claimants who may be worse off on UC, encouraging them to check their entitlement before making a new claim for UC, but for some this is too little too late.

A couple with three children, one of whom is disabled, were managing their respective sole trader businesses around their childcare responsibilities when lockdown began. Since then, they haven't been able to work at all and have been obliged to wait for the Self Employment Income Support Scheme to become available in June. They claimed UC to replace their lost earnings and received no warnings that they would lose their tax credits. They have lost £900 a month in tax credit payments, not counting their lost earnings. UC does not outweigh the loss, and they will remain worse off when they start working again. This is particularly concerning in relation to support for their disabled child.

A woman who is self-employed made a claim for UC when her income stopped in March. She believed she was checking her entitlement rather than submitting a claim. Her tax credits were stopped and she is not eligible for UC, and she has no way of returning to her previous benefits now that she has made a claim for UC.

A disabled woman who was receiving working tax credit made a claim for UC in accordance with advice provided on the gov.uk website. She has savings exceeding £16,000 so she is not eligible for UC. The DWP severe disability premium team refused to put her back onto tax credits even though her previous award included a severe disability element.

² See [Mind the Gaps 2](#), and [Mind the Gaps 3](#)

³ Following a court ruling claimants in receipt of severe disability premium are prevented from moving to universal credit as part of the 'natural migration' process to avoid them becoming financially worse off. This is known as the [SDP gateway](#).

In some cases, claimants appear to have been explicitly advised by DWP officials to make a claim for UC in situations where doing this has made them financially worse off.

A lone parent widow who was receiving child tax credits became self-employed in January this year but had to stop working due to Covid-19. She contacted Jobcentre Plus who advised her to claim UC, but because she receives widowed parent’s allowance and her husband’s pension, her income is too high. She is not entitled to UC, but submitting the claim has stopped her tax credits award.

A man was claiming working tax credit, which included the disability element (an additional amount paid to people with a disability who are working). He stopped work due to Covid-19 and tried to claim contributions-based employment and support allowance. His claim was refused on the basis that he had not made sufficient national insurance contributions and he was advised by the DWP to claim UC instead. He made a claim for UC and is now £150 worse off per month, with no way of returning to tax credits.

About CPAG

Child Poverty Action Group works on behalf of the more than one in four children in the UK growing up in poverty. It doesn’t have to be like this. We use our understanding of what causes poverty and the impact it has on children’s lives to campaign for policies that will prevent and solve poverty – for good. We provide training, advice and information to make sure hard-up families get the financial support they need. We also carry out high profile legal work to establish and protect families’ rights.

About the Early Warning System

Our Early Warning System helps us get a better understanding of how changes to the social security system are affecting the lives of children and families. We gather information from advisers about the experience of children and families. This intelligence informs much of our policy, research and campaigning work, and also feeds into the advice we give frontline advisers.

The [Early Warning System in Scotland](#) is supported by the Children, Young People and Families Early Intervention Fund, managed on behalf of the Scottish Government by CORRA foundation. The [Early Warning System in England, Wales and Northern Ireland](#) is made possible by the support of Oak Foundation, Barrow Cadbury Trust and The Mitchell Charitable Trust. The *Mind the Gaps* briefing series is also being supported by the Nuffield Foundation, increasing the capacity of the Early Warning System to effectively monitor the impact of Covid-19 on children and families, and identify issues with the social security response as they emerge.

Thank you to everyone who has contributed to our Early Warning System – to every adviser who has submitted a case and to rightsnet which hosts invaluable benefit forums for advisers.