



Work & Pensions Committee: Self Employment and the Gig Economy

About Law Centre (NI) and introduction

1. The Law Centre (LCNI) works to promote social justice and provides specialist legal services to advice organisations and disadvantaged individuals through our advice line and casework services from our two regional offices in Northern Ireland. It provides advice, casework, training, information and policy services in employment, health and social care and social security law.
2. We restrict our comments to one part of this inquiry: Universal Credit and Self Employment.
3. We are mindful that self employment continues to rise, with 1 in 7 workers in UK registered as self employed. Self-employed workers are increasingly affected by low earnings and many earn 40% than the typical employed person.¹ To date, most government policies seeking to address low pay have focussed on workers e.g. National Living Wage. We therefore welcome the Committee's interest in this area. Given the prevalence of low earnings in self employment, it is clear that Universal Credit has a critical role to play.

Universal Credit and Self Employment

4. While Universal Credit has yet to be implemented in Northern Ireland,² we are concerned about how it will impact self-employed claimants. 14% of the Northern Ireland workforce is registered as self employed, which amounts to 112,000 people.³ According to Advice NI, just under half of this self employment occurs in two industries: agriculture and construction.⁴
5. The Universal Credit system is quite different to previous benefit systems. First, there is an expectation that most communications will take place online, including booking the first 'Gateway' interview. This interview takes place at a jobcentre and the claimant must demonstrate that they are in gainful self-employment to be eligible for Universal Credit. Second, if Universal Credit is awarded, it will be paid monthly in arrears. Third, the government calculates the monthly payments

¹ Office for National Statistics https://www.ons.gov.uk/ons/dcp171776_374941.pdf

² We anticipate that Universal Credit will be implemented in Northern Ireland from Autumn 2017.

³ Northern Ireland Statistics & Research Agency (2014) 'Northern Ireland Labour Force Survey April – June 2014', p27

⁴ Advice NI, 'Universal Credit in Northern Ireland: Publishing the Self Employed' (December 2016)



based on an assumed level of earnings known as the ‘Minimum Income Floor’. Essentially, there is an assumption that all self-employed people earn at least National Minimum/Living Wage for 35 hours work each week. Fourth, the claimant is required to report their income on a monthly basis to DWP so that the amount of Universal Credit can be adjusted. We understand that claimants must report any time between 7 days before and 14 days after the end of each month.⁵ Failure to submit a monthly report within this period will result in Universal Credit being suspended; if a report is not submitted within the calendar month, Universal Credit will be terminated.

6. In addition to this new monthly reporting requirement – which we anticipate many claimants will find onerous – claimants will need to continue their annual self-assessment report to HMRC.

Concerns

7. The concept of a Minimum Income Floor does not reflect the reality of self employment given the prevalence of low earnings. When the National Living Wage was introduced in April 2016, figures indicated that 1.7m self-employed workers earned less than the new wage.⁶ If self-employed workers do not earn this amount in any given month, the government will not ‘top up’ their income as it currently does through working tax credits.⁷ This will lead to a considerable drop in overall income for many households; indeed, GB statistics show that up to 40% of families with self-employed workers in receipt of in-work benefits are projected to be worse off under Universal Credit than they were under the tax credit system.⁸ This has implications for child poverty. Also, given that low earning, part-time and self-employed workers are disproportionately female, women will experience a particular loss of income through Universal Credit.⁹
8. Further, it appears that the monthly calculation of Universal Credit does not accommodate significantly fluctuating income. The reality is that many self-employed workers are subject to seasonal trends. This is particularly relevant for Northern Ireland given that much self-employed work occurs in agriculture. We

⁵ Advice NI, p.4.

⁶ As reported in BBC 21 March 2016 <http://www.bbc.co.uk/news/business-35857947>

⁷ See Money Advice Services <https://www.moneyadviceservice.org.uk/en/articles/working-tax-credit>

⁸ Nida Broughton and Ben Richards, ‘Tough gig: Tackling low paid self employment in London and the UK’ (October 2016)

⁹ TUC, ‘Part-time work and self employment are replacing full-time jobs for women’ Press release to accompany full report (18 September 2012) Accessible here: <https://www.tuc.org.uk/equality-issues/gender-equality/part-time-work-and-self-employment-are-replacing-full-time-jobs>



note that the Money Advice Service specifically advises self-employed Universal Credit claimants to try and 'smooth out' their annual income e.g. by asking their clients to agree to being billed at regular intervals throughout the year.¹⁰ While this might work in some sectors, it is likely to be infeasible for many self-employed workers e.g. seasonal fruit pickers.

9. Thus we raise significant concerns about the structural design of Universal Credit, specifically, the Minimum Income Floor and the monthly reporting requirement.
10. A recent Advice NI report starkly illustrates these concerns.¹¹ Through two detailed case studies, it shows how Ken, a beef farmer, and Marie, a childminder, will lose a significant fall in their income when they move from tax credits to Universal Credit. Ken's monthly net income will drop by £478 per month whereas Marie's net income falls by £256 per month.
11. What especially resonates in the Advice NI report is how Universal Credit appears to penalise self-employed workers. As an employee in receipt of Universal Credit, Ken would receive £697.33 per month but as a self-employed worker in receipt of Universal Credit, he would receive only £147.31 per month (and only for 9 months of the year). Likewise, Marie would receive £799.71 a month through Universal Credit if she were an employee but only £147.31 per month (and only for 10 months for the year) as a self-employed worker.
12. However, LCNI also has a wider concern about the rise of the incidence of self employment across the UK. While we recognise that much self employment is legitimate, we are concerned that it can be a method used by employers seeking to reduce their duties/liabilities to their workers – in short, as a means to bypass employment rights. Indeed, the Trade Union movement warns of the 'rise of bogus self employment that is hitting people's incomes and job security'.¹² Unfortunately, it seems that this type of self employment is just another example of the growth of insecure working arrangements (increasingly referred to as the 'gig

¹⁰ Money Advice Service, 'A Guide to Universal Credit for the Self Employed' accessible here: <https://www.moneyadviceservice.org.uk/en/articles/universal-credit-for-the-self-employed>

¹¹ Advice NI, 'Universal Credit in Northern Ireland: Publishing the Self Employed' (December 2016)

¹² TUC 2012



economy'), which can leave workers in a vulnerable position. Other examples include the increase of casual work / 'zero hour contracts'.¹³

13. Through the advice line service provided by LCNI, we can see how precarious work creates much uncertainty and causes real financial hardship for workers. The BMC Public Health journal recently concluded that job security posed a comparable threat to health as unemployment.¹⁴ It is not only individual workers and their families who are adversely affected; the impact is increasingly felt across society. As explained by Alan Milburn, the chairman of the government's Commission into social mobility, "There is something profound going on and all of this poses a potential risk to social cohesion and a risk to the potential for social mobility".¹⁵

14. Recommendations:

15. We endorse the recommendations proposed by Advice NI,¹⁶ as follows:

- a) That the monthly Minimum Income Floor is removed;
- b) That the Universal Credit Self Employed System is administered on an annual – not monthly – basis;
- c) That there is a dedicated Universal Credit Self Employed Support Programme created i.e. specialist advice service for the self employed. This service should be made available for all self employed claimants. In some cases, claimants should be referred to it e.g. at the Gateway interview, the Jobcentre might refer a claimant who may struggle to meet the Minimum Income Floor.

We also suggest the following:

- d) If the monthly Minimum Income Floor is not removed in its entirety, then the current 'start up' protections should apply to all claimants being transferred from tax credits to Universal Credit. The 'start' up

¹³ For our views on 'zero hour contracts', see the Law Centre response to a DEL consultation in 2014 accessible here: <http://www.lawcentreni.org/news/recent-news/1-news/1139-zero-hour-contracts-the-law-centres-views.html>

¹⁴ Jae Jun Kim and Olaf von dem Knesebeck, 'Is an insecure job better for health than having no job at all? A systematic review of studies investigating the health-related risks of both job insecurity and unemployment' BMC: September 2015

¹⁵ Reported in Guardian article on gig economy, 'More than 7m Britons now in precarious employment' (15 November 2016)

¹⁶ Advice NI, 'Universal Credit in Northern Ireland: Publishing the Self Employed' (December 2016)



arrangements give newly self-employed workers a twelve month grace period in which to grow their business. This is welcome but should apply to all claimants being moved from tax credits. During this twelve month period, claimants should receive personalised information about what their Universal Credit entitlement would be if the exemption did not apply. Essentially, this would give the worker a clear understanding of how Universal Credit will affect their income. This will give them an opportunity to make decisions about their financial situation e.g. by making changes to their work.

- e) A more lenient approach should be introduced for self employed Universal Credit claimants who fail to submit their monthly accounts. For example, claimants should not have their accounts suspended in the first instance but should instead receive written notification about the requirement. In addition, these claimants should be referred to the UCSE Support Programme (described above), thus enabling the claimant to receive advice on assistance on e.g. filing their accounts, navigating the digital system, etc.¹⁷
- f) A renewed focus on ensuring that companies do not use self employment as a means to pay their workforce less than the National Minimum Wage or to bypass employment rights. While we recognise the complexity of such a task, it would assist claimants, especially those working in the 'gig economy', to have their work correctly identified as employment. Such a focus would require:
 - o Increased resources for employment inspectorates such as HMRC
 - o Increased support for workers seeking specialist advice about their employment status
 - o There is also a need to consider what can be done nationally to promote the societal benefits of more secure working arrangements with the view to slow the rise in precarious casual work (through inappropriate self employment, zero hour contracts or agency work, etc.)

¹⁷ Effectively, this could be based on the arrangements in Northern Ireland agreed as part of the mitigating welfare reform package, whereby claimants facing sanctions are referred to the independent advice service.



- g) While it is welcome that the Tax Free Childcare scheme has been extended to self employed parents,¹⁸ we believe that a full review of maternity and childcare support for the self employed would be beneficial.¹⁹

For further information about this consultation response contact:

Policy Unit
Law Centre (NI)
124 Donegall Street
BELFAST
BT1 2GY

Tel: 028 90 24 44 01
Fax: 028 90 23 63 40
Text phone: 028 90 23 99 38

¹⁸ <https://www.gov.uk/government/news/tax-free-childcare-top-things-childcare-providers-should-know>

¹⁹ We endorse Prowess Connect's recommendation on this - Prowess being a social enterprise and online hub for women-friendly business support, inspiration and information. <http://www.prowess.org.uk/tax-free-childcare>