

Law Centre NI is pleased to respond to the Department for Work and Pensions' inquiry into the wait for a first payment experienced by all claimants of Universal Credit.

1. About Law Centre NI

1.1 Law Centre NI is the regional law centre in Northern Ireland. Since 1977 Law Centre NI has delivered free and independent legal services in social welfare law across Northern Ireland. We promote social justice by providing specialist legal services to advice organisations and the public through our advice line, casework and representation work. We have a particular focus on strategic litigation that brings about broader social change and through our research and policy advocacy, we work to secure progressive change to law, policy and practice.

2. Introduction

2.1 Legislation to introduce Universal Credit in Northern Ireland was enacted in May 2016, three years after the rest of Great Britain. New benefit claimants in Northern Ireland were accepted on to Universal Credit from September 2017. Since the end of 2018 new applicants for working-age benefits and those with a relevant change of circumstances must apply for Universal Credit. Migration of legacy benefit recipients, who do not undergo any change of circumstances, is due to commence this year following the conclusion of a pilot exercise by the Department for Work and Pensions in Great Britain, with aim of completion by the end of 2023.¹

2.2 The Northern Ireland Assembly had concerns about the particular impact in Northern Ireland of changes to UK social security policy. This was due, in part, to high levels of under-occupancy in social housing, low availability of social housing for single people, high levels of disability and higher levels of low pay. The introduction of Universal Credit was approved only after it was agreed that funds from the devolved budget would be spent on 'welfare reform mitigation'

¹ Department for Work and Pensions, 'Chapter M7: Managed migration pilot and transitional protection', *Advice for decision making* (London: DWP, 2013/updated 2019) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/827914/admm7.pdf

measures to address these issues.² The welfare mitigations were set to expire on 31st March 2020 but the *New Decade, New Approach Agreement* committed to an extension.³ This recent agreement also promised a wider review of the mitigations in a context that now includes lived experience of Universal Credit.⁴ We await more information on this review from the Department for Communities.

2.3 Law Centre NI has worked closely with a project (*UC:Us*) supported by the Joseph Rowntree Foundation. This project examines the experience of those on Universal Credit in Northern Ireland to determine whether the benefit achieves its objectives and enables people to achieve a standard to living on their own terms. Law Centre NI was a lead member of the Project Advisory Group. Ruth Patrick, University of York, and Mark Simpson, University of Ulster led the project by conducting six workshops with benefit recipients in 2019 and will be submitting their own, informed response to this inquiry. The final report is due to be published in May 2020. Law Centre NI's response to this inquiry draws on the comments of the *UC:Us* participants at the most recent workshop in February 2020.

3. To what extent have the mitigations the Government has introduced so far (e.g. Advance Payments) helped to reduce the negative impact of the five week wait for UC claimants?

3.1 The introduction of Advance Payments may reduce the short-term impact of the five week wait by providing support to meet the costs of living between the application and first payment. One *UC:Us* appreciated that the loan was '*interest free, £27 a fortnight, that's cheaper than what I would've paid on the credit card*'. The five week wait is more functional for people making a claim from a position of previous secure employment if they have reserves. For example, Department for Communities figure of claims during the first three weeks of the COVID-19 emergency show that the normal Advance Payment uptake dropped from 2/3 of applicants to 1/3 of applicants. It is much more difficult for applicants, however, who move to UC without a recent history of work and who have little prospects of finding work in the short to medium future and for those with limited capability for work, the five week wait for payment in circumstances where they have no other income creates real hardship.

3.2 The *UC:Us* research, however, indicates that money difficulties was the defining experience of Universal Credit and that the five week wait operates as the trigger. Project participants reported that experience often changed, initially positive, perceptions of the Advance Payment, with one *UC:Us* participant,

² Northern Ireland Office, *A fresh start: the Stormont agreement and implementation plan* (Belfast: NIO, 2015) <https://www.gov.uk/government/news/a-fresh-start-for-northern-ireland>

³ *New Decade New Approach* (January 2020) p. 9.

⁴ *ibid* p 40.

highlighting the impact of “...getting all these type[s] of loans... means you pay them back, which means you’re left with barely any money” for an extended period. Another compared the experience to “going to a tick man.”

- 3.3** Whilst the stated policy intent may have been to ‘mitigate’ the negative impact of the five week wait, from the claimant’s position, the Advance Payment can be seen as less an offer of mitigation but more of an unavoidable debt. As a loan, which is repaid monthly from the claimant’s means-tested Universal Credit payment, the impact can only be long-term financial hardship and creation of debt for those in need of support.⁵
- 3.4** Further, deductions applied to the benefit to repay an Advance Payment loan, mean that the Universal Credit payment may make it difficult for individuals to respond to unexpected events or emergencies. The repayment means that the monthly benefit contains no flexibility and so the system is shown to fail to reflect the reality of everyday life. This pushes claimants into greater financial hardship and a level of emotional distress that ripples through vulnerable families.⁶
- 3.5** Another consequence of accepting an Advance Payment loan is that accessing additional support later can be more complex. As explained by one UC:Us participant; *‘the thermostat of my fridge is going and I already got it from [charity], so it’s not like I could ask them again... So I asked Universal Credit... how do I go about this? And they just, well they said you’re paying back a repayment loan.’*
- 3.6** In Northern Ireland the Contingency Fund, totalling £7million, aims to help those experiencing problems transitioning to Universal Credit.⁷ Initial rules required new recipients to have already accepted the Advance Payment before receiving a non-repayable grant from the Contingency Fund. The Law Centre NI wrote to the Department for Communities in June 2018 in relation to the legal basis for the application of the eligibility criteria. The NIAO Report into the welfare reform mitigations highlighted the lack of spend on the Contingency Fund with only 115

⁵ Policy in Practice, *Financial resilience and the transition to Universal Credit* (London: Policy in Practice, 2019) <http://policyinpractice.co.uk/wp-content/uploads/Universal-Credit-and-Financial-Resilience-190919-Full-report.pdf>; Step Change & The Trussell Trust, *Hardship now or hardship later? Universal Credit, debt and the five week wait*, (London: Step Change, 2020). <https://www.stepchange.org/Portals/0/assets/pdf/stepchange-debt-charity-trussell-trust-universal-credit-report.pdf>

⁶ See ‘Effects on mental health of a UK welfare reform, Universal Credit: a longitudinal controlled study’ *Sophie Wickham, Lee Bentley, Tanith Rose, Margaret Whitehead, David Taylor-Robinson, Ben Barr* *Lancet Public Health* 2020; 5 e157-64.

⁷ Welfare Reform Mitigations Working Group, *Welfare Reform Mitigations Working Group report* (Belfast: OFMDFM, 2016) <https://www.executiveoffice-ni.gov.uk/sites/default/files/publications/ofmdfm/welfare-reform-mitigations-working-group-report.pdf>

payments made from November 2017 to March 2018 totalling £17,000.⁸ The report noted a reason for this was the stringent eligibility criteria.⁹ We are pleased to note that in November 2019 Department announced that from January 2020 receipt of an Advance Payment is no longer required to access the Contingency Fund meaning that it is open to all experiencing the five week wait.¹⁰

3.7 The *UC:Us* project, however, revealed a low awareness of the Fund amongst the public. This points to the need to ensure that on-going training with frontline staff emphasises the availability of the Fund, and also a requirement to initiate effective awareness raising communications with the public. Details of the Fund are available on NI Direct.¹¹ Law Centre NI has raised the need to increase public awareness of the Contingency Fund directly with the Department for Communities.

3.8 *UC:Us* also suggests opening up the Contingency Fund to recipients who accepted an advance payments at an early stage in the UC implementation and are still repaying them.

4. What problems do claimants still experience during the five week wait?

4.1 When claimants do not take an advance payment there is a potential increased risk that individuals may need to turn to using food banks or borrow money from family, friends, and other lenders.¹² This places vulnerable individuals and families in a dangerously precarious position, with a minimum of five weeks to wait for their payment an intolerable length of time especially for people in already difficult situations, such as women who have escaped domestic violence.

4.2 The rise of food banks is becoming a feature of support across communities, undermining the original tenants of a social welfare system designed to provide a publicly-supported safety net in times of need.

5. What is the best way of offsetting the impact of the five week wait?

5.1 Law Centre NI recommends two changes to policy to offset the impact of the five week wait period:

⁸ *Welfare Reforms in Northern Ireland* (17 January 2019) [4.13]

<https://www.niauditoffice.gov.uk/sites/niao/files/media-files/Welfare%20Reform%20Report%202019.pdf>

⁹ *ibid* [4.27].

¹⁰ <https://www.communities-ni.gov.uk/publications/universal-credit-contingency-fund-uccf-change-eligibility-criteria-effective-january-2020-screening>

¹¹ <https://www.nidirect.gov.uk/articles/extra-financial-support>

¹² In Northern Ireland The Trussell Trust issued 36,783 emergency food parcels in 2018/19 – an increase of 11.8% from 2017/18. This figure is incomplete as approximately 800 independent food banks are also operational in Northern Ireland. <https://www.trusselltrust.org/hidden-eoy2019/>

- First, that the policy of the five week wait period for Universal Credit is abolished;
- Second, that the Treasury brings forward additional measures to further limit the maximum permissible deductions from benefit and extends further the maximum repayment period.¹³ Whilst not a panacea to the problem, for many claimants, who rely on loans within the benefit system, it would nevertheless be an important measure.

5.2 In the event that there is no change of the five week wait period and the policy of repayable advances is maintained, Law Centre NI recommends the following operational measures to off-set the impact of the five week wait and endorses a number of the recommendations emerging from the *UC:Us* project. These include:

- a) Continuous training of frontline staff on the availability of grant support and the implications on future benefit payments for claimants who take a loan;
- b) Measures by the Department, working with the independent advice sector, to publicise the availability of grants in Northern Ireland e.g. the Contingency Fund;
- c) Staff should take all such necessary measures to ensure that deductions to benefits should be bespoke to reflect the needs of the family, enabling them to maintain a liveable income with flexibility for some of life's challenges.¹⁴

6. Are different mitigating options needed for different groups of claimants?

6.1 If other mitigation methods are to be considered then attention should be given to the particular needs of those groups identified in 2019 by the United Nations Special Rapporteur on Extreme Poverty and Human rights, Philip Alston.¹⁵ His report noted that changes to taxes and benefits, since 2010, have had the biggest impact on women, children, persons with disabilities, older persons, ethnic minority groups, asylum seekers, and those living in rural communities. Alston identifies these groups as those at highest risk of poverty in our society and the least able to bear the brunt of policy changes.¹⁶

¹³ HM Treasury, *Budget 2020: delivering on our promises to the British people* (HC121, London: House of Commons, 2020) <https://www.gov.uk/government/publications/budget-2020-documents>

¹⁴ See also G McKeever, M Simpson and C Fitzpatrick, *Destitution and paths to justice* (London: Legal Education Foundation/York: Joseph Rowntree Foundation, 2018) <https://www.jrf.org.uk/report/destitution-and-paths-justice>

¹⁵ *Visit to the United Kingdom of Great Britain and Northern Ireland: report of the Special Rapporteur on Extreme Poverty and Human Rights* (April 2019)

<https://undocs.org/pdf?symbol=en/A/HRC/41/39/Add.1>

¹⁶ *ibid.* p15-18.

6.2 Law Centre NI would also strongly suggest that special attention is also paid to isolated individuals and those with mental health issues. These are groups, in addition to those above, that we work with on a regular basis. Our experience tells us that these vulnerable individuals have additional and immediate needs that could not wait five weeks to receive their entitlement.

7. Are there barriers or potential unintended consequences to removing the five week wait—either for claimants or the Department? How can they be overcome?

7.1 It is difficult to see the barrier or unintended negative consequences to the removal of the five week way period for claimants. For the Department, however, the Law Centre NI understands that removing the five week wait would require corresponding steps to be taken to amend the IT system and with associated costs. The original policy intent of Universal Credit was to simplify the benefit system so that it was responsive to people at a time of need, either in or out of work. It follows that the infrastructure underpinning the policy should also have the necessary flexibility to respond to evidence of the need for change. The cost of the necessary changes to the IT system should not serve as an impediment to acting on evidence of the human impact of flaws in the policy design. The elements of Universal Credit that are revealed to perpetuate poverty and marginalise those most in need, should be addressed as a priority over technical or other concerns.

8. Conclusion

8.1 Law Centre NI welcomes the opportunity to provide this response. We trust you will find our comments helpful. If there is any further way in which we can assist in the inquiry process, we would welcome the opportunity to do so.

For further information about this response contact:

Anna Hughes (anna.hughes@lawcentreni.org)

Law Centre NI

Westgate House

2-4 Queen Street

Belfast

BT1 6ED

Tel: (028) 9024 4401