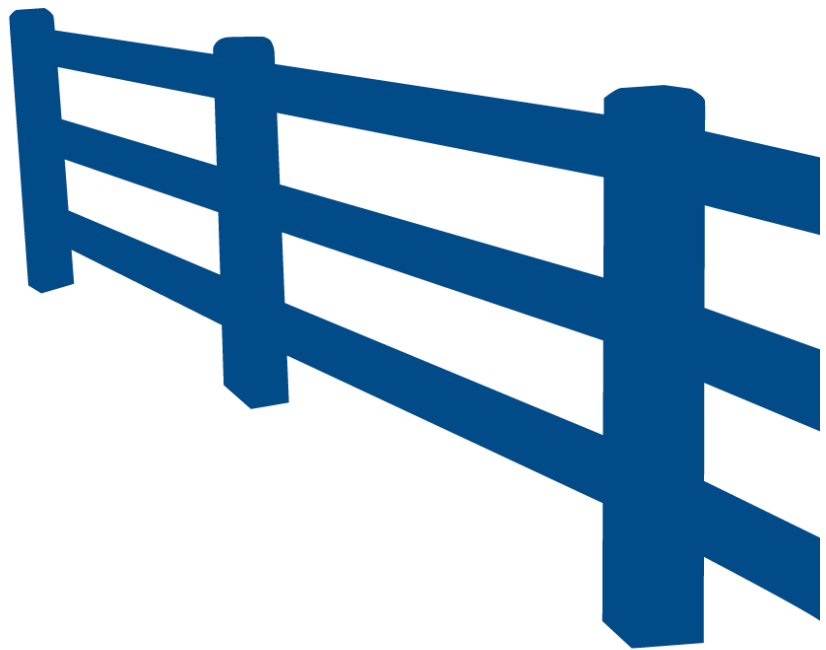


What's still wrong with Universal Credit



Richmond

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Executive Summary

This report is about flaws in the operation of Universal Credit (UC) highlighted by the experience of some of our clients. In November 2019 we decided to follow up a sample of our clients who had received assistance from Help to Claim to apply for UC or had asked for help with existing claims between April and the end of June 2019. Our aim was first to find out how they had managed on UC since then and next to identify, and illustrate with case studies from their experience, key issues with the operation of UC that need urgent improvement. To achieve this we analysed the case records of about 60 clients and followed this up with telephone interviews with 15 of them to bring this information up to date. As our research progressed we also looked out for evidence of the same issues in more recent cases. (A more detailed description of the conduct of our research is at Annexes A and B).

The evidence that we have collected does not enable us to provide a balanced picture of all the advantages and problems of the current operation of UC even within the borough of Richmond. For one thing many of those who claim UC in the borough do not come to Citizens Advice Richmond for help. For another the sample of clients that we have studied is a very small proportion of all those claimants who do come to us for help with UC. However, if UC is to be truly universal it needs to provide a basic level of financial security for all eligible claimants. So we think it important to identify those issues affecting even a small minority of our clients that call for improvement in the structure or operation of UC if clients of this type are to benefit from UC. That is the rationale for this report.

On the basis of the evidence that we have collected we have focussed on five issues:

- the living cost gap in the level of UC payments
- help for claimants to deal with their debts
- areas of poor administration in the current operation of UC]
- the help available for clients who cannot use the internet and
- the information and assistance available from work coaches and DWP

and come to the following conclusions and recommendations on each issue.

The Living Cost Gap

Despite the increase in some UC payments from April 2020 the benefit still does not provide a basic level of financial security for some clients. We recommend that:

- the threshold for the Benefit Cap should be raised substantially and the imposition of this cap should be re-examined with a view to its abolition;
- Local Housing Allowance (LHA) rates for the housing element of UC be reviewed before April 2021 to investigate whether restoration to the 30th percentile of market rents provides adequate support for private tenants' housing costs
- From the age of 25 claimants should no longer be restricted to LHA shared room rates for the calculation of the housing element of their UC;
- Compulsory deductions from UC payments should be confined to earnings and advance payments. Otherwise payment of all debts should be left for UC claimants to negotiate independently with their creditors

- Advance payments should include a non-repayable grant to help claimants meet landlords' requirement to pay each month's rent in advance and The amount of advance payments to be repaid should be capped at an affordable level within 12 months
- The child element of UC and the upper limit for support for child care costs be increased immediately to meet higher costs and the level of all UC payments be re-examined with a view to further increases from April 2021 in line with the formula proposed in the Citizens Advice report on Making Ends Meet.

Help For Claimants To Deal With Their Debts

Some claimants have heavy financial commitments including debts which will be difficult for them to meet on a UC budget. We think that much more attention should be paid to this problem when claimants apply for UC. So we recommend that:

- All claimants should be asked if they have debts when they apply
- If they have debts, to prevent them falling further into debt on the limited income available from UC, they should be strongly encouraged to review their budgeting and repayment plans at the start of their claims and if they need help, should be offered a free appointment with a debt advice agency

Poor Administration

Improving the process for closing and re-opening UC claims

We recommend that:

- UC claims should not be closed down until claimants have been warned in advance both on their online Journals and by direct contact by Jobcentre staff with reasons for the closure and
- Claimants should be allowed at least two weeks from the date of the warning to challenge the reasons for the closure
- Once claims have been closed the UC Journals should remain accessible to claimants for a month after the date of closure to allow claimants to review the information available on the Journal and if appropriate request mandatory reconsideration (MR)
- If MR is requested the Journals should remain accessible to the claimants until a decision is reached on the MR and
- the software for UC Journals should be adjusted to allow for the same UC account to be re-opened without new login details where a UC account has been wrongly closed.

Improving the DWP's Right to Reside assessments for UC

Priority should be given to training DWP staff who take decisions on Right to Reside requirements for eligibility for UC to investigate thoroughly all the relevant evidence and establish effective links with colleagues in HMRC and the Home Office.

Improving the treatment of disabled UC claimants

We believe that the whole culture of UC health assessments and DWP work capability decisions needs to be transformed before disabled UC claimants can be treated fairly. To help achieve this transformation we recommend that:

- where health professionals and DWP decision makers consider that claimants are fit for work they should be required to explain what type of work they think that the claimants could do and what support they may require

- where health professionals and DWP decision makers consider that claimants are capable of work related activities they should be required to explain what type of activities they should be able to undertake and what support they may require to do them. Failure to provide this information should result in an automatic award of limited capability for work related activities on appeal
- some work coaches in every JobcentrePlus office should receive additional disability-specific training and to be required to provide ongoing practical support to disabled claimants found fit for work or for work related activities
- decisions on MR requests should normally be reached within a month of the requests
- as more tribunal staff are appointed the waiting time for tribunal hearings on appeal should be reduced progressively to 3 months and
- tribunals should insist on DWP complying with the requirement in the tribunal regulations to provide all the evidence required for the hearing within 28 days of receiving notice of the appeal.

The Help Available For Claimants Who Cannot Use The Internet

We recommend that the special support available to claimants who cannot use the internet to make their claims should be continued once their claims have been accepted either

- by providing additional Jobcentre Plus staff to monitor these claimants' accounts closely and keep in regular contact with them by phone or
- by funding an extension of Citizens Advice's Help to Claim service to continue supporting these claimants beyond the completion of their initial claims.

The Information/Assistance Available From Work Coaches/DWP

Several clients whom we interviewed complained that they could not get the information or help that they needed from work coaches to improve their experience of UC and considered that they were ill informed. We recognise that with the massive increase in UC claims as a result of the Covid-19 lockdown the DWP's first priority will be to recruit new staff to cope with the demand. Nevertheless we recommend

- reinforcing work coaches' basic training with links to the information already available online on more detailed issues (e.g. through www.gov.uk) so that they are equipped to refer claimants to this information and
- expanding the information provided for claimants in their UC Journals to include prominent links to information available online about different topics covered in UC rules and regulations.

The Living Cost Gap

Although most clients whom we interviewed would have liked their UC payments to be more generous several accepted that it was their responsibility to manage on what they received and to try to find work to supplement or replace their UC. However some clients had no hope of meeting their most basic living expenses on the UC that they received:

Case Studies

- **Margery** is a married woman with 3 children who was abused and then abandoned by her husband with many financial commitments and a very expensive rent of £2850 a month. Even with a contribution of only £1216.29 towards the monthly rent she was subject to the Benefit Cap at £1916.61 and with other compulsory deductions of £47.67 a month actually received only £652.65 so that all her UC monthly payment went towards meeting the shortfall between the housing element of her UC and the full cost of her rent, leaving her with no money for any other expenses. Other members of the family supported her until she managed to find a cheaper place to rent in another borough. Otherwise she could not have managed.(CI-74746332)

Although the very high cost of the rent was the most serious problem, even if the rent had been only £1216.17 a month Margery would still have been left with only £652.53 a month after the rent had been paid or £150.61 a week to look after herself and her three children, and would have found it very hard to cope. Moreover, as a result of the Government's increase in the standard allowance for single parents to £409.89 a month and increase in the levels of Local Housing Allowance (LHA) for the housing element of UC, if the LHA for the housing element of Margery's current rent is £1217.29 or higher she will receive **less** UC now than she did in Richmond. This is because the upper limit for the Benefit Cap has remained at the same level of £1916.61 and not been increased to reflect the increases from April in the standard allowance and LHA rates for the UC housing element.

- a single mother, **Jane**, and her 31 year old daughter, **Jemma**, were both claiming UC as joint private tenants paying rent of £2000 a month. Jane, who was ill and could not work, received only £255 a month in UC (equivalent to £58.84 a week) apart from payment of £1000 for her share of the rent because her share of the rent made her total payment subject to the benefit cap, and she had another deduction for repayment of her advance loan. Jemma, who was training as a student nurse and working part time received only £433.89 towards the £1000 for her share of the rent because being under 35 she was entitled to receive only the LHA rate for shared rooms and not for a two bedroom house. So after deductions of £186.85 for her salary and advance and hardship loans she received UC of £564.86 a month, which with her salary as a student nurse gave her an income of £709.25 to pay £1000 in rent and all her other living expenses; but even if the housing element of UC had paid for her share of the rent in full, because of the

deductions she would have had an income of only £276.22 a month including her part time salary (or £63.74 a week) to pay for all her other expenses. Nor will the increase in the standard allowance for UC and the LHA rates from April 2020 improve Jane's or Jemma's financial situation substantially. Jane will not benefit at all from the increase in the standard allowance to £409.89 a month because her UC will still be subject to the same benefit cap, and, even if Jemma finds a room to rent at the new shared room rate of £506.61 a month, while she is a student nurse the increase in the standard allowance will still leave her with a total income of only £368.29 a month or £84.99 a week. (CL-6009025)

- **Lydia** is a 50 year old divorcee who lives on her own in a one bedroom flat rented to her by a friend below the market rate for £1000. She has serious but sporadic mental health problems as well as fibromyalgia and had been granted UC with LCW but not yet LCWRA although she was appealing for it. Because of her erratic and occasionally violent behaviour her 14 year old daughter had left her to live with her father.

At interview she explained that she was entitled to a standard UC allowance of £317.82 and a housing element of £966.19 towards her monthly rent of £1000 or a total of £1284.01, just below the limit for the Benefit Cap for a single person; but this was subject to deductions of £100.88 to cover monthly repayments for a large advance payment, previous Child Tax Credit overpayments and a small deduction for a student maintenance loan. So she actually received £1183.13 a month. After paying her rent this left her with only £183.13 a month for all her other expenses or £42.26 a week. There was no way she could have met her basic living expenses with this amount of UC. However to add to her income she had let a room in her flat to a student for £600 a month so that her total monthly income was £783.13 or £180.72 a week. She found this to be just enough to live on.

With the increases in UC from April 2020 the LHA rate for her flat will now cover all Lydia's rent of £1000 a month, and her UC entitlement after the deductions should increase to £1309.01 or £71.31 a week after she has paid the rent; but her UC is now subject to the benefit cap of £1284.18. So she will actually receive an increase of 17 pence a month. (CLI-2081075)

Recommendations on how to close the living cost gap

In their recent report on Making Ends Meet Citizens Advice nationally has recommended that:

- To redress the impact of the benefits freeze in the four years between April 2016 and April 2020 benefit levels should be increased by the Consumer Price Index plus 2 percent for each of the next four years;
- Local Housing Allowance rates should be restored permanently to the 30th percentile of local market rents
- The amount of UC that working claimants can retain as their wages increase should be reviewed and
- The amount of UC that can be deducted from UC payments for the repayment of debts should be reviewed.

In the context of the loss of income and employment triggered by the Covid-19 restrictions the Government has responded with the following improvements in UC payments:

- the standard allowance for UC will be raised by nearly 30 percent for a year from April 2020 e.g. from £317.82 a month to £409.89 for a single claimant over 25
- the restoration of the rates of Local Housing Allowance to at least the 30 percentile of local market rents from April 2020
- reducing the maximum amount of deductions from UC for debts from 30 to 25 per cent of the standard allowance for UC.

In our view these changes although welcome don't go far enough to close the living cost gap.

Between them the three cases that we have presented highlight the negative impact for some claimants of four aspects of the current payment system:

- the current Benefit Cap
- the shortfall between the housing element of UC and actual rents for private tenancies
- multiple compulsory deductions
- the basic level of UC entitlement compared with essential living costs.

We examine each of these aspects in turn.

a. Reviewing the Benefit Cap

Our case summaries illustrate how maintaining the current level of the Benefit Cap can result in some claimants not receiving enough money to live on and can prevent or restrict them from benefiting from the increases in UC introduced from April. The Benefit Cap was introduced to ensure that claimants who are wholly or mainly dependent on means tested benefits do not receive a higher income than working people who are not claiming benefits or are earning enough (currently £604 a month) to be exempt from the cap. Since the minimum wage has been increased the level of income that working people can expect to receive is higher; but some workers receiving the minimum wage also have to apply for UC to make ends meet. So it is clear that the Benefit Cap would need to be raised considerably to match the incomes of workers who are not claiming means tested benefits; but we think that the case for imposing any Benefit Cap is fundamentally flawed because it is not necessary to impose a Benefit Cap to ensure that claimants dependent on means tested benefits do not receive a higher income than working people, nor is it a fair way of doing it..

If we take the example of Margery's case she was paying a high rent for a large property and the housing element of her UC formed a large proportion of her overall UC entitlement. It could be argued that she should not receive more income in total than a single parent with 3 children living in much cheaper accommodation. However the substantial shortfall between the housing element of her UC and her actual rent due to the restriction of the LHA rates for her area already blocked support for the excessively high rent and forced her to move to cheaper accommodation in a different borough as soon as she could. There was no need or justification to add another cap to drive her UC payments down further.

Secondly it could be argued that because Margery was not working she should not receive more income than a single parent with 3 children who was working; but it is not clear how a fair comparison could be made. Margery had been self employed but was faced with a terrible situation by being abused and abandoned by her husband and need time to recover and adjust to her new circumstances. The commitments that claimants have to make as a condition for receiving UC already provide a basis for judging whether in their particular circumstances they should be expected to look for work. Imposing an automatic Benefit Cap without regard to claimants' circumstances seems entirely arbitrary.

We therefore recommend an urgent review of the Benefit Cap with a view to its abolition.

b. Reviewing the housing element of UC for private rents

In our view there is inequity in the treatment of UC claimants who rely on UC for their income and are renting privately compared with many of those who rely on UC for their income but are fortunate enough to be in social housing. Many of the latter have all their rent paid by UC automatically. Although we welcome the increase in LHA rates to reduce the shortfall between the housing element of UC and the full cost of private rents we are not sure that it goes far enough in areas where there is a shortage of private tenancies at affordable rents, as in the borough of Richmond.

In the long run the amount that landlords can charge for private renting should be limited to prevent private renting in some areas becoming unaffordable; but in the short term restoring the rate of Local Housing Allowances to the 30 percentile of local market rents may not be enough if claimants cannot easily move to cheaper property. .

This may still mean that some claimants have to spend a large amount of their UC on the shortfall between the housing element of their UC and the actual rent so that they have little left for their other expenses. At present the most common way of dealing with this for those who get advice is to petition the local authority to make a Discretionary Housing Payment (DHP) to avoid UC claimants falling into rent arrears; so in effect public funds can be used to plug the gap left by the UC payment system. We believe that this can be justified in the short term particularly to give UC claimants time to see if they can move to cheaper accommodation or be accepted for social housing. So we recommend that the Government increase substantially the funds available to local authorities for Discretionary Housing Payments. However in the long run it may be more cost effective to invest more in UC payments to increase LHA rates and reduce the shortfall between the housing element of UC and actual rents so as to reduce the need for DHPs and the costs involved in administering them as well as the social disruption when families have to move to new areas and new schools away from well-established support networks..

Finally Jemma's case highlights the injustice of expecting young people to continue to rent rooms rather than tenancies for flats up to the age of 35. In some areas it is difficult to find properties offering rooms to rent and we don't see why young people should be deterred from renting one bedroom flats. So we recommend that the age limit for the imposition of the shared room rate for LHA rates should be restored to 25, which was the previous age limit.

c. Restricting deductions from UC payments

We have shown that in Lydia's case although she did not have much extra to pay towards her rent the total amount of deductions from her UC significantly reduced the amount that she had left for all her other expenses. The Government's decision to reduce total amount of deductions from UC from 30 to 25 percent of claimants' standard allowance is welcome; but it is not the only change that should be made. The first requirement of welfare benefits is that they should provide sufficient for recipients to meet their basic living expenses. There is no merit in a payment system that leaves claimants with a negative monthly budget so that they have to borrow and incur debt to make ends meet. Consequently we consider that there should be no automatic deductions from UC except perhaps for advance payments (but see below). Otherwise repayment of any debts that claimants may have when they apply for UC should be negotiated independently between claimants and their creditors. These debts should never be included in the UC payment system unless that is what the claimant asks for.

The acid test of this restriction of deductions from UC payments will be that in future all claimants do receive sufficient money to meet their basic living expenses. Without an assured minimum level of UC payments it will continue to be a flawed system.

d. Reviewing advance payments

The repayment of advance payments to cope with the 5 week wait for the first UC payment is a common deduction from claimants' first year's payments. Given that claimants often need money to pay their rent in advance when it will only be paid by UC in arrears it would be helpful if the advance payment could include a substantial non-repayable grant, perhaps up to half the total payment. Secondly there should be an upper limit on the amount of the advance payment that has to be repaid to avoid claimants being faced with large deductions from their UC over the next 12 months.

e. Reviewing the level of UC payments

Despite the recent increase in the standard allowance for UC it still does not compensate for the loss in value since the level of benefits was frozen in April 2016. Nor has there been any increase in the child element of UC or the upper limit for UC support for child care costs despite rising costs. We recommend therefore that there should be an immediate increase in the child element of UC and for the upper limits for support for child care costs and a review of the standard allowance with a view to a further increase before April 2021 in line with the formula suggested in Making Ends Meet.

Helping UC Claimants Budget And Deal With Debts

Another important issue in judging the adequacy of UC payments is the difficulty of reducing existing financial commitments when having to rely on a lower level of income.

Case Studies

One example is **Jude** who had to apply for UC when he was made redundant in May 2019. He is single and lives in social housing, but had savings of about £10,000 when he applied for UC. Although his UC covered his rent in full he received only

£294.64 a month- or £67.99 a week- to cover all his other living expenses. By the time that he was interviewed in February 2020 he reported that he had used up all his savings and was having to borrow from friends and family and had run up a large bank overdraft to make ends meet. (CLI-1332062)

Another example is **Rita**, a 42 year mother of 3 children aged 3, 9 and 15, separated from her husband and living in a privately rented 3 bedroom house. The change in her benefits triggered by her separation from her husband forced her to apply for UC. She came for help to apply for UC in April 2019 and took out an advance payment of £600 to cope with the 5 week wait for her first payment, which she has had to pay back through deductions from her UC of £50 a month. She returned for more help in June when she was struggling to make ends meet on the UC payments that she was getting. She did not know that she could get help from UC with her child care costs, which was then arranged.

At telephone interview in February 2020 it emerged that Rita had several sources of monthly income:

- £1850 UC monthly payment
- A UC refund of about £870 of her £1023 child care costs
- A net salary of £1080 for part time work
- £208.43 Child Benefit
- DLA at middle rate care of £254.36 for a daughter who has ADD and
- £350 child maintenance from her separated husband.

Despite having all these sources of income Rita considered that she was struggling to cope with all her monthly expenses. The housing element of her UC still left her with £300 to pay towards her monthly rent of £1385 although this rent was lower than the LHA rate for 3 bedroom houses in her area. She had to pay £150 a month in Council Tax and about £150 of the £1023 charged for her child care costs. However at the time when Rita applied for UC she was already committed to repaying a large personal loan at the rate of £288 a month and monthly instalments of £110 for a second hand car that she had bought. These additional costs coupled with the growing costs of her three children's food, clothing and school activities resulted in her having a negative monthly budget and a large bank overdraft despite her many sources of income. Following our telephone interview Rita came for an appointment to help her with budgeting and to review her debts. (CLI-2078576)

Recommendation on helping UC claimants to budget and deal with their debts

At present claimants who are referred to Help to Claim for assistance in applying for UC are offered an appointment to help them with budgeting to meet their expenses while on UC; but it is seldom taken up. We suggest that as part of the application process claimants should be asked if they already have debts and, if so, should be strongly encouraged to review their budgeting and repayment plans in line with their new monthly income as soon as possible and, if they need help, to take up the offer of a free appointment with a debt advice agency. We think that more attention should be given to helping claimants review their debts at the start of their claims to avoid them falling further into debt as a result of their limited income from UC.

Poor Administration

Flaws in the process for closing UC claims

Our sample included examples of clients whose UC claims were wrongly closed with a serious impact on the clients and difficulty in getting their UC claims reinstated.

Case Studies

Gillian's case (CL-411115)

Gillian is a 43 year old single parent with two children who had moved into the area after being subject to domestic abuse. She is dependent on UC, but on the day when she was due to receive her monthly UC payment she found that her claim had been closed. When she enquired she was told that this was due to her not accepting her work commitments. She tried to log onto her account but found that it was blocked. She then appealed to Jobcentre Plus staff to look into her account. They confirmed that there were no outstanding issues that could have justified her UC claim being closed. It was clear that her claim had been closed in error.

At this point Gillian had only £9 in her bank account and her rent had not been paid. Although Jobcentre Plus staff were aware of her predicament she heard nothing more from them. It was not until a week later when Gillian came to us for help and we contacted the staff that they checked up and found that a new claim had been opened and it was agreed to pay her a backdated allowance; but she still had to wait to find out how much and when she would be paid, and she was unable to access her new UC account with her existing login details. She was advised that she would have to visit the Jobcentre Plus office to sort out the details for her to be able to access her new UC account online.

How to improve the process for closing and re-opening UC claims

It is almost certainly inevitable that technical and human mistakes will be made that could lead to UC claims being wrongly closed. It is essential therefore that UC claims should never be closed down automatically online without claimants being warned in advance both on their Journals and by Jobcentre staff. Claimants should be given an opportunity to challenge the reasons for closing their claims with a deadline of at least two weeks to respond. However there will be cases where claimants do not respond in time e.g. because they are ill or away on holiday; so when a UC claim is closed the claimant's Journal should remain accessible for at least a month after it has been closed to enable claimants to check why their UC claims have been closed and if they want to object to make a request for MR; but if MR is requested within a month the Journal should remain accessible until the MR is decided. Finally the software for the UC Journal should be adjusted so that when it has been recognised that a UC claim was wrongly closed the closed account can be re-opened without having to start again with new login details.

Inadequate assessments of UC claimants' right to reside in the UK

Two EU citizens in our sample suffered disastrous consequences when their UC claims were rejected because they were wrongly judged to have failed the Habitual Residence test.

Mateus' case (CL-65580866)

Mateus is a 54 year old EU citizen living alone who applied for UC when he lost his job. Prior to his unemployment he had worked in the UK for 5 years and consequently had a right to reside and to qualify for UC. However DWP did not investigate his previous work history thoroughly and rejected his UC claim. As a result Mateus had no income and was evicted from his home. He remained homeless for 11 weeks, initially sleeping on the streets and then on the floor of a shelter. During this period he developed physical and mental health problems so that he now suffers from anxiety and depression and has to walk with a stick due to problems with his hip. He also lost most of his possessions and built up debts of £7000.

However with our help Mateus challenged DWP's rejection of his right to reside in the UK and qualify for UC. Eventually DWP obtained information from HMRC that proved that Mateus had worked in the UK for over 5 years and therefore had a right to reside; but it took 5 months for DWP to reverse its decision and award him UC, 5 months in which Mateus' life was irrevocably changed.

Alicia's case (CL-67329642)

Alicia is a 32 year old EU citizen with baby twins. She had been working in the UK but took maternity leave when she became pregnant. At the end of her maternity leave she remained on unpaid leave and successfully claimed UC, receiving the standard single person's allowance, child allowance for the twins and a housing element for the rent. However her claim was closed because of an error in reporting her earnings (either by HMRC or her employer). Alicia followed DWP's advice to reclaim UC, but her claim was subjected to the Habitual Residence test, which she failed. Alicia then applied for Settled Status, which was granted.

Armed with this decision Alicia and we on her behalf repeatedly requested MR of the rejection of her UC reclaim. Eventually DWP confirmed rejection of her UC reclaim but agreed to accept the date when Settled Status was granted as the date when she met the habitual residence test if her UC reclaim was revised on that basis; but she had to wait several weeks to receive any UC payment.

During this period Alicia had no income or earnings and with our help had to rely on food vouchers. She was also threatened with eviction for rent arrears, which was only averted by a last minute Discretionary Housing Payment.

How to improve Habitual Residence assessments

In both these cases it seems that the DWP specialists who decided whether Mateus and Alicia satisfied the Habitual Residence test either did not consider all the relevant evidence or did not ask the HMRC the right questions to get this evidence or both. Secondly given that both claimants were in a vulnerable situation the DWP specialists should have acted much more quickly to review their decisions once they were challenged.

It is important that EU citizens and other immigrants who have been working in the UK are treated fairly when they apply for UC. So the DWP staff who take decisions on claimants' right to reside in the UK need to be properly trained to investigate all the relevant evidence before reaching a decision and to establish effective links with staff in the HMRC and the Home Office who may need to be consulted. This is a complex area of DWP's work which needs to be given priority.

Endemic mistreatment of disabled UC claimants

In June 2019 we complained to our local MPs, Sir Vince Cable and Zac Goldsmith, about the unacceptable delays at every stage of the process for assessing UC claimants' eligibility for limited capability for work (LCW) and limited capability for work related activity (LCWRA) and about the poor quality of many assessments and decisions that were frequently replaced by tribunals on appeal by decisions in favour of the disabled appellants. Our complaint was relayed to the Secretaries of State for Work and Pensions and for Justice, Amber Rudd and David Gauke, and in August 2019 they responded with commitments to speed up the process, including the recruitment of many more members of Social Security and Child Support tribunals, and measures designed to improve the quality of assessments and decisions, including the recruitment of 150 DWP "presenters" at tribunal hearings who would provide feedback to assessors and decision makers on the decisions that tribunals reached on appeal. Amber Rudd concluded her letter: "I am confident that we will see the quality of decisions improve, leading to fewer appeals and reduced waiting times".

We have seen few signs of the improvements of promised. There continue to be cases where Health Professionals responsible for assessments and the DWP decision makers dismiss clear evidence of the impact of serious long term health conditions to declare claimants fit for work, and then for the DWP decision makers to obstruct the process for challenging their decisions by delaying any response to a request for Mandatory Reconsideration (MR) and after eventually confirming the original decisions then delaying for several months providing the evidence for their decisions that the tribunal will need to consider an appeal.

Case Studies

Yousef's case (CL-74976916)

A good example of these problems from our sample of clients is the experience of **Yousef**, a 37 year old Iranian living on his own in social housing. When he applied for UC in 2018 he had not worked for a long time and in his UC50 he reported a wide range of medical problems. These included lower back pain extending to his left leg and dizzy spells, seriously restricting his mobility, and the need for a friend to go with him if he went out; difficulty in concentrating and planning; and depression and anxiety, making it very difficult for him to meet new people. A further obstacle was his poor English; although he was taking English classes he had to rely on friends to explain any complex written English.

His work capability assessment gave him 6 points for difficulty in moving about but no points for anything else; so in December 2018 he was found fit for work. He applied immediately for MR of this decision, but it was more than three months later

before in April 2019 the decision that he was fit for work was confirmed. He was confused about what he could do next, but in June 2019 was helped to make a late appeal to a tribunal, and the tribunal asked DWP to provide its evidence for the appeal.

In the meantime he was receiving the standard UC allowance and full payment of his rent, but was expected to be actively looking for work. In October 2019 his UC was stopped on the grounds that he was not meeting his commitments to look for work. We helped him to reclaim UC, which was reinstated; but there is no evidence that at any stage his work coach offered guidance on what work he could do or helped him look for it.

By November 2019 DWP had still not provided the bundle of evidence required for the appeal. The tribunal issued a direction to DWP, and finally in December, 25 weeks after it had been informed of Yousef's appeal, DWP provided its evidence. As a result of this delay it was not until February 2020 that a tribunal hearing was scheduled, 33 weeks after the tribunal had received Yousef's appeal. However the hearing had to be adjourned because Yousef had not been provided with a copy of DWP's evidence, crucial medical evidence was missing and there was no Farsi interpreter as Yousef had requested. So Yousef is still waiting for a tribunal hearing to find out if he will be judged to have limited capability for work or for work related activity.

Another issue exemplified by clients in our sample is the impact of being downgraded from ESA in the Support Group to limited capability for work for UC but **not** limited capability for work related activity.

Luke's case (CLI-3931446)

Luke is a middle aged man, divorced with no dependent children, living alone in private rented accommodation. He has several disabilities. Following an accident and a hip replacement he has pain in his lower back and right hip and his right shoulder as well as hernias that affect his bladder control and high cholesterol; but he also suffers from severe anxiety and frequent and disabling panic attacks when faced with any kind of change or unfamiliar situation.

Luke had been receiving ESA in the Support Group until in December 2018 he was refused ESA after a reassessment and applied for UC. In February 2019 his health assessment for UC resulted in him being found to have limited capability for work (LCW) on the grounds that if he had to return to work this could trigger a serious deterioration in his health. However he was **not** found to have limited capability for work related activity (LCWRA), implying that he would be able to make preparations to return to work in future. His LCW status meant that he received no extra UC payment because of his disabilities where he would have qualified for an extra £336.82 a month had he been found to have LCWRA.

Luke requested MR. It took the DWP 8 weeks to respond with a decision confirming his LCW status. With our help Luke then lodged a tribunal appeal received on 25 May 2019. It was not until 29 weeks later on 9 December 2019 that DWP provided the bundle of evidence required for the tribunal hearing so that the tribunal was not scheduled until January 2020, 33 weeks after his appeal had been received. The tribunal hearing had to be adjourned because Luke suffered a panic attack on the way to the tribunal, but at a hearing in February the tribunal found Luke to have

LCWRA, and recommended that he should not be reassessed for 2 years. The additional payment for LCWRA must now be backdated.

During the long period leading up to the tribunal hearing Luke had downsized from living in a 5 bedroom house to a 3 bedroom house and finally a one bedroom studio flat. He then received the standard UC allowance for a single person and a housing element that covered his rent. However he built up significant debts during this period and had to borrow from friends to get by as well as selling many of his possessions. The long wait for the tribunal hearing also intensified his anxiety.

Robert's case (CL-73601536)

Robert is a 62 year old married man, living with his wife and 17 year old son and 21 year old daughter in social housing. He has no sight in one eye and macular degeneration in the other eye and was receiving ESA in the Support Group until March 2019. From January 2019 he has also received Personal Independence Payment at the level of enhanced care and enhanced mobility. His wife works full time but on a zero hours contract so that her earnings fluctuate from month to month. His daughter is a full-time university student, coming home for the vacations.

When we interviewed him a year later in February 2020 Robert reported that Jobcentre Plus had wrongly advised him to apply for UC as a means of restoring child benefit for his son but not to include his daughter on his UC claim. However when he applied for UC he ran into two problems:

- The UC health assessment resulted in him being found to have LCW but not LCWRA on the basis that the visual impairment in his "good" eye might be cataract and could improve whereas in fact it was wet macular degeneration that will deteriorate. This meant that he lost nearly £200 a month that he had been receiving in the ESA Support Group including disability premia
- His daughter was classed as not living at home so that their accommodation was subject to "bedroom tax", which took 9 months to sort out.

When Robert received his first UC payment for March 2019 only £417.56 was paid towards his rent of £614.73 and he was awarded nothing at all for all the family's other expenses. This was due to a combination of deductions for his wife's monthly salary of £1260.04, his own small private pension, a 14% deduction from the housing element for the bedroom tax and £174.61 for tax credit overpayments and rent arrears.

At first Robert had to use food banks to cope. His situation improved when he managed to get large debts on credit cards and with utilities written off because of his disabilities, but the fluctuations in his wife's earnings from month to month caused continuing uncertainty about their UC payments. His work coach put him on 3 month visits to the Jobcentre without pressing him to take any action in between visits or making any positive suggestions about any work-related activity that he could undertake.

In May 2019 and again in June we wrote on his behalf to complain about the bedroom tax and to ask for his LCW status to be reviewed by supersession because there was now evidence that he had a serious type of macular degeneration that would never improve in the eye that had been assessed as affected only by a cataract.

The imposition of the bedroom tax was eventually removed so that the housing element of UC fully covered his rent, but there was no response to the request for supersession to see if he qualified for LCWRA. At interview in February 2020 Robert mentioned that he had delayed pressing for a response to his request for supersession because he was now having tests for chest pains, and he expected that if it turned out that he had a heart problem this would clinch the case for him to be put into the LCWRA group and receive additional UC payments.

Recommendations for improving UC for disabled claimants

a. Tackling the biased and unfair work capability assessment system

In all three cases just described the health professionals responsible for the UC health assessment seriously underestimated the impact of our clients' disabilities on their ability ever to return to work, leading to a long period of anxiety and financial hardship for our clients and substantial costs for the DWP and the tribunal service before in two cases their assessments have been corrected. It is difficult to resist the suspicion that the health professionals have been trained to downplay the impact of claimants' disabilities so that as many as possible are found fit for work or with LCW rather than LCWRA so that they will not qualify for any additional UC because of their disabilities. Secondly it seems to be standard practice for decision makers to accept the health professionals' assessments even when they run counter to the medical evidence presented. So the whole culture of UC health assessments and DWP work capability decisions needs radical change before disabled claimants can be treated fairly.

Secondly in making work capability assessments health professionals and DWP decision makers need to be able to demonstrate their grasp of the practical requirements of different types of work and training in the real world and not just their mastery of the current points based system. So:

- where health professionals and DWP decision makers consider that claimants are fit for work they should be required to explain what type of work they think that the claimants could do and
- where health professionals and DWP decision makers consider that claimants are capable of work related activities they should be required to explain what type of activities they should be able to undertake and what support they may require. Since for UC this is no longer a category that attracts an additional benefit payment it is particularly important that the assessment should specify clearly what activities the claimant is deemed capable of doing and how these activities can contribute to getting a job. Otherwise the claimant should be granted the additional payment in the LCWRA group on appeal

b. Upskilling work coaches to support disabled UC claimants

In November 2017 following a wide ranging public consultation the Government published a White Paper entitled "Improving Lives: the Future of Work, Health and Disability" setting out detailed proposals to increase the employment of disabled people in the UK by one million in the next 10 years. These proposals included plans to train work coaches to be able to provide "a personalised and tailored offer" of support to disabled claimants to help them find work. It was envisaged that work coaches would have a "Health and Work Conversation" with disabled claimants to

find out what work experience, qualifications, skills and aptitudes they had and agree a specific plan for them to follow to get a suitable job. In some cases this would be a three way conversation including a health professional to discuss the support needed because of the claimant's disabilities. (See Annexe B to the White Paper on page 52 updating Green Paper commitments).

These proposals have not been implemented; but they highlight a crucial gap in the current administration of UC for disabled claimants. When Yousef was found to be fit for work despite his restricted mobility, poor English and anxiety and depression his work coach should have been equipped to help him identify what type of work he could aspire to and prepare for. Instead Yousef was left to struggle and had his UC closed down when he failed to show that he was applying for work. When Luke and Robert were found to be capable of work related activities despite their substantial disabilities, their work coaches should have been equipped to help them identify suitable activities; but there is no evidence that they did. In practice work coaches seem not to have any training or responsibility to help disabled claimants decide what work they could do or how to prepare for it.

We think that this should change. Although it may be impractical to train all work coaches to deal with disabled claimants we recommend that sufficient work coaches or disability employment advisers should be trained in each Jobcentre Plus office to provide support for disabled claimants linked to that office. The cost of this training could be offset in the long run by the number of disabled claimants who get paid work and no longer rely on UC.

c.speeding up the claiming process

There is no justification for DWP to take 8-10 weeks to respond to a MR request especially if there is no change to the original decision. We consider that more resource should be devoted to dealing with MR requests to bring the waiting period down to one month.

The delays of more than 7 months before Yousef's and Luke's tribunal appeals were heard were clearly unacceptable; but apart from a backlog of appeals waiting to be heard one reason for these delays was DWP's failure to provide their bundle of evidence to be considered at the hearings. There were similar delays in DWP's provision of evidence for other disabled clients' appeals included in our sample. We hope that in future the DWP can be held to the requirement in the tribunal regulations to provide their bundle of evidence within 28 days of being notified of the appeal. This should help to reduce the waiting time for tribunal appeal hearings, which we think should be reduced progressively as more tribunal staff are appointed to no more than 3 months.

Help For Claimants Who Cannot Use The Internet

Most clients whom we interviewed said that they had little or no difficulty managing their UC accounts online; but there were two clients who were not computer literate and relied entirely on relatives to manage their UC accounts.

Case Studies

Frederick's case (CL-735695735)

Frederick is a 63 year old single man renting from a housing association. He received UC until his earnings got too high and at the time of interview had applied for UC again now that he was working part time.

At interview he explained that because he cannot use a computer DWP agreed to deal with his nephew. So he himself never saw his account online and had no contact with his work coach. He said that now and then DWP sent his nephew an email, but a couple of times his nephew was slow to react to these emails, and so his UC account was closed down. His nephew then had to contact DWP to get the account re-opened. Frederick pointed out that if DWP sent him text messages on his mobile phone he would be able to respond to them; but despite suggesting this he had only once received one.

Bella's case (CLI-1766018)

Bella is a 62 year old Ghanian who has lived and worked in the UK for many years. She is married, but separated from her husband and lives with a daughter of 31, who has a child of 4 and a new baby, and with a son of 26 in housing association property. She had to give up work because of multiple disabilities and with her daughter's help secured PIP at an enhanced rate for her daily care needs and for her mobility needs and contribution rate ESA in the Support Group. She also qualified for a small retirement pension of £50 a week.

When she came to Citizens Advice Richmond in June 2019 to find out whether she could claim any other benefits she was advised to claim UC with the assistance of the Help to Claim helpline but could not complete her claim because she could not deal with the online requirements. However her daughter helped her to complete her claim and from then on has managed her UC account.

At telephone interview in February 2020 Bella explained that her daughter managed everything to do with her UC. We sent Bella an email setting out the questions we wanted to ask about her UC to show to her daughter and shortly after the birth of her second child her daughter rang back to provide more information about her mother's UC.

Her daughter explained that she had very little contact with her mother's work coach and seldom looked at her UC Journal. She examined her mother's bank statements to check on how much UC she was being paid but did not delve into the details from month to month. Both she and her brother helped their mother pay all the household bills, including the rent, and without their help she did not think that her mother would be able to cope. She added that despite now having two children to look after because of the need to support her mother financially she had decided to limit her maternity leave to 41/2 months so that she could soon resume full time work and pay.

Recommendations

Providing support beyond their initial claim for claimants who cannot go online

DWP claims to provide additional help for vulnerable UC claimants with complex needs, and under DWP's "safeguarding" procedures claimants who cannot use a computer can have their claims made by telephone with Jobcentre Plus staff. It is not clear whether under these procedures their claims should continue to be dealt with by phone and in writing; but in practice the details of their claims and their subsequent UC payments are entered online onto their UC Journals, and no further support is provided to help them manage their UC online. Friends or relatives who fill this gap may not have the time or the detailed knowledge of the UC claiming and payment process to keep pace with all the requirements. Moreover once a friend or relative is in charge the claimant may have little or no contact with their work coach and no understanding of what is happening to their UC.

We consider that it is neither fair nor efficient to expect friends or relatives to manage the online UC accounts of claimants who are not computer literate. Although an increasing majority of claimants will find the online system easy to use we consider that the DWP should provide continuing support for the dwindling minority of claimants who cannot use that system. This should be done either

- by providing additional Jobcentre Plus staff trained to monitor their accounts each month and keep in close contact with the claimants by phone to explain any changes or
- by funding an extension of Citizens Advice's Help to Claim service to continue supporting these claimants beyond the completion of their initial claim.

Work Coaches' Lack Of Detailed Knowledge About UC

Most clients whom we interviewed found their work coaches friendly and easy to get on with, but several complained that their work coaches were not well informed about UC rules and regulations or capable of improving their experience of UC.

Case Studies

A good example is **Robert** whose case we described on page 15(13) and who suffered from the imposition of bedroom tax for 9 months due to his work coach's wrong advice. At interview he commented: "My work coach is helpful and up to date with some of the stuff in my life- he just puts me on 3 months visits to the Jobcentre since there is no point in me going more often. He doesn't pester me at all, but he is not much better than my last work coach in knowing about UC..." He considered that Jobcentre Plus staff in general did not know enough about UC, complaining that "The Jobcentre have no idea about how UC works-it is not their domain. They're very friendly, but they have given me incorrect advice. They just don't know. They say "

You know more than we do'. They flick through the manual, but they can't help. It is better to call Cornwall".

A wider ranging criticism of the lack of information available about UC was advanced by **Lydia** whose case we described on page 7 (5) . She stressed the lack of information available to highlight the opportunities for claimants to improve their prospects on UC. It was through her own painstaking research that she discovered that there was scope for her to let a room to a lodger without affecting her UC payments and that as a claimant with limited capability for work she could pursue part time advanced education without losing her UC entitlement. No information about these possibilities was provided by her work coach or other JC Plus staff ,and when she had to negotiate with DWP specialist staff at St Austell about how her student and maintenance loans would be treated there were several false starts before they recognised what was allowed under the regulations.

Recommendations

The need for more staff and online resources and better targeted training

The role of the front line work coach is already limited because decisions about claims and payments are taken by DWP staff elsewhere. Moreover as a result of DWP staff reductions over recent years work coaches now have huge caseloads with little time for each claimant, and decisions on claims and payments take longer. On top of this the Covid-19 lockdown has triggered a massive increase in UC claims. There is therefore an urgent need for many more staff at every level of the system for dealing with UC claims and payments, leading to an inevitable influx of new recruits.

Against this background it would be unreasonable to expect a rapid increase in work coaches' detailed knowledge of all aspects of UC. Nevertheless we think that it would be helpful to reinforce work coaches' basic training in the processes for claiming and paying UC with links to the information already available online on more detailed issues (e.g. through www.gov.uk) so that they are equipped to refer claimants to this information. In addition we recommend that the information provided in UC Journals should be expanded to include prominent links to information available online about different topics covered in UC rules and regulations.