



Department
for Work &
Pensions

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/****)



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for Work &
Pensions

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Report by the Social Security Advisory
Committee under Sections 172(1) and Section
174(1) of the Social Security Administration Act
1992 and statement by the Secretary of State
for Work and Pensions in accordance with
Section 174(2) of that Act

Presented to Parliament pursuant to
Section 174(2) of the Social Security Administration Act 1992

July 2022



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Secretary of State's Statement in response to the Social Security Advisory Committee's report dated 26 May 2022 on the Draft Universal Credit (Transitional Provisions) Amendment Regulations 2022.

After the passing of the Welfare Reform Act in 2012 that introduced Universal Credit to replace six legacy benefits and tax credits, these regulations will help complete the move to Universal Credit including revoking provisions that have been superseded or identified as no longer necessary.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 improve the existing legislative framework that sets out how claimants are notified of their move to Universal Credit (UC) - managed migration - and protections for claimants as they migrate (transitional protection). This legislative framework supports the migration of legacy claimants and underpins both the 2019 Harrogate pilot (suspended in March 2020) and the recent resumption of managed migration in the Jobcentre Plus districts of Bolton and Medway in May 2022.

The Department thanks Social Security Advisory Committee for its consideration of the regulations and report. The Department welcomes the Committee's focus on the regulation regarding the removal of the 10,000 limit on the number of claimants who can be sent a managed migration notice. This regulation has been proposed as this previous regulatory constraint no longer reflects how we wish to test and learn our approach for a responsible and safe transition for claimants to UC. We note that the committee has not made any recommendations regarding the draft regulations; therefore, we have not made any amendments to them, apart from some minor technical and drafting changes, ahead of laying them in Parliament.

The committee did make recommendations focusing on programme governance, operational matters, and engagement with stakeholders, particularly Parliament. The Department would like to formally note all the recommendations.

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We already have comprehensive governance arrangements in place for Move to UC, including through the Programme Board, the regular review of the Permanent Secretary, and the oversight of Ministers. The Department already engages with the Work and Pensions Select Committee regularly.

The Department fully understands the importance of ensuring that the move from legacy benefits to UC is as smooth as possible. As part of our learning during the Discovery phase, we will test and validate our approach on what additional support may be required for people to make their claim to UC.

The Department has a clear focus on ensuring that we support the most vulnerable claimants. Without seeking to undermine the approach being tested for the first group of claimants in this initial phase of Discovery, the Department has agreed a process to proactively work with those claimants who do not make a claim within the three-month period given, unless they have informed the Department already that they do not intend to make a claim.

The Department already has a comprehensive stakeholder engagement strategy in place. As we started to look again at Move to UC during 2021, we re-commenced engagement with a broad and diverse range of stakeholders, starting with a large stakeholder event in March 2021. Regular monthly stakeholder meetings were put in place across three themes ((1) health and disability, (2) welfare, poverty, and children & (3) research and finance institutions). We have continued these into 2022 and use them to provide regular updates and gain valuable feedback on both voluntary and managed migration. In addition to these smaller, focused events, we have held further large, stakeholder events – with Ministerial and SRO attendance – in both November 2021 and May 2022, providing key updates regarding our Move to UC plans and responding to stakeholders' questions and concerns. The progress being made with our stakeholder engagement was illustrated at a recent Work and Pensions Select Committee meeting, where one witness stated *"there has been a lot of consultation in the last year or two. There are a lot of meetings. They have been getting together and talking with us on Universal Credit meetings and different forums and it is all very welcome"*.

The Department is committed to continuing our engagement. As we progress through the Discovery phase, we will be seeking views and feedback to inform our approach.

The Department has a clear focus on the successful delivery and completion of Move to UC by the end of 2024; we therefore keep the resourcing of the programme, including continuity plans in relation to the SRO, under regular review.

Following the conclusion of the Committee's formal referral of the regulations, we are now bringing these regulations forward.

Letter to Secretary of State from Social Security Advisory Committee

The logo for the Social Security Advisory Committee, featuring the text "SOCIAL SECURITY" in white on a blue background and "ADVISORY COMMITTEE" in white on a green background.

The Rt. Hon Thérèse Coffey MP
Secretary of State
Department for Work and Pensions
Caxton House
6-12 Tothill Street
London
SW1H 9NA

26 May 2022

Dear Secretary of State,

The Universal Credit (Transitional Provisions) (Managed Migration) Amendment Regulations 2022

The draft regulations were presented to the Social Security Advisory Committee (SSAC) for statutory scrutiny at its meeting on 8 December.¹

The Government has committed to completing the transition of claimants in receipt of a working age income-related benefits onto Universal Credit (UC) by the end of 2024, as set out in the Department for Work and Pensions' (DWP's) policy paper *Completing the move to Universal Credit*.² These regulations will form the legislative basis for delivering that commitment. This Committee recognises the need to complete the transfer of remaining legacy benefit claimants across to UC and is supportive of the Department's ambition in this respect.

¹ The relevant extract from the Committee's minutes from its December 2021 meeting can be found at annex E.

² DWP policy paper: *Completing the move to Universal Credit*, published 25 April 2022

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The process of moving around 1.7 million households onto UC from legacy benefits creates a significant risk both for those who are reliant on these benefits and for DWP operationally. The core challenge of Move to UC has been set out by the Department as follows:

Managed migration is a significant undertaking and requires the department to design and build an end-to-end service that safely supports claimants to make the Move to UC. This includes being able to confidently identify and contact eligible claimants, appropriately support claimants through their claim and accurately calculate transitional protection for eligible claimants, to ensure their entitlement on UC at the point of managed transition is not below that of legacy benefits.³

During its statutory scrutiny of these proposals, the Committee concluded that one aspect of the proposals in particular required closer examination. This related to draft regulation 9, which has the effect of removing the cap on the number of migration notices (10,000) that could be issued to existing claimants on legacy benefits, and the associated commitment by former Secretary of State, the Rt Hon Amber Rudd, to report back to Parliament before proceeding further.⁴

We need to reach out to claimants – so the onus should be on us to deliver managed migration in a way that meets everyone’s needs. So I am going to change the current regulations, removing the powers government previously planned to migrate all legacy claimants onto the new system...Instead, I’m only going to seek powers for a pilot: the chance to support 10,000 people through the process. This is an opportunity to learn how we can best facilitate the transition – before returning to Parliament with the legislation which we will need for future managed migration.

The Rt Hon Amber Rudd
11 January 2019

The commitment to pause and report to Parliament served to provide assurance, transparency, and oversight of ‘Move to UC’, as well as strengthening public confidence in UC as it moved to its next phase.

My letter of 13 January set out the Committee’s concerns, along with some suggestions for mitigation.⁵ I was grateful for the Minister for Welfare Delivery’s subsequent offer to meet on a quarterly basis to update the Committee on progress and share key findings up to the end of discovery phase, however it was the Committee’s view that such an approach alone would not be able to deliver the robust independent oversight and assurance that we consider to be necessary.⁶

Therefore, after careful consideration of these issues, the Committee decided to take the regulations on formal reference in accordance with sections 172(1) and 174(1) of the Social Security Administration Act 1992.

³ DWP policy paper: Completing the move to Universal Credit, published 25 April 2022

⁴ DWP press notice and copy of The Rt Hon Amber Rudd’s speech at Kennington Jobcentre on 11 January 2019

⁵ Letter from Dr Stephen Brien (SSAC Chair) to the Secretary of State for Work and Pensions, 13 January 2022, is attached at annex F.

⁶ Letter from the Minister for Welfare Delivery to Dr Stephen Brien, 1 February 2022, is attached at annex G; Dr Brien’s response, dated 11 February is attached at annex H.

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This report focusses on the impact of draft regulation 9 and its removal of the 10,000 migration notice limit and the related parliamentary consent for proceeding, and investigates the method by which the 'Move to UC' programme can deliver the necessary assurance, transparency and oversight, thereby building public confidence in Universal Credit and the Move to UC Programme in particular.

Mindful of the Government's desire to make progress following a prolonged pause enforced by the Covid-19 pandemic, we sought to gather evidence from the Department, experts in the field of 'agile' project management and others in an appropriately expedited timescale.

The Committee made a conscious decision not to look again at issues that were addressed in its earlier report, *The Universal Credit (Transitional Provisions) (Managed Migration) Amendment Regulations 2018* but have drawn on our original findings for the purpose of this report.

The implementation of a project that directly impacts on so many households – many of which will be in vulnerable situations – is a significant risk. Success in this venture is dependent on ensuring there is a smooth claimant experience, especially around clarity of process, timing, handling of transitional protection and any debt from legacy benefits. Public trust in this approach will also be important – as it feeds into claimant perceptions and confidence in engaging in the process.

So how can DWP provide assurance, and build confidence in, the large-scale high-profile UC Programme in a way that would obviate the prior requirement to report to Parliament after 10,000 claimants? We look at this in more detail below.

Move to UC as an agile process

The 'Move to UC' programme is based on agile principles. After an initial very small-scale exercise in Harrogate (paused during the Covid-19 pandemic) it has recommenced with a test-and-learn period, called the 'discovery' phase. This will involve issuing migration notices to small batches of claimants and finding out the reasons underpinning any reluctance or difficulty in taking that migration journey. The first batch will involve 500 claimants from Bolton and Medway. A dozen UC case managers will be focussing on supporting these 500 claimants through the process – a significantly lower claimant to case manager ratio than is ordinarily the case. The teams involved in analysing the information that materialises from these tests are multi-disciplinary, claimant-focussed, specialist teams. The findings and data from this first batch will feed into the next step of the discovery process, and so on, in an iterative manner. The discovery phase is scheduled to last until the end of this calendar year.

As more is learned, more processes and IT infrastructure will be developed accordingly, and the numbers of transfers will steadily scale up. This gradual scaling phase will remain relatively small-scale in comparison to the total number of claimants who ultimately need to migrate, and it will continue to follow the test-and-learn iterative approach. Before moving on to each subsequent phase, the programme considers a wide range of exit criteria, such as ensuring there are adequate resources to manage the caseload, that products are fit for purpose, and that robust monitoring of processes is in place.

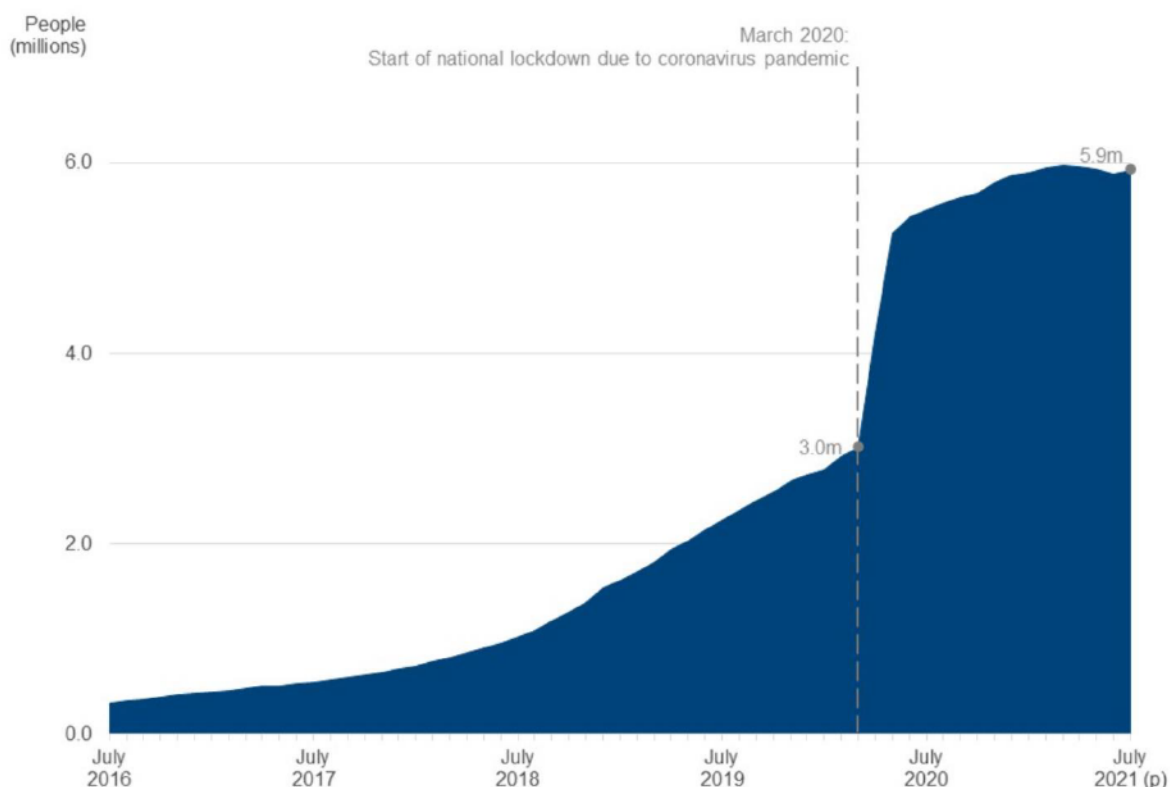
However, in order to move the large remaining legacy benefit caseload across to UC by the Department's 2024 deadline, there will need to be a dramatic increase of the rate of claimants migrating, and that level of escalation is not expected until late 2023, or possibly 2024. The success of a very large uptick in the number of transfers at the end of the scaling phase will be dependent on a significant degree of learning and getting the process right in the earlier phases. This significant scaling up of numbers will be a critical moment in the programme. If

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necessary, there would be scope to enter into a second discovery phase to solve issues affecting certain groups of claimants while the migration rate is scaled up for others.

We have been told that the programme has very experienced staff versed in agile delivery, who understand how to manage this step-by-step approach and make good use of the information and learnings produced. We heard that there is an established track record within the Department of managing comparable large-scale programmes, for example the roll-out of UC to Jobcentres nationwide, and the impressive response to the Covid-19 pandemic where the system was able to handle a doubling of the number of people on UC from three million on 12 March 2020 (the last count date before the coronavirus pandemic) to six million on 11 March 2021.⁷

People on Universal Credit, Great Britain, July 2016 to July 2021



The Committee was also told by an independent source that there was a good culture within the Programme, in terms of being able to report back to the SRO when things are not working well and know that they will be listened to. By way of evidence of this approach we were told that the Department had paused roll-out in some cases, for example in 2016 when a member of the senior leadership team identified that a higher than anticipated number of cases required the Habitual Residence Test to be applied. We were told that the Department remained committed do so again in future where risks to claimants are identified, and that the SRO would always put claimants first. We welcome that positive culture, but we were less clear

⁷ DWP Universal Credit Statistics 29 April 2013 to 8 July 2021 (published 17 August 2021)

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about the extent to which it was encouraged below senior grades, and whether a defined process existed for escalating specific concerns from outside of the Programme team itself.

The ‘agile’ process and governance

Universal Credit has been a pioneering agile programme within government in terms of its scale, as will be the ‘Move to UC’ component. This means that, rather than delivering an entire project in a one-off ‘waterfall’ approach, the project develops and moves forward in small, incremental steps, building up in size gradually as the project tests and learns the optimal way to proceed. Because agile implementation initially develops slowly and iteratively it does not lend itself to being managed in a traditional, target-based, framework. Just as the development of UC in an agile manner has required a step-change in the approach to implementation, so also has it required a commensurate adjustment to standard governance approaches.

In order to improve our own understanding of the distinct challenges around the governance of agile projects, and to ensure our evidence is as well-informed as possible, the Committee spoke to a small number of experts with experience of the management of large-scale agile projects both in and outside of government. In particular, we were keen to understand best practice in terms of governance, monitoring, and scrutiny within this environment. The Committee is very grateful to those who provided evidence and answered our questions.⁸

We were advised that, while agile projects need strong and effective governance, inflexible control can be detrimental. There needs to be a level of freedom of action, to pursue new threads of development as they arise, and to enable the learning to happen as the evidence emerges. None of this is possible if a very detailed framework and project plan is established in advance.

It was also emphasised to us that, within an agile process, some things will not work, and this should be expected. After all, the purpose of an extended phase of testing and learning is to understand quickly what works and what does not, before implementation scales up – an approach, when executed appropriately, that we welcome. Inevitably, testing will reveal which elements of the programme do not work or could be done better. The crucial thing is that learnings – both positive and negative - are managed in a controlled way by being quickly identified and rectified.

Specific numerical performance targets to be met within specified timescales are not always helpful in an agile context and risk derailing the important focus on learning, especially in the early stages. However, this should not mean there is no reasonable expectation of reporting, oversight, and scrutiny. Instead, this is more likely to be meaningful if it is associated with a specific milestone, for example when the project is moving to a new phase, rather than a pre-determined date or number of transactions. There may also be some success criteria that could be applied in a periodical review to ensure a satisfactory rate of learning. For example, it may be as simple as outlining what has been learnt since the last update to show that there is progress in discovering more about what works or what does not, and what new questions and issues have arisen.

Governance and oversight of Move to UC

During our scrutiny of these regulations, we heard – from both the Department and independent contributors – many examples of where the governance and management of the UC Programme was working well. The Department provided some strong evidence about the

⁸ The list of the agile experts we spoke to is listed at annex D.

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governance of the UC Programme, and indeed one external expert told us that some of his peers in non-government organisations consider the programme to be leading the field.

The UC programme is classified as one of the Government's Major Portfolio Projects. Because of this, in addition to the Secretary of State's oversight, its Senior Responsible Officer (SRO) is accountable to Parliament, as well as to DWP's Accounting Officer, for the successful implementation of the UC migration process.⁹ This is set out in his SRO letter:

You are directly accountable to the DWP Accounting Officer (AO), under the oversight of the Secretary of State.... As SRO you are personally responsible for delivering the Programme. You are held accountable for delivering its objectives, benefits and policy intent, for securing and protecting its vision, for ensuring it is governed responsibly, reported honestly, escalated appropriately and for influencing constructively the context, culture and operating environment of UC.

In addition to your internal accountabilities, you should also be aware that SROs of Government Major Portfolio Projects (GMPPs) programmes and projects are held personally accountable to Parliamentary Select Committees. You will be expected to account for, and explain, decisions and actions you have taken to deliver the programme or specific milestones within the delivery plan. It is important to be clear that your accountability relates only to implementation. It will remain for the Minister to account for the relevant policy decisions and development.

In addition to the SRO's accountability to Parliament through the Work and Pensions Select Committee, oversight is provided by the Public Accounts Committee which examines the value for money of government programmes and service delivery. Drawing on the work of the National Audit Office, they hold the SRO to account for the economy, efficiency and effectiveness of public spending.

The letter makes clear that the Department's Secretary of State has "oversight" of the programme and remains responsible for all policy decisions relating to it. The Government's Osmotherly Rules also notes that the Permanent Secretary, as DWP's Accounting Officer, "*is ultimately accountable for the performance of all the business under their control, including major projects for which an individual SRO has direct accountability and responsibility*".¹⁰

The tripartite responsibilities set out in the SRO letter provides some assurance that appropriate oversight of the UC Programme is in place. However, our discussions with the Department and others have suggested that the balance between the powers invested in those with oversight roles and the levers held by the SRO were weighted towards the latter. The SRO is responsible for critical decisions and the management of risks relating to the implementation. The SRO is "*expected to account to Parliament, for the decisions and actions they have taken to deliver the projects for which they have personal responsibility*".¹¹

The UC Programme Board provides "advice and support" to the SRO. The UC Programme Board is chaired by John McGlynn, who is also a non-executive member of DWP's Departmental Board.¹² However, the Chair "*does not have individual decision-making authority or accountability*".¹³ The Board examines the actions of the SRO for all aspects of UC, with a particular focus on issues of the migration. It provides independent advice, support

⁹ Neil Couling's SRO letter is provided at annex B.

¹⁰ Giving evidence to Select Committees: guidance for Civil Servants (Osmotherly Rules), last updated 2014 (page 9)

¹¹ Ministerial Code (paragraph 5.6)

¹² John McGlynn, Non-executive member of the Departmental Board and Chair of the Universal Credit Programme Board: biography

¹³ UC Programme Board Chair: job description available at annex C.

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and challenge to the SRO and the Permanent Secretary. The Board meetings are minuted, but these are not published until two years have elapsed. While the exit criteria for each phase are agreed jointly by the SRO and the UC Programme Board, the Board does not have any authority to pause the rollout or make any specific demands of the SRO.

The SRO is also supported by six other sub-Board level fora, including the UC Programme Delivery Executive, which meets weekly and is chaired by the UC Programme Director. This is described as the “*principal decision-making body accountable for the successful delivery of the UC Programme*”.

We were told that the UC Programme has fortnightly internal stand-up sessions to share plans, assess progress and to identify risk. These are supplemented by monthly “show and tell” sessions with a group of ‘external’ stakeholders, including Her Majesty’s Revenue and Customs and devolved administrations.

The full DWP governance structure for the UC Programme can be found at annex A.

Outside of the Department, the Infrastructure and Projects Authority (IPA), which reports to Cabinet Office and HM Treasury, has a role in ensuring that large-scale projects are delivered well. At certain key points throughout the life of a major programme, it will be subject to an assurance review by the IPA. For the UC Programme, the next assurance review (gate zero) is scheduled to commence later this year. It is accepted practice that reports from such reviews are not published as doing so may inhibit the candour of those providing evidence. The reports are presented to Departmental Accounting Officers.

Could the Department strengthen its governance arrangements?

Having conducted this review, the Committee continues to have concerns about the consequences of the removal from existing legislation of the pilot which would limit the number of migration notices issued to 10,000, and the associated removal of the commitment by a recent Secretary of State to return to Parliament “*with the legislation which we will need for future managed migration*”.¹⁴ In the absence of such a stage-gate, we are not convinced that the governance arrangements currently in place are sufficiently robust to safeguard against, or put strong mitigations in place for, those risks which have the potential to impact adversely upon up to 1.7million households and to affect public confidence in the programme.

We are also conscious that constraining agile projects with too many layers of governance could be a risk in itself, and that care needs to be taken in reaching an appropriate balance. While we are mindful of that risk, the proposals expose other significant risks - both to claimants and to the Department’s staff who are responsible for delivering ‘Move to UC’. Hence, we believe a number of areas can be addressed in a way that provides greater assurance without unduly burdening the programme. These involve ensuring that there is:

- clarity of the tripartite accountabilities that exist within the Department, in addition to those that exist to Parliament;
- an assessment of performance which helps ensure key risks are identified and addressed;
- an independent external perspective to identify knowledge gaps and to capture wider claimant experience that can supplement the Department’s own data;
- greater transparency of the process and progress to increase public confidence in the Programme;
- greater oversight and assurance of the Department’s readiness at the point of scaling up;

¹⁴ DWP press notice and copy of The Rt Hon Amber Rudd’s speech at Kennington Jobcentre on 11 January 2019.

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- a clear understanding of the leadership risks that are associated with large programmes of this nature, and that steps are taken to ensure that such risks are mitigated.

For each of these issues, the Committee has identified recommendations that it considers appropriate to address the related risks.

Accountability within DWP

As outlined earlier in this report, we have heard that the SRO of the UC Programme, Neil Couling, has a significant amount of authority invested in him to deliver the Programme and manage the associated risks. As is the case for all SROs of the Government's Major Portfolio Projects, he is required to account to Parliament for the decisions he takes. This is in addition to his accountabilities within DWP. It was clear from those that we spoke to, including Neil himself, that these accountabilities are taken very seriously. The SRO is supported in his role by the Department's UC Programme Board which provides "*advice and support to the SRO*", but we were told that the SRO remains accountable for all decisions relating to the implementation of the Programme.¹⁵

The Department's Accounting Officer is ultimately accountable for the performance of the Programme, and the primary governance mechanism within the Department is the SRO letter issued by the Accounting Officer, which provides a framework within which the SRO can deliver.

Given the potential impact on 1.7 million households, and especially because of the agile nature of the programme, we consider it appropriate to undertake a review of the framework and mandate of the SRO as the programme enters significant new phases. It will be important at each stage to achieve a balance of responsibilities that enables the SRO to make progress, while ensuring appropriate mitigation of significant risks. Such reviews will need to ensure that any action taken does not cut across appropriate SRO accountabilities to Parliament as set out in the Ministerial Code.

Recommendation 1

The Secretary of State and Accounting Officer should direct the SRO to undertake a review of the current governance arrangements and accountabilities for the UC Programme to ensure that they are appropriately transparent and robust, with internal mechanisms in place to ensure that concerns can be escalated and acted upon, that decisions can be challenged and tested, or an aspect of the programme can be slowed down or scaled back because of emerging risks. Upon completion, the SRO should present his recommendations to the Accounting Officer for consideration, and they should jointly report their conclusions to the Chair of the Work and Pensions Select Committee.

Recommendation 2

In advance of any further scaling up of the migration of claimants, the Accounting Officer should issue a revised SRO letter that reflects the outcomes of the governance review and learnings from the initial phase.

¹⁵ Quote is taken from the 'purpose' of the UC Programme Board.

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Assessing performance

We have been told that the UC Programme has established its own internal performance metrics and specific criteria that inform decisions about scaling up or moving on to a new phase of implementation. The Programme is also responsible for assessing how it measures up against those criteria. This information is shared with the UC Programme Board, but not published, making it difficult for interested parties to understand the progress being made or for Parliament to hold the SRO properly to account. In our view, this amounts to the UC Programme setting and marking its own homework.

We are conscious that there is a two-year lag on the publication of UC Programme Board minutes, but we are of the strong view that issues relating to exit criteria should be published contemporaneously. We believe that doing so would strengthen the SRO's internal and external accountabilities. In particular, this would strengthen Parliament's ability to hold the current and future SROs to account for decisions they have taken.

Recommendation 3

We recommend that:

- (a) the current criteria for moving to the next phase are published before summer recess, and subsequently within one month of amendments being agreed by the UC Programme Board, to ensure that there is transparency about the Programme's intentions; and that**
- (b) at a point when decisions about implementation or scaling up are taken, a letter from the SRO should be submitted to the Secretary of State and Permanent Secretary setting out the factors that have informed that decision. This should be supplemented by an assessment from the Chair of the UC Programme Board on the readiness of the Department to take that step. To fully discharge his accountabilities, the SRO should additionally share this letter with the Chair of the Work and Pensions Select Committee.**

Recommendation 4

In line with his accountability to the Work and Pensions Select Committee, the SRO should provide periodic reports on performance, including timely updates on progress against key milestones and lessons learned, to the Chair of that Committee. This should be placed in the House of Commons Library.

Independent perspective

One very clear risk of an approach that lacks healthy independent challenge is that the Programme may be focussed too much on the Department's high-level implementation priorities, potentially excluding criteria or metrics that would provide valuable insight on the impact on claimants in a range of different circumstances and work coaches. The sole reliance on DWP data exacerbates the risk. In our discussion with the UC Programme Board Chair, we asked whether it would be useful to establish targeted external engagement to provide assurance that internal management is complete and accurate to avoid important data being overlooked. We were told that, while nothing was currently in place, engagement with the charity and advice sectors would be valuable and was being actively considered by the Programme Board.

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Introducing a greater degree of independent perspective and voice within the programme would help access the claimant perspective and subjective experience as it refines its migration plans, ensuring that a richer understanding of the potential impacts and risks can be reflected in the SRO's decisions. We understand that trusted external experts have previously been seconded to the Programme, and that the insight they were able to bring to this work was invaluable.

Recommendation 5

The Department should introduce secondments of trusted experts with considerable claimant insight into the Programme team. An update on such secondments attached to the Programme team should be included in the regular performance reports to the Chair of the Work and Pensions Select Committee.

More substantively, we believe there is an opportunity to reflect on how the Programme might make effective use of a small number of trusted stakeholders who may be in a position to provide feedback on progress to date and also constructive advice on emerging challenges.

A 'star chamber' style of stakeholder scrutiny challenge (with both expert and claimant representation) may help overcome any gaps in data collected, identify success criteria that may not have been considered, provide additional experience and/or insight that may be lacking on the Programme team (including claimants' subjective experience), and to guard against the risks of 'group think'. We have been told that the Programme's primary concern is supporting the claimant through this process, and therefore bringing in external voices with direct experience will improve their ability to deliver a system that achieves that.

We have been told that the Programme's primary concern is supporting the claimant through this process, and therefore bringing in external voices with direct experience will improve their ability to deliver a system that achieves that. This could be achieved through the extension of the membership of the monthly 'show and tell' sessions as recommended below.

We understand that this Committee will be invited to send a representative to future monthly stakeholder meetings to provide an opportunity to identify and examine any emerging concerns and provide advice to the Secretary of State in line with our statutory responsibilities. We welcome that opportunity but wonder if there is an opportunity to go further still?

Recommendation 6

The Department should review the membership of the monthly external 'show and tell' sessions and consider whether a limited extension of the membership to trusted stakeholders and partners would strengthen existing accountabilities and/or provide access to expertise and insight, particularly on the experience of claimants in a range of different circumstances, which perhaps does not exist within the Programme.

Recommendation 7

The Department should supplement its own performance data with an element of external assurance (from expert and claimant representation) of the programme to help overcome any gaps in data collected, identify success criteria that may not have been considered, provide additional experience and/or insight that may be lacking on the Programme team, and guard against the risks of ‘group think’.

Transparency and building public confidence

While we have been given positive feedback about the Department’s performance, there is no publicly available evidence to support those claims. One external expert we interviewed likened the UC Programme to an aircraft’s ‘black box’, with little real-time visibility from the outside of how any of the Programme’s decisions are made, or of its performance and milestones achieved. This was perceived to be a missed opportunity by some of the experts that we spoke to, and there was a clear view that greater transparency about developments and performance would help to build much-needed public confidence in the system and enable Parliament to hold the SRO to account in a more meaningful and timely way.

Some of our earlier recommendations already propose greater transparency in specific aspects of the Programme’s work. We understand that transparency about objectives, progress and learnings have helped grow public confidence of major government programmes. We were told that transparency need not be a formal publication but could be something as simple as a monthly blog.

An example of where informal transparency has worked particularly well was the HM Courts and Tribunals Service’s Reform Programme which has an information webpage providing information “*including how to engage with the programme, get involved in projects and stay updated on progress and developments*”.¹⁶ The material available on that webpage includes a summary of progress, monthly newsletters, blogs, information on stakeholder events and how to engage with the Programme, as well as a summary of progress against their commitments to improving engagement.

In addition to the increased transparency proposed in some of our other specific recommendations, the Committee considers there is a strong case for strengthening the proactive transparency of the UC Programme without adding administrative burdens, for example by publishing information that already exists. Such steps may enable the Department to take greater control of the narrative about the Programme and ensure that external reporting and debate reflects the position more accurately.

Recommendation 8

- (a) The Department should actively consider introducing greater transparency and reporting of the Programme’s progress to help build public confidence in Universal Credit. Consideration should be given to providing assurance about the controlled management of such learnings, both positive and negative.**
- (b) The Programme should also confirm when it has passed gate zero following the IPA assurance review.**

¹⁶ The HM Courts and Tribunals Service Reform information webpage

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Scaling up

The volume of migrating claimants will rise relatively slowly during the discovery phase, with the numbers starting at a very low level (initially 500), with a high number of case managers supporting them through the process. Initially there will be a ratio of 12 staff supporting 500 claimants. That ratio will change as migration steadily scales up, with the numbers of staff providing support to claimants proportionately decreasing over time. It will be important to keep monitoring the impact of that falling staff-to-claimant ratio to check that it is not detrimental to claimants' ability to transfer successfully to UC.

There will be a critical moment in time when the UC Programme has ended both the discovery phase and the gradual scaling phase and starts the steep scaling phase. We are told that this is likely to happen in the second half of 2023, and it can best be visualised by comparing it to the upwards trajectory implied by the handle of a hockey stick. There is no question that this presents the most significant risk in the programme by far. Any oversights or missteps could be to the detriment of very large numbers of claimants. We understand that there is no particular mechanism in place to identify the optimal point in time for that steep scaling phase to begin, nor any currently defined criteria to determine whether or not the UC Programme is ready to make that significant step.

The point at the end of the gradual scaling phase, just before the steep scaling phase begins is probably the most critical moment of the Department's plans for completing the move to UC. This presents an important opportunity to reflect on what has been learned and enable appropriate scrutiny to take place to ensure that the Programme is ready to take that momentous step with robust mitigations in place for all identified risks. It is essential that strong scrutiny and assurance is applied before the steep scaling phase.

The SRO's accountability to Parliament for this Programme will never have been more important than at this significant moment, therefore it seems an appropriate and respectful step to report to Parliament as an alternative to the prior commitment in regulation 9. We take it as read that the Secretary of State will be consulted in accordance with her oversight role.

Recommendation 9

We recommend that the SRO presents the scaling-up proposals to the Work and Pensions Select Committee for scrutiny and assurance before proceeding.

Recommendation 10

The declining ratio of staff to claimants needs to be closely monitored by the SRO and the Director General for Work and Health, to ensure that there is a sufficient number of case managers to deal with claimants in a wide range of different circumstances through each phase and that neither the migration plan – nor the experience of claimants – is put at risk.

Leadership risk

Finally, the Programme's SRO, Neil Couling, is a long-standing senior civil servant with considerable experience in both policy and operational roles. Even so we consider that a single person having responsibility for all decision-making relating to the implementation of a project that directly impacts on so many households – many of which will be in vulnerable situations – is a significant risk. Our concern is exacerbated by the fact we have been told that there is no deputy in place who would be able to step in at short notice in the event that Neil

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was unable to continue with his duties for any given period, and no succession arrangements in place.

'Move to UC' will affect the lives of millions of claimants, many of whom will be living in vulnerable situations, and it is essential that the leadership of the UC Programme is resilient, and that the Department is able to respond rapidly and effectively to unexpected absences or changes in personnel. This needs to be addressed as a matter of priority.

Recommendation 11

The Accounting Officer, with oversight from the Secretary of State, should ensure that clear contingency plans are in place for this important and high-profile SRO role, along with other key posts in the Programme.

Conclusion

This report has considered the impact of draft regulation 9, which removes the 10,000-migration notice limit and the related parliamentary consent for proceeding and has recommended alternative methods by which the 'Move to UC' programme can deliver the necessary assurance, transparency and oversight.

The Committee commends the iterative test-and-learn approach being applied to this Programme. We acknowledge the extensive governance arrangements already in place, and that this programme, in the words of one interviewee, is *sui generis*. The scale of the programme, the necessarily ground-breaking approach, and the vulnerability of many of those claimants who will be engaged means that the governance of the programme in the interests of all also needs to be fit for purpose, so that the public at large can be appropriately confident in the quality of delivery of this important exercise. Nonetheless it is important to ensure that any framework put in place strikes a balance that both avoids stifling the practices that make agile effective and also ensures there is scrutiny, transparency and an openness of culture that encourages concerns from outside of the Programme to be escalated and addressed, and thereby enhance public confidence.

When considering such a balance, the Committee observed that a lack of public confidence in Universal Credit is one of the main barriers to people migrating to the service. Therefore, such scrutiny and transparency should not be seen as a hurdle to overcome but an opportunity to instil that confidence. It is in this spirit that we have developed these recommendations.

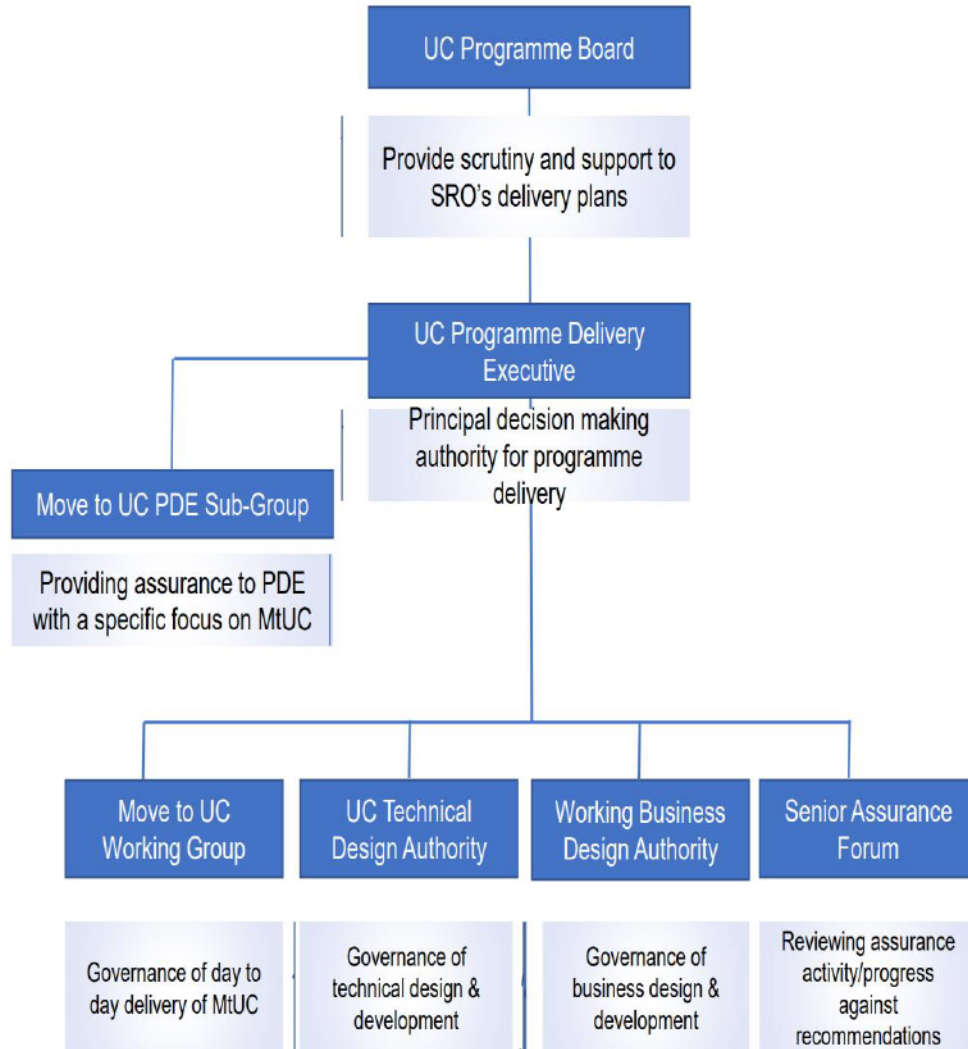
I would be happy to discuss any aspect of this report with you if that would be helpful.



Dr Stephen Brien
SSAC Chair

Annex A: Governance Structure for the UC Programme

UC Governance Structure



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UC Programme Board

Purpose

The main purpose of the UC Programme Board (UC PB) is to provide advice and support to the SRO (the Change and Resilience Director General), who is accountable for the delivery of Universal Credit.

Key Responsibilities

The Board has collective responsibility to:

- Maintain an overview of the plan to deliver UC including the scope (the requirement), financials (budget and approvals) and the approach and activities to ensure the plan is delivered.
- Maintain an overview of the systems of programme control and governance including change control, risk management and stakeholder engagement.
- Take receipt of agreed programme reporting which provides visibility of achieved and predicted progress against the plan, including all work strands, and satisfy themselves of its accuracy and robustness.

Escalations	DWP Change Portfolio Board
Membership	Chair – John McGlynn Change and Resilience Director General and UC Senior Responsible Owner – Neil Couling DWP Work and Health Director General – Karen Gosden UC Programme Director – Ian Wright DWP IT Director General, Chief Information Officer – Simon McKinnon DWP Finance Director General – Nick Joicey DWP Policy Director UC and Employment – Angus Gray HMRC Acting Director General (Tax Credits and RTI) – Myrtle Lloyd London Borough of Hillingdon Chief Executive – TBC DWP People and Capability Director – Deb Walton HMT Director Personal Tax, Welfare and Pensions – Chris Drane Cabinet Office, Operations Lead – David Magee Deputy Secretary for Work and Health DFC Northern Ireland – Paddy Rooney Special Advisor to the Secretary of State – Ed Winfield
Frequency	Monthly

UC Programme Delivery Executive

Purpose

The Universal Credit Programme Delivery Executive (PDE) is the principal decision making body that is accountable for the successful delivery of the Universal Credit Programme. The PDE will be accountable for delivering the strategic intent of Universal Credit and the transformation of the Department, Welfare system and Labour market securely.

Escalations	UC Programme Board
Membership	UC Programme Director (Chair) Change Director General and UC SRO Work and Health Director General UC Digital Delivery Director HMRC UC Programme Director Finance Business Partner Commercial Business Partner HR Director, Change & Resilience Group Counter Fraud, Compliance & Debt UC Product Director UC Engagement and Planning Director Working Age, UC Policy Division
Frequency	Weekly

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Move to UC PDE Sub Group

Purpose

The PDE MtUC subgroup will provide additional assurance to UC Programme Delivery Executive (PDE), with specific focus on Move to UC.

The PDE MtUC subgroup will provide PDE with a forum to defer certain issues/themes which need to be explored in more detail, or which UC PDE doesn't have sufficient time to consider.

The forum will also: -

- Provide a single focus on Move to UC to complement UC PDE.
- Provide oversight of the standing items (see para 9).
- Ensuring that the right links are made between the respective phases and workstreams of the programme.

Escalations	PDE
Membership	External Affairs, Strategic Design & Planning UC Product DWP Legal Services HMRC Policy & Analysis Design & Transformation UC Digital Strategic comms People & Capability Finance CFCD Operations Commercial Department for communities GIAA
Frequency	Fortnightly

UC Technical Design Authority

Purpose

The Universal Credit Technical Design Authority (UC TDA) establishes and maintains the UC Technical Architecture and any interim architectures, makes key technical design decisions, manages programme level technical design risk, and provides a channel for the various technical design leads to share information.

The UC TDA addresses all technical matters for the end-to-end UC service.

Escalations	PDE
Membership	UC Head of Dependent Systems UC Head of Secure Design UC Tech Lead (Leeds) UC Head of Architecture UC Head of Software Engineering UC Head of Platforms DWP Digital Design Authority UC Delivery Management DWP Digital Design Authority UC Technical Architect UC Infrastructure Architect
Frequency	Fortnightly

Senior Assurance Forum

Purpose

The purpose of the Senior Assurance Forum is

"...to bring together the lead colleagues from disparate assurance authorities across government who are responsible for UC programme/project, corporate, independent assurance, and audit relationships and activities to ensure there is a co-ordinated, coherent and consistent approach aligned to the Integrated Assurance and Approvals Plan (IAAP).

The Senior Assurance Forum will take an overview of UC 3rd line assurance activity, Programme-wide, and will help to enable the effective facilitation of forthcoming reviews and monitoring and managing relevant recommendations by sharing information about Programme developments.

The chair of SAF is a member of the HMT/UC Assurance group and is responsible for ensuring that messages are communicated and where appropriate that assurance activities are co-ordinated between the two forums.

Escalations	PDE
Membership	DWP Departmental Change Portfolio Office DWP Strategy and Governance Directorate Government Internal Audit Agency Infrastructure and Projects Authority Infrastructure and Projects Authority UC Programme Assurance Team
Frequency	5 weekly

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Move to UC working group

Purpose

The Universal Credit Move to UC (M2UC) Working Group is a key decision forum that will provide assurance and act collectively to identify and agree the necessary project activities, to implement and deliver the intended outcomes to meet the M2UC departmental objectives. The outputs and expected outcomes from the Working Group will be used to report up into the PDE (and Delivery and Oversight Board). The Working Group is comprised of representatives from the Directorates and Programmes across the Department with the relevant knowledge and skills. Each member represents their sponsor on the Delivery Board.

Escalations	PDE
Membership	External Affairs DWP Legal Services HMRC Policy & Analysis Local Authority Partnership, Engagement & Delivery Service Planning & Delivery Department for Communities, Northern Ireland Strategic comms Working Age – National Operations CFCD Product Design UC Transformation & Delivery
Frequency	Weekly

Working Business Design Authority

Purpose

WBDA agrees cross portfolio design decisions, and provides

- cross product team working group to discuss emerging designs or design thinking
 - agree and, where needed, harmonise new trials, POC, and A/B tests
 - provide awareness and inform the group of wider departmental initiatives for example ARA, HTP
- Any paper impacting on design/service due to go to PDE to be come to this governance group first

Topics in scope as required:

- Any make vs buy decision
- Any design that impacts a non UC system (dependant systems)
- Any changes or proposed changes to the UC IA
- Any significant UC design proposals (typically that impact multiple themes or portfolios)
- Any proposals for resolution of significant design or technical debt items
- Any changes or proposed changes to the UC service breakdown (after we have settled with portfolios)
- Any proposed trials and or experiments impacting the service
- Where appropriate, PDE papers ahead of PDE discussion
- MOVE considerations

Escalations	PDE
Membership	All UC lead product managers All UC heads of practice (including technology) Service Design & Transformation Secure Design Policy Business Analysts
Frequency	Weekly

Annex B: Letter of continued appointment as Senior Responsible Officer for the Universal Credit Programme



To: Neil Couling, Director General and Senior Responsible Owner for Universal Credit Programme Date: 16 November 2018

From: Peter Schofield CB, Permanent Secretary, Department for Work and Pensions
Tony Meggs, Chief Executive, Infrastructure and Projects Authority

Appointment as Senior Responsible Owner for Universal Credit Programme

We are writing to confirm your continued appointment as the Senior Responsible Owner (SRO) of Universal Credit Programme (UC), which took effect from 1 October 2014.

You are directly accountable to the DWP Accounting Officer (AO), under the oversight of the Secretary of State. This will be a full time role.

As SRO you are personally responsible for delivering the Programme. You are held accountable for delivering its objectives, benefits and policy intent, for securing and protecting its vision, for ensuring it is governed responsibly, reported honestly, escalated appropriately and for influencing constructively the context, culture and operating environment of UC.

In addition to your internal accountabilities, you should also be aware that SROs of Government Major Portfolio Projects (GMPP) programmes and projects are held personally accountable to Parliamentary Select Committees. You will be expected to account for, and explain, decisions and actions you have taken to deliver the programme or specific milestones within the delivery plan.

It is important to be clear that your accountability relates only to implementation. It will remain for the Minister to account for the relevant policy decisions and development.

Tenure of Position

You will be expected to remain in this role until the end of the programme, ensuring the safe and secure delivery of UC in the future. The current end date is planned for 31 December 2023.

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Objectives and Performance Criteria

UC is a major reform, which, at a strategic level, is transforming the welfare state in Britain for the better. UC introduces a welfare service designed to encourage those not in work to take up work, and those in work to seek to earn more and become financially independent. It changes the way benefits are assessed, administered and delivered and impacts a range of stakeholders including claimants, DWP staff, landlords and delivery partners including HMRC, Local Authorities and other public, private and third sector organisations.

UC introduces fundamental changes to the way that citizens interact with the welfare system. It seeks to tackle worklessness through a combination of incentives and new forms of support for those seeking work and those in work who are in a position to take on more hours. In summary, the main changes include:

- Stronger financial incentives;
- Stronger support and conditionality;
- Integrating out of work benefits and tax credits into one single Universal Credit.

UC will deliver wider transformation for:

- Claimants – the approach puts claimants at the centre of the development, with work outcomes influencing the entire design and build;
- Taxpayers – by designing a service which builds in security at every level and by doing so, reduces the risk of Fraud and Error;
- Staff – the single system will be coherent and intuitive, based on a “*Test and Learn*” approach throughout the build and ahead of rollout;
- Employers – the dynamic effects of UC increase demand of employers for labour supply;
- Government – by reforming the Welfare State, providing fit for future technology, focussed on getting people into work and earning more.

The objectives of UC, working with a range of delivery partners, is to deliver:

- Full employment – increasing participation in the Labour Market;
- Reducing and preventing fraud and error;
- Controlling welfare cost;
- Providing a safety net - UC will allow the Department to tailor our offer to those who need it most, with extra assistance for those with disabilities and those who require support with childcare costs;
- Increasing efficiency through automation.

In addition, the delivery of UC has a transformational effect on the Department’s future business model, culture and ways of working through the development of digital services that meet both the Programme’s needs and provide enablers for the wider Department, these include:

- Use of Real Time Information;
- Digital verification services;
- Digital Service centres.

UC will ensure a smooth transition and migration from Legacy Benefits and the roll out of Universal Credit in a safe and secure manner.

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Since your original appointment in October 2014, the scope of the programme has changed through the passage of the Work and Welfare Act 2016, the Scotland Act 2016 and the Northern Ireland Welfare Reform Act 2015. In result of the policy changes announced through Budget 2017 and Budget 2018, the timetable for delivery has been changed, on your advice to Ministers, to accommodate these changes in scope.

You will continue to develop ongoing plans for implementation in line with the Full Business Case agreed in spring 2018. Using the strategic planning assumptions in that Business Case, and subsequent outcomes from Budget 2017 and Budget 2018, you will develop plans for delivery, reflecting emerging evidence, operating experience and responding to the agile design and build of the UC Full Service. Future revisions to plans will be subject to Ministerial agreement and you are accountable for ensuring formal approval for delivery of UC throughout this Parliament and longer-term.

Future proposed changes to the programme scope that impact on government policy, digital transformation or the benefits your programme has been set up to deliver must be authorised by the AO, who may delegate their decision-making authority to DWP's Investment Committee (IC) and may be subject to further levels of approval. You are also responsible for recommending to the AO or IC, the need to either pause or terminate the programme where necessary and in a timely manner.

As you know, the Department is transforming the way it delivers its business by introducing digitally-based, user-centred services to better meet customer needs and deliver increased efficiency. As SRO, you have responsibility to be sighted on and aligned with Departmental Strategy and the Single Departmental Plan and attend appropriate governance fora to provide assurance that the programme deliverables are aligned with DWP's strategic direction and processes.

Programme Status

The Programme status is reflected in the latest quarterly return to the Infrastructure and Projects Authority (IPA), where the most recent assessment of deliverability was an Amber rating. The whole life cost budget for this programme is as per the latest approved Business Case; see Annex 1. Detailed guidance on SRO roles and responsibilities is attached at Annex 2. You should follow that guidance and also ensure that you understand the guidance "Giving Evidence to Select Committees – Guidance for Civil Servants"

¹⁷https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/364600/Osmotherly_Rules_October_2014.pdf and make yourself aware of the Infrastructure and Projects Authority guidance on the management of major projects¹⁸.

Extent and Limit of Accountability

HM Treasury (HMT) spending controls will apply, as set out within the HMT Delegated Spending Authority letter. Where your programme exceeds the delegated authority set by HMT, the Treasury Approval Point process will apply and the details of each approval process must be agreed with the DWP's HMT spending team.

You should note, in particular, that where expenditure is considered novel, contentious, repercussive or likely to result in costs to other parts of the public sector, HMT approval will be required regardless of whether the project exceeds the delegated authority set by HMT.

¹⁷https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/364600/Osmotherly_Rules_October_2014.pdf

¹⁸ <https://www.gov.uk/government/policy-teams/major-projects-authority>

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Following recommendation from the Public Accounts Committee (PAC), from April 2017 an Accounting Officer Assessment should always be produced for projects or programmes which form part of the GMPP at the Outline Business Case (OBC) stage (or at the point when it enters the GMPP if this is later).

As the UC Programme is beyond the OBC stage, there is no mandate to undertake an assessment. You should note an Accounting Officer Assessment should be prepared at subsequent stages of the programme if it departs from the four standards (regularity, propriety, value for money and feasibility), or the agreed plan – including any contingency – in terms of costs, benefits, timescales, or level of risk.

It is for you, as the SRO, to decide whether or not an Accounting Officer Assessment should be prepared at any other stage of the programme. You should be prepared to defend your decisions to Parliament if challenged, for example, if called to give evidence to the Public Accounts Committee.

You should ensure that you operate at all times within the rules set out in Managing Public Money.¹⁹

In addition, you must be mindful of and act in accordance with the specific Treasury Delegated limits and Cabinet Office controls relevant to projects. Information on these controls can be found here.²⁰

Major Projects Leadership Academy (MPLA)

As the SRO of a GMPP programme, you are required to attend the Major Projects Leadership Academy (MPLA). You attended this as part of Cohort 10.

As a graduate of MPLA, we will both expect and support you to continue your on-going professional development and will encourage you to take an active part in MPLA alumni activities. You are a recognised, accredited IPA reviewer and as such will be expected to lead or participate in such reviews for other Government Departments, the wider public sector and other areas of the Department for Work and Pensions as appropriate.

You will be required to participate in such reviews at least once every 12 months to maintain your accreditation.

We would like to take this opportunity to wish you success in your role as SRO for the Universal Credit Programme.

Yours sincerely,

Peter Schofield CB
Permanent Secretary
Department for Work and Pensions

Tony Meggs
Chief Executive
Infrastructure and Projects Authority

I confirm that I accept the appointment including my personal accountability for implementation of the programme detailed in the letter above.

Name of SRO:

Signature of SRO:

¹⁹ <https://www.gov.uk/government/publications/managing-public-money>

²⁰ <https://www.gov.uk/government/publications/cabinet-office-controls/cabinet-office-controls-guidance-version-40>

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Date:

Programme Budget

The latest planning allocation assumptions are:

2018/19 Budget (£m)	Whole Life Cost (£m)
836.7	12,716.95

The programme SR15 allocation⁵ is as follows:

Category	2016/17	2017/18	2018/19	2019/20 (indicative)	Total
	£m				
Investment	175.409	181.484	174.832	119.739	651.464
Consequences (Held in Change)	35.605	54.731	28.165	310.366	428.867
Total	211.014	236.215	202.997	430.106	1080.332

⁵ Sources: 2018/19 – 2019/20 Budget Allocations from DWP RAM dated 24 Oct 2018
 2017/18 Budget Allocations from DWP RAM dated 22 March 2018
 2016/17 Budget Allocation from DWP RAM dated 10 February 2017

Senior Responsible Owner Role and Accountabilities

The role of the SRO

You are personally accountable for ensuring the on-going delivery of the programme. You are responsible for ensuring the related implementation and transition activities will deliver the agreed objectives and the benefits stated in the Business Case.

You must ensure the effectiveness of the governance, assurance and programme management arrangements and maintain them through the life of the programme. You should adopt best practice and be prepared to justify any deviation from it, in line with guidance published by the Cabinet Office.

An SRO will:

- Be a visible, engaged and active programme leader, not a figurehead;
- Deliver the agreed outcomes and benefits;
- Create an open, honest and positive culture committed to delivering at pace;
- Challenge senior officers and Ministers when appropriate and escalate quickly;
- Provide appropriate support, steer and strategic focus to the Programme Director and ensure they have a clear and current letter of appointment; and
- Have sufficient time, experience and the right skills to carry the full responsibilities of the role.

Specific SRO accountabilities

Set up the programme for success

- Ensure the programme is set-up to make an unambiguous and demonstrable link to strategic policy;
- Translate the policy intent into clear deliverables which are established and agreed with senior stakeholders;
- Carry out robust and commercially viable options appraisal, which balances the risk with opportunity, as part of initial programme feasibility;
- Establish a firm Business Case for the programme during the initiation/definition phase and ensure any planned changes continue to be aligned with the business;
- Identify and secure the necessary investment for the Business Case (this includes both budget and operational resource);
- Design and implement robust, appropriate and transparent programme governance;
- Build strong and effective relationships with key stakeholders, justifying their trust and retaining their confidence, and obtain commitment to benefits realisation.

Meet the programme objectives and deliver the projected benefits

- Gain agreement to the programme objectives and the benefits to be delivered amongst stakeholders, including Ministers where appropriate;
- Understand the broader government perspective and its impact on the programme;
- Ensure the strategic fit of the programme objectives and the stated benefits;
- Agree a clear and simple approach to performance management and monitor delivery of the objectives and benefits taking appropriate action where necessary to ensure their successful delivery.

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Develop the programme organisation and plan

- Design and implement a coherent organisation structure and an appropriately detailed programme plan;
- Build the right team, securing necessary resources and skills and providing clear lines of accountability;
- Provide appropriate support, steer and strategic focus to the Programme Director.

Monitor and take control of progress

- Monitor and control the progress of the programme at a strategic level, being honest and frank about project progress, risk and issues;
- Monitor benefits and ensure that any changes to the agreed programme stated benefits are flagged appropriately within programme governance and the Business Case is updated accordingly (throughout the programme life-cycle);
- Maintain the integrity of the programme and speak truth to power;
- Communicate effectively with senior stakeholders about programme progress and provide clear, appropriate and delivery-focused decisions and advice to the Programme Director.

Effective and appropriate problem resolution and referral processes

- Identify, understand and drive the successful mitigation of programme risks;
- Escalate serious issues quickly and with confidence to senior management and/or Ministers;
- Develop strong and effective engagement between project teams and its stakeholders and sponsors;
- Ensure the communication processes are effective and that the programme's objectives and deliverables continue to be consistent with the organisation's strategic direction.

Ensure the programme is subject to review at appropriate stages

- Recognise the value of robust programme review and ensure it occurs at key points in the programme lifecycle, particularly at the pre-initiation (feasibility) and initiation stages;
- Make certain that any recommendations or concerns from reviews are met or addressed in a timely manner;
- In the event of a "red" or "amber-red" review, ensure the Permanent Secretary has been made aware of the situation and briefed accordingly.

Manage formal programme closure

- Formally close the programme documenting lessons learned with the final evaluation report and disseminate to stakeholders;
- Put plans in place for a post implementation review, agreeing this with your Programme Board and other relevant stakeholders;
- Agree a plan for both long term benefits realisation and on-going sustainability with key stakeholders as part of the process of moving to business as usual.

Annex C: Role of UC Programme Board Non-Executive Chairperson

The appointment is as a Non-Executive Board Member and will chair the DWP Universal Credit Programme Board. The key responsibilities of the role are to:

- Provide external advice, expertise and challenge, alongside independence of thought, to inform the decision making process for the delivery of the Universal Credit programme;
- Lead and facilitate discussions at Programme Board meetings ensuring decisions are brokered appropriately;
- Work with the Universal Credit Senior Responsible Officer and Programme Board Secretariat to ensure that agendas and papers submitted to the Board are of high quality and enable the Board to make decisions effectively;
- Give advice on the operational/delivery implications of Universal Credit policy and plans proposals;
- Provide constructive, independent support, guidance and robust challenge to the Board on the progress and implementation of the Programme plan, facilitating decisions following discussion where required.
- Provide management advice to the Permanent Secretary and Universal Credit SRO;
- Satisfy yourself on the integrity of financial information and that financial controls and systems and risk management are robust and defensible;
- The chairperson does not have individual decision-making authority or accountability.

Person specification

- Extensive experience of delivering major transformation programmes at a senior level within Government
- Previous non-executive director experience within the public sector
- Recognised by the Cabinet Office Infrastructure & Projects Authority as an exemplar in their field
- Knowledge and experience of applying Agile principles to deliver major public sector transformation
- Ability to handle, analyse and understand complex planning, financial and performance data to inform Board discussions and decision making
- Experience of providing independent but informed constructive challenge to senior leaders

Annex D: List of individuals who provided evidence to this project

The Committee is grateful for the valuable input provided by the following, who gave their time to advise us and provide evidence during the course of this project:

Tom Loosemore	Public Digital
Dave Magee	Infrastructure and Projects Authority
John McGlynn	Non-executive Chair of the DWP's Universal Credit Programme Board
Sir John Oldham	

We are also grateful to the Secretary of State for Work and Pensions, the Minister for Welfare Delivery, Neil Couling and other DWP officials who responded to our questions and requests for further information throughout our examination of these proposals.

Annex E: Extract of minutes from SSAC meeting on 8 December 2021

3. The Universal Credit (Transitional Provisions) Regulations 2022, and The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2022^{21,22}

3.1 The Chair welcomed Neil Couling (Director General, DWP Change and Resilience), Graeme Connor (Deputy Director, UC Analysis and UC Policy), Dave Higlett (G6, UC Policy), James Calverley (G7, UC Policy), to the meeting. He proposed that the meeting be broken into three parts:

- a review of actions since the SSAC Managed Migration report of 2018, in particular: the feedback at that stage, what the Department have taken on board, and the learnings to date;
- the specific proposals in the draft regulations.
- plans going forward given the proposed removal of the regulation limiting the number of migration notices to 10,000, the roll out, milestones, checkpoints, review and oversight.

3.2 Neil Couling introduced the regulations by stating that whilst certain things from that previous report have been considered other things have not as yet, as work on this stopped abruptly when Covid occurred. However, these will continue to feature in the next phase of UC – a learning phase titled the ‘discovery phase’. In this discovery phase there will be work undertaken with claimants, advisors and external stakeholders and partners before the volumes are increased. For this phase there are not pre-determined data and numbers, rather it is a space to explore, learn and construct, allowing volumes to be adjusted based on learning.

3.3. Committee members asked the following questions:

SSAC’s earlier advice: an update on developments

- (a) There were a number of useful conversations about the earlier recommendations by SSAC, such as about what was considered a safe transfer, about the state of readiness to roll out, the impacts on different cohorts, and implicit and explicit consent. What has (and what has not) happened following the SSAC recommendations?**

The Covid interruption was immediate, so some aspects of ongoing work at that time were lost. Some aspects have changed, including the volume of cases to move. In the Harrogate pilot there were not many cases that needed transitional protection (TP), however that may have been do with the cohorts moving. In terms of the Committee’s previous recommendations a number were accepted, such as the two-week run-on of DWP income-related benefits, whilst others were met with promises

²¹ The Universal Credit (Transitional Provisions) Regulations (Northern Ireland) 2022 largely mirror the GB regulations, apart from some changes to Housing Benefit which apply to Northern Ireland only. The Committee agreed that they were content with those Housing Benefit changes.

²² During the course of this scrutiny, the Department shared certain information in confidence with the Committee, and accordingly this has been redacted as requested.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

to explore further as we developed and tested UC. Where there was an agreement to explore things, such as with operational readiness, that will be picked up in the future plan and other issues raised, around transferring data across from legacy systems, explicit consent, and how to work with third parties will be looked at in the discovery phase.

- (b) Previously the Department were following a step by step iterative approach – does that original philosophy still hold?**

Yes. The Department is determined to go at a pace that allows us to learn to transition to different phases properly. The pace in the discovery phase will be careful and considered, as with small volumes one can slow down, stop, and correct. [Redacted].

- (c) How does the gradual, iterative approach work with the political pressure to get through the massive transitional caseload?**

If there was a way to go faster whilst still making sure the system works that would be the approach. [Redacted]. The Senior Responsible Officer's (SRO's) view is that 2024 is still a reasonable target. The SRO would be content to regularly update SSAC during this process.

- (d) What are the key lessons learned from the Harrogate trial?**

There was originally a three-phase plan – first Jobseeker's Allowance cases (JSA), then Housing Association (HA), then Tax Credit cases. The JSA cases were underway, and the HA were about to start when lockdown happened. The main learning from the JSA cohort was that claimants are anxious about moving to UC. Personal contact helped address negative preconceptions and informed claimants when payments would fall in the calendar which helped claimants understand when best to make their UC claim within the period they are required. There were very few TP cases, but the people in this cohort were less likely to have a lower entitlement on UC. It is not possible to move individuals across to UC or set up a gateway to identify them by using data from the legacy systems. It would take years of system development and would still be unreliable. People need to participate, and clean data is essential. Also, whilst it may be perceived that the JSA cohort are simpler on paper, they often had complex lives and the cases contained much complexity.

- (e) Are the learnings from the huge pandemic claimant increase and the Harrogate pilot transferable to the ESA and Tax Credit cohorts?**

The experience so far is that tax credit claimants are reluctant to engage with UC and DWP, they don't like the brand, they see it as a jobcentre experience. The issue therefore is how can it not be like a jobcentre experience? More must be done on communications, to build confidence with current legacy benefit claimants. The changes to the taper rate and work allowances introduced after the Budget will help as they do mean that a large majority of tax credit claimants will be better off on UC.

- (f) A particular concern of SSAC in 2018 was that the risk of a failed transition was borne by the claimant. With that in mind is the 2024 a target or a commitment?**

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

It doesn't help running all the different legacy benefit and IT systems, so the sooner we can complete the move to UC the better [Redacted]. It is a Manifesto commitment to complete the UC move. Initiating all transfers by the end of 2024 is a valid target, subject to not being impacted by other policy priorities or external events.

- (g) One of the commitments in 2018 was to explore automatic transfers of claims – has DWP explored any options since?**

Automatic transfer is not impossible, but it is very hard. One area where there is some possibility is on tax credits – aspects of HMRC tax credit claims may be able to be used to build UC claims. We had previously planned to test this before the pilot was paused. We want to explore with HMRC if there is scope for certain information to be ported across.

- (h) Another 2018 commitment was to seek evidence on the group whose earnings exceed the UC threshold for four months – did that happen?**

At present UC claimants who are no longer entitled to UC due to earnings will have their earnings monitored for six months to see if they might (within this period) re-establish entitlement for UC. This might inform that four-month issue.

- (i) The gradual, iterative process is welcomed, but why therefore remove the failsafe of reporting at a particular point? Is there not wisdom in retaining that pilot point?**

The 10,000 limit is a threshold chosen previously, based on the concept of a pilot, to provide assurances that without a limit the intention was to move significant numbers of claimants in one go. [Redacted].

Specific regulations

- (j) On regulation 4 - could the purpose of that be explained?**

This change clarifies what happens in practice anyway. There is an inconsistency here, the legislation removes the inconsistency, and brings it into line with practice.

- (k) How does this interact with people in temporary accommodation?**

An award of housing benefit for those in temporary accommodation (and specified accommodation) does not terminate on claiming UC. Paragraph 3 of article 7 of UC Commencement Order No. 23 ensures claimants in temporary accommodation are not prevented from claiming housing benefit. This saving will be maintained in the commencement order meaning there is no interaction between the revocation of regulation 8(1)(b) and the availability of housing benefit to claimants in temporary accommodation.

- (l) On regulation 5 – could the purpose of that be explained?**

This aligns the approach to termination of legacy benefits for couples issued with a migration notice who separate, so it is the same as that in the case of natural migration. Existing Regulation 47(2) provides that if one member of the couple makes a claim for UC all legacy benefits to both members of the couple are stopped. That is revoked by these regulations. So, instead now it will be the case that the

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

member claiming for the couple stays on legacy benefits if their ex-partner claims UC.

- (m) The migration notice gives them three months to apply – is there a danger that applicants will not report changes in the circumstances of their benefit unit during that period?**

People should be declaring changes of circumstances in the normal way. This is stated as a requirement in the existing regulations. The changes proposed therefore bring these regulations in line with natural migration and addresses the backdating point, as the legacy benefit will continue for one of the people. The original regulations on this had a one-month migration notice period, following the SSAC report of 2018, which said that it should be longer, it was changed to three months.

- (n) There is a difference between the tax credit and UC definition of couple. Also, the removal of this provision takes out the three-month backdating possible and reverts to the standard one month. Is one-month sufficient protection?**

A month is the normal backdating provision and backdating beyond that creates difficulties as there would be a need to consider earlier assessment periods for backdating purposes. In terms of the differences in definition of a couple, there is a subset of tax credit claimants who can claim as couples but who can live in different addresses. That detail is something that will be looked at in the discovery phase.

- (o) On regulation 7 and the full-time education (FTE) change – are there any patterns amongst people who lose UC for short periods whilst still doing the same course of education?**

FTE students have inadvertently been given more protection than other claimants get. The original intention had been to make sure students didn't lose their benefits at the point of moving to UC. However, it was not realised that in ensuring this happened the regulations allow for full-time students to have their transitional protection reinstated long after if they claim UC again while still on their course. The numbers who this might apply to are not known, but they would be expected to be extremely low. This applies to those with childcare costs, in that UC doesn't pay childcare costs for student study. Where childcare costs fluctuate whilst someone is in study, this should not have an impact. So, if they started work during the summer and therefore came off UC due to earnings, if they applied again within four-months they would keep their TP.

- (p) This regulation has the character not of a mistake but of a failsafe. Are there no circumstances where the TP would now be lost following this change?**

None that we can think of that are common occurrence. The kind of short-term loss of UC referred to is picked up by the four-month rule. TP is still paid as part of a UC claim if a reapplication is made within four months, where your earnings take you off of UC.

- (q) This change doesn't make the migration work any faster - so is there a money saving imperative, rather than just a speed imperative?**

TP ensures eligible claimants receive an equivalent benefit award at the point of transfer to UC. However, this is not an indefinite award. It can be eroded where there are subsequent changes of circumstances. The regulation originally ensured legacy benefit students who didn't meet the FTE definition in UC, received this

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

protection and they could keep TP whilst on that course. However, accidentally it was written so even if they have a change of circumstances and come off UC, then they reapply much later (but whilst they are still on the course) they could still get TP. It is not about saving money, rather it is just about correcting the legislation so the intent of TP is consistently applied to all claimants. The presence of this anomaly could also provoke challenge from other cohorts that they are not being treated equally.

- (r) On the discretionary hardship payments (DHPs), is the Department sure that all bases are covered?**

Yes. The DHP was originally introduced because we could not pay the two-week DWP benefit run-ons. There is a commitment to ensure migration is rolled out safely, the run-ons have been in place since summer 2020, and the advance phasing repayment period has been extended to 24 months.

- (s) Although the primary reason was for run-ons, there was another group – those people whose earnings were temporarily above the UC threshold for four months. Were DHPs a ‘backstop’ for that group?**

TP is not intended to be there ad infinitum and discretionary hardship payments were intended for hardship at the point of transition as a result of the termination of an existing benefit. The primary purpose was to provide for the two-week run on at the point the DWP legacy benefits terminated prior to this being deliverable in the legacy systems. These people will have made the transition to UC and then been off UC for more than four months before they move back so it is thought right that if someone has been off UC for five months, they don't return to get the TP.

- (t) Is a system being created whereby generally if a claimant is out of work there are advance payments available, but if a claimant is in work there is no advance payment - is a discrepancy between those two groups created?**

That is the current position with run-ons. Those in work will have income from employment, or if on Child Tax Credits alone, likely another source of income or capital.

- (u) The income of people in work is already used for fixed expenditure, a recent study showed that large proportions of people in work have less than £50 in savings. The advance could be required because they are more likely to be in debt than those on benefits alone.**

There is a maturation effect going on. There used to be 60% of cases where an advance was requested, and now that is down to 40%, so there is not an exacerbation of this issue happening.

- (v) Would the transition create that exacerbation? Is there potential to use DHPs to help in these situations?**

Rather than use a discretionary system if this was an issue then it would be appropriate to consider if a policy response was needed.

- (w) If removing barriers to the transition is important, then in this situation you will have a long tail impact of move over to UC when using the advance payment system, with the tax credit cohort who have a lot of debt, and adding more debt to that.**

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

The point is recognised, some are repaying debt in the tax credit system, which is crystallised. The discovery work needs to be done on debt and payment cycles. With regard to cash flow in the Harrogate pilot it was important to get the optimum date of claim right, in line with earnings and outgoings, which was a key finding. The tax credit cohort is under a quarter of claimants.

Implementation, governance and accountability

- (x) Moving onto the plan for the managed migration, please could an outline of that be given?**

One question is how can all this be done for 2024? Around 1.7 million households are estimated to be moved to UC. About a third of those will require TP – there is no financial pressure to save money on TP. The Department estimates that around 500k households²³ could move to UC voluntarily and the rest will move either by natural migration or managed migration. [Redacted]. All along there will be checking that the DWP can cope, that the moves are safe and accurate and that potential problems are identified. Depending on what is found, the Department can, if deemed appropriate, press on the accelerator or the brake. [Redacted]. What does the ‘discovery’ phase mean? In that phase there is exploration with users, advice agencies, and other bodies to find what is the best way to move people across.

- (y) Has DWP the capacity to cope with the unexpected? The organisation grew in response to do the pandemic. To what degree can that extra capacity be retained whilst driving through the transitional plan?**

Resources we had during Covid can be repurposed, but there will always be adjustments. [Redacted]

- (z) In terms of the exit and entry criteria for the phases, what is foreseen for the transparency, scrutiny and debate, particularly bearing in mind the 10k limit was for Parliament? Is there a plan to publish the entry/exit criteria? Will there be an equality impact assessment for this, looking at how is it panning out for different groups of people? What is foreseen for the relationship with the public, Parliament, and SSAC?**

Whether the entry and exit criteria are published the ultimate judgments on whether to exit one phase and enter another is down to the DWP to decide. The Department does not want to erect a series of external barriers around those specific criteria. In the ‘discovery’ phase it will be learned about the kind of things that will appear in these criteria – although the criteria for entering this phase is set – nothing can be laid out that far in advance.

- (aa) Will anything be published in Parliament or anywhere else? For example, progress reports?**

The Government will consider how best to communicate progress. The amendment regulations will follow normal Parliamentary procedures.

- (bb) The historical commitment about the 10k report was about a process of public communication that could alleviate strong public concerns around UC – so, will coming just to SSAC provide that public confidence? It also provided a**

²³ March 2022: Reductions in the number of households on legacy benefits mean this has been revised to 200,000.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

breakpoint to allow ramping up to happen – is there not a strong argument for that?

It would be very helpful for SSAC to give advice in this process, and that is likely what the Committee would want to do in any event. Any commitment made must be something that the Secretary of State is agreeable to. We know SSAC will be considering what role they might have in this.

(cc) What is the overall project governance?

The entry, exit criteria, are governed by the Programme and reviewed by the Programme Board and the internal audit the National Audit Office and Infrastructure and Projects Authority.²⁴

(dd) Could more detail be given about how the figures and estimates you provided mean that the 2024 deadline can be reached?

There are now three million²⁵ households in receipt of legacy benefits. The expected natural migration is 30-40k a month. With that factored in, voluntary migrations, cases that simply end, or people who don't move across, or who become pensioners, there will be around 1.7 million households that will have to move through managed migration. Also, there will be cases that simply end, or people who don't move across, or who become pensioners. The 100k a month figure for transfers is just a heuristic, the actual number may be different, once we have processes and systems we can model after Discovery but these are the estimates (based on earlier work) to put a stake in the ground.

(ee) With the original 10k pilot figure there was debate about whether that figure was large enough to be properly representative – is it?

That 10k was not meant to be a representative sample, it was not trying to replicate Great Britain, it was there in part to emphasise to some external stakeholders that DWP wouldn't move to large volumes before completing preparatory work in the Pilot. The anxiety then was large volumes could overwhelm the system. Of course, Covid has shown large volumes can be dealt with where a system is well built and tested.

The point of the Discovery phase is to find gaps and learning by failing on occasion – it in effect replaces the need for a 10,000 limit. And we have demonstrated before that the Department takes a responsible approach to testing. [Redacted]

(ff) Would scaling up happen after test process and evaluation? The concern is that scaling happens before there is the learning – the 10k reassurance forced a pause and conversation and gave reassurance.

There will be constant scaling, growing into the volumes. There was 20 people at the start in Sutton, then you build and build, gradually increasing the number of offices to which you roll-out. The safest and best way of doing this is key, can this be executed, rather than pushing people. [Redacted]

²⁴ The Programme is also accountable to the Secretary of State.

²⁵ As of March 2022 this is estimated to be 2.6m

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(gg) The binding constraint here is the ability to terminate legacy benefits and making sure claimants have a route to UC. There needs to be safe termination and flow onto UC, and you choose the sequence to trigger terminations.

The Department needs to be able to safely move claimants to UC. DWP know DWP benefits, Local Authorities know Housing Benefit, HMRC know Tax Credits. The challenge is to work out how these claimants can be safely moved across to UC. Because there are so many different benefit combinations, we need to be careful not to accidentally pull a group across when the process is not ready or yet built. That is why the discovery phase, rather than any 10,000-claimant limit, is what is important.

3.4 The Chair noted that, while the Committee was content with many of the proposals, it had identified some concerns – in particular on the effect of regulation 9 which removed the 10,000 cap on migration notices - on which it intended to write to the Secretary of State, together with some potential mitigations for her consideration. The Committee would await a response to those concerns before completing the statutory scrutiny process.

Annex F: Letter from Dr Stephen Brien (SSAC Chair) to the Secretary of State for Work and Pensions, 13 January 2022

**SOCIAL SECURITY
ADVISORY COMMITTEE**

The Rt Hon Thérèse Coffey MP
Secretary of State
Department for Work and Pensions
Caxton House
6-12 Tothill Street
London
SW1H 9NA

13 January 2022

Dear Secretary of State,

Universal Credit (Transitional Provisions) Regulations 2022

The Committee undertook its statutory scrutiny of the above-named regulations at its meeting on 8 December. The Committee was content with many of the proposals. However, we have identified some concerns which we have set out below, together with some potential mitigations for consideration.

A process to move around 1.7 million households - many with complex lives - onto Universal Credit from legacy benefits creates a significant risk for both those who are reliant on these benefits and for DWP. The Committee's response to [The Universal Credit \(Managed Migration\) Regulations 2018](#) set out our concerns at that time about a number of these risks, and urged the Government to take steps to ensure that those risks were carried by the Department rather than claimants being taken through this process. The existing Ministerial commitment to pause the migration process and report to Parliament was a key commitment given to Parliament as part of the scrutiny of *The Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019*.

We do recognise that the Covid-19 pandemic has enforced a prolonged pause in the Department's migration plans, and that there is a persuasive argument to move on from the pilot to working at greater scale. While we are supportive of a test-and-learn approach, the Committee is of the considered view that, given the extent of this undertaking, there is a need to have in place arrangements that provide public assurance through independent scrutiny of plans and proposals, particularly as the detail about the iterative test and learn process is necessarily limited at this point in time.

The proposed regulation 9 has the effect of removing the cap on the number of migration notices (10,000) that could be issued to existing claimants on legacy benefits and the associated Ministerial commitment to report back to Parliament before proceeding further. The main conclusion from our scrutiny of these regulations was that there is a need to consider further the potential consequences of regulation 9, and we would encourage you to retain the cap. Greater clarity is required on how the process (at key points of the migration process) will be scrutinised, and what success measures are considered to be.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

If, however, the Government is committed to this position, we consider it important that the Department puts alternative arrangements in place that could provide mitigation against the element of risk that these proposals introduce, by providing independent oversight and assurance. This should take an evidence-based approach that provides independent scrutiny and public assurance, and which enables the Department to adapt its processes in an iterative way, before the numbers, and types of cohorts, being migrated are scaled up.

We would be happy to explore the role this Committee, as impartial and independent advisers to the Secretary of State, could play in providing some ongoing scrutiny and publicly report its findings. We would, of course, be prepared to undertake such a role at the end of the discovery phase in order to help secure strong public confidence in the process. However, robust scrutiny will require drawing in other key bodies, experts and stakeholders to work in partnership with this Committee. We would welcome an opportunity to discuss with you the composition of such a group, to ensure that it provides credible, independent, and impartial advice in which you can have confidence as a potential alternative to parliamentary scrutiny.

Such an approach could help alleviate public concerns about – and build confidence in – the move to Universal Credit. This process would not unduly hinder the Department through a requirement to bring forward amended regulations and report to Parliament at key review point, but would allow transparent scrutiny to take place and ensure key learning points were identified and shared.

I would welcome an opportunity to discuss these issues with you further and propose making our position public when reporting on the draft regulations before us.

A copy of this letter goes to Lady Stedman-Scott, the Minister for Welfare Delivery, Neil Couling, and Jonathan Mills.



Stephen Brien
SSAC Chair

Annex G: Letter from Minister for Welfare Delivery to SSAC Chair - 1 February 2022



DAVID RUTLEY MP
Minister for Welfare Delivery

Caxton House
Tothill Street
London, SW1H 9AJ

Dr. Stephen Brien
Chair, Social Security Advisory Committee
London, SW1H 9NA

1 February 2022

Dear Stephen,

UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2022

Thank you for your letter dated 13 January 2022 and for your time to discuss the issues raised further on 25 January.

I welcome the Committee confirming they are content with the majority of the proposed amendments to the named regulations after undertaking their statutory scrutiny. We have a shared ambition to see the rollout of Universal Credit delivered safely and on time, by 2024, and we are both keen to avoid delays to this process.

I recognise the concerns raised by Committee members and I want to assure the Committee that the Secretary of State and I are mindful of the scale and the significance of the task ahead of us. We are especially mindful of the vulnerability of some of our claimants.

You raised the possibility of separating out the regulations for the Committee to consider specific regulations in slower time. We have explored this again. However, the complexity associated with tabling two sets of amendments and the risk this presents of delaying the programme led us to presenting these regulations as a single package.

To provide the Committee with an appropriate and proportionate opportunity to provide advice to Ministers as we proceed with the migration to UC, I would be willing to meet you on a quarterly basis to update the Committee on progress and share key findings. The offer of these meetings reflects the exceptional scope and scale of this project and, as we both realise, are not standard procedure for the Department and its engagement with the Committee. As such, the Secretary of State and I would not anticipate that this approach is employed elsewhere in the Department.

I hope this offer reflects the spirit of our meeting and look forward to your response which I hope will confirm that the Committee will not need to refer these regulations. A copy of this letter goes to the Secretary of State, Baroness Stedman-Scott, Neil Couling and Jonathan Mills.

DAVID RUTLEY MP
MINISTER FOR WELFARE DELIVERY

Annex H: Response from Stephen Brien (SSAC Chair) to the Minister for Welfare Delivery, 11 February 2022



David Rutley MP
Minister for Welfare Delivery
Department for Work and Pensions
Caxton House
6-12 Tothill Street
London
SW1H 9NA

11 February 2022

Dear Minister,

The Universal Credit (Transitional Provisions) Regulations 2022

Thank you for your letter of 1 February, responding to issues raised in my original correspondence of 13 January and our subsequent discussion with the Secretary of State and Lady Stedman-Scott on 25 January.

The Committee recognises that the Department is keen to make early progress with the implementation of these proposals to provide certainty for those individuals who may be affected by the move to Universal Credit. In order to expedite matters, I convened an extraordinary meeting of Committee members, which we held on 9 February, to further consider these regulations in the light of your response – with an emphasis on how best to ensure appropriate scrutiny and public confidence for an agile process in light of the proposed regulation 9.

The Committee welcomes your offer of regular quarterly meetings to report on progress and share findings until the end of the discovery phase. However, there was a clear consensus among Committee members that this, in isolation, would not go far enough to mitigate against the risks highlighted in my original letter and the Committee's earlier report on *The Universal Credit (Managed Migration) Regulations 2018*. Nor would it serve to strengthen public confidence in the system.

I am therefore writing to confirm that, after further careful consideration of the proposals, the Committee has decided to take the above regulations on formal reference in accordance with sections 172(1) and 174(1) of the Social Security Administration Act 1992.

I can provide assurance that we do not wish to unduly delay the process. We will not be undertaking a large-scale public consultation on this occasion but intend to seek the advice of a small number of experts, including those with significant experience or expertise of agile processes and their governance. We will arrange these conversations as early as possible

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

and, subject to the usual modalities, anticipate being in a position to submit our report to the Secretary of State within a few weeks.

We will ensure that DWP is informed of our plans and detailed timetable for, and of developments throughout, the formal reference process. I would also be very happy to discuss further with you at any stage of the process if that would be helpful.

A copy of this letter goes to the Secretary of State, Lady Stedman-Scott, Neil Couling and Jonathan Mills.

A handwritten signature in black ink, appearing to read 'Stephen Brien'. The signature is written in a cursive, flowing style.

Stephen Brien
SSAC Chair

Annex I: Social Security Advisory Membership

Committee

Dr Stephen Brien (Chair)

Bruce Calderwood

Matthew Doyle

Carl Emmerson

Chris Goulden

Kayley Hignell

Philip Jones

Professor Grainne McKeever

Seyi Obakin OBE

Charlotte Pickles

Liz Sayce OBE

Secretariat

Denise Whitehead (Committee Secretary)

Dale Cullum

Gabriel Ferros

Richard Whitaker

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

Annex J: Letter to SSAC Secretariat from DWP Officials putting Regulations before the Committee for consideration on the 8 December 2021.

THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) AMENDMENT REGULATIONS 2022

Dear Denise

In accordance with section 172 of the Social Security Administration Act 1992, I am putting the above Regulations before the Committee for consideration. The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (“the 2022 Regulations”) make amendments to:

The Universal Credit (Transitional Provisions) Regulations 2014 (‘the 2014 Regulations’)²⁶ and The Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019²⁷ (‘the 2019 Regulations’).

The Committee is invited to consider whether the Regulations may be made without formal referral.

These negative Regulations amend the existing legal framework for supporting claimants who naturally migrate from existing benefits to Universal Credit (UC) and those who will be notified by DWP that they must move from their existing benefits to Universal Credit (UC). These regulations have been produced in advance of the resumption of this ‘managed migration’ process (referred to as Move to UC) and revoke provisions that are no longer necessary or have been superseded.

These amendments will allow the Department to complete the movement of remaining existing benefit claimants to Universal Credit (UC) by the end 2024, in line with the Manifesto commitment made by this Government.

We can discuss these regulatory changes at the SSAC meeting of 8th December 2021 if you require further detail.

The effects of the proposed amendments are summarised as follows:

Regulation 2 removes regulation 4 of the 2014 regulations that permits the Secretary of State to suspend taking new UC claims in any area or specified category of case. This discretion on the grounds of safeguarding the efficient administration or to ensure the effective testing of the UC systems is no longer required. Consequential amendments to this change are contained in the Schedule.

Regulation 3 removes regulation 6 of the 2014 regulations (exclusion of claims for certain existing benefits), which excluded UC claimants from claiming Income Support, Housing Benefit or tax credits. This is because the provisions in regulation 6 have been superseded

²⁶ http://www.legislation.gov.uk/uksi/2014/1230/pdfs/uksi_20141230_en.pdf

²⁷ <https://www.legislation.gov.uk/uksi/2019/1152/contents/2020-08-04>

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

by article 7 of the Welfare Reform Act 2012 (Commencement no 23 and Transitional and Transitory Provisions) Order no 2328. This means that regulation 6 is no longer required.

Regulation 4 amends regulation 8 of the 2014 regulations so there is no longer a requirement that the Secretary of State is satisfied that the basic conditions of eligibility for UC relating to age, being in Great Britain and not being in education have been met before awards of Income Support, Housing Benefit or Tax Credits can be terminated when UC is claimed. This mirrors the approach taken in Commencement Orders for income-based Jobseeker's Allowance and income-related Employment and Support Allowance. It also makes certain consequential amendments to ensure references in other regulations are removed

Regulation 5 resolves concerns relating to changes in couple status between the issuing of a migration notice and the new UC claim. It revokes regulation 47 of the 2014 Regulations, which makes provision for claimants who are being treated as a couple or as members of a polygamous marriage when they are issued with a migration notice (and therefore part of the same existing award) but are single for the purposes of a UC claim (and therefore must claim separately).

Regulation 47 currently provides for the existing awards to terminate when the first member of the former couple makes a UC claim and for a subsequent claim by the other member to be backdated to that date. Revoking regulation 47 will stop the termination of existing awards on the earlier date if the person who has not yet claimed has continuing entitlement. This will re-align with the position for couples on certain existing benefits who separate before they have been issued with a migration notice.

Regulation 5(2) clarifies that if a claimant has a change in couple status i.e. a couple separate or a single claimant forms a couple after being issued with a migration notice, they will not qualify for transitional protection.

Regulation 6 ensures that a reassessment from Limited Capability for Work (LCW) to Limited Capability for Work-related Activity (LCWRA) is treated as an increase in the claimant's health related addition, therefore reducing any Transitional Protection (TP) by the amount of the difference between the LCW and the LCWRA, rather than treating it as a separate new payment which would reduce TP by the full amount.

Regulation 7 clarifies the position for a sub-set of claimants who are in full-time education and would not meet the basic UC entitlement condition "not receiving education" when they are moved to UC. The current regulations provide an exemption from that condition until their course ends. (The full-time student protection.) The effect of the amendment in regulation 4 is that the full-time student protection will be treated in the same way as other forms of transitional protection. Specifically, if their UC award ceases and they make a new UC claim the exemption will not be re-applied. It also provides that the full-time student protection will cease for the same reasons (as prescribed in regulation 56 of the 2014 Regulations.)

Regulation 8 removes the ability for a managed migrating claimant to request a Discretionary Hardship Payment. This provision was only used to provide for a payment equivalent to the two-week run-on of income-related Employment and Support Allowance, and Income Support and income-based Jobseeker's Allowance prior to the two week run on being deliverable. Since July 2020 the two week run on has been in place and so regulation 64 of the 2014 Regulations can be removed.

²⁸ https://www.legislation.gov.uk/uksi/2015/634/pdfs/ukxi_20150634_310319_en.pdf

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

Regulation 9 removes the restriction on the number of existing benefit claimants that can be moved to UC from legacy benefits before the regulations then have to be amended – referred to as the 10,000 limit.

The Committee are here provided with:

- The Explanatory Memorandum on the draft regulations; (Annex K)
- The draft Universal Credit (Transitional Provisions) Amendment Regulations 2022; (Annex L)
- Keeling Schedule showing how amendments will be revised in source regulations.(Annex M)

Yours sincerely,

By email

James Calverley

Annex K: Explanatory Memorandum for Meeting with Social Security Advisory Committee on 8 December 2021

<p>Universal Credit Policy Division</p>	<p>EXPLANATORY MEMORANDUM FOR THE SOCIAL SECURITY ADVISORY COMMITTEE</p>
	<p>THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) AMENDMENT REGULATIONS 2022</p>
<p>For the meeting of the Social Security Advisory Committee on 8th December 2021</p>	<p>DWP Department for Work and Pensions</p>

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

EXPLANATORY MEMORANDUM FOR THE SOCIAL SECURITY ADVISORY COMMITTEE FROM THE DEPARTMENT FOR WORK AND PENSIONS

THE UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) AMENDMENT REGULATIONS 2022

INTRODUCTION

1. One of the main elements of the Welfare Reform Act 2012 was the introduction of Universal Credit (UC), which:
 - improves work incentives by removing the need to claim different in- and out-of-work benefits and reducing the risks associated with moving from benefits into employment; and
 - simplifies the way existing benefits are calculated and delivered by replacing income-based Jobseeker's Allowance (JSA(IB)), Housing Benefit (HB), Child Tax Credit (CTC), Income Support (IS), Working Tax Credit (WTC), and income-related Employment and Support Allowance (ESA(IR)) into a single benefit for people both in- and out-of-work.
2. The initial roll out of UC, to different Jobcentre Plus districts, began in April 2013. UC was fully rolled out across Great Britain from 12th December 2018 and for all postcodes across the UK from 1st February 2019 Tax Credits were abolished (with some exceptions) from this date²⁹.
3. Now that UC is fully available to new claimants and rolled out across the UK, it is no longer possible for claimants of working age to make a new claim to existing benefits³⁰, except for two exceptions:
 - Frontier Workers (those who reside outside, but work within, the UK). Those eligible for support can continue to make a claim to tax credits for an interim period of time. These claimants, if eligible, will be able to claim UC in the future; and
 - claimants who are living in temporary or specified accommodation. These claimants can still make a claim to Housing Benefit. These claimants are able to make a claim for UC to support them with their non-housing costs.
4. Where claimants do not fit into the above criteria and have a change of circumstances so that a new claim for a benefit (that UC is replacing) is required, they now make a claim for UC and in making such a claim all existing benefits will terminate. This process is known as 'natural migration'.

²⁹ Tax credits were abolished (with some exceptions) from this date. JSA(IB) and ESA(IR) are abolished for the individual once a UC claim is made. This is also achieved via Commencement Order.

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5. Recipients of legacy benefits can also choose at any time to move to UC, this is known as making a 'voluntary migration'.
6. Starting in July 2019 and expected to be completed by the end of financial year 2024/25, it is intended that the final phase of UC roll out will take place. The Department will initiate the transfer of those remaining existing benefit claimants to UC where no change of circumstances has taken place nor has the claimant chosen to move. This process is known as managed migration (referred to as Move to UC).
7. A pilot for Move to UC started in July 2019, to develop, test and adapt processes so claimants invited to move to UC by the Department can do so smoothly and effectively. This was suspended in March 2020 due to the Covid-19 pandemic.
8. These regulations prepare for the resumption of Move to UC starting from 2022. The instrument also contains amendments in relation to the natural migration process and the removal of provisions that are no longer necessary following the full roll-out across Great Britain.
9. These amendments will allow the Department to complete the movement of remaining existing benefit claimants to Universal Credit (UC) by the end 2024, in line with the Manifesto commitment made by this Government.

Resumption of managed migration

10. The 'managed migration' process (referred to as Move to UC) involves a claimant receiving an existing benefit(s) being sent a 'migration notice'. This informs them they must make a claim to UC and that their existing awards will come to an end if they have not made a UC claim on or before the deadline date they have been given.

Future plans for testing for migration

11. The Department recognises that claimants' confidence, experience of and trust in handling interactions with the benefits system will vary.
12. The Department has identified several key learnings that we will need to focus on when testing migration to deliver a successful outcome for the department and claimants, this is set out in Annex (i). These include:
 - a) Establishing processes for gathering accurate data to identify the different circumstances of claimants and support managed moves.
 - b) Understanding how to appropriately notify claimants.
 - c) considering the different levels of support required to make a successful claim recognising differences in claimants' needs.
 - d) Understanding the processes and tools required to calculate and confirm someone's entitlement, ensure they are paid the correct award and are protected.

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- e) Understanding the barriers claimants may face after making their claim and the support they need.

- 13. The Department is still finalising its plans for the resumption of Move to UC and will be mindful to differentiate approaches according to the needs of claimants.
- 14. UC programme's governance will take into account a number of factors including operational readiness, key functionality being in place and ensuring the Department has processes in place to support vulnerable claimants.

Stakeholder engagement

- 15. As the Department moves forward with its detailed design for Move to UC, it will continue its intensive work to inform its approach to the process of moving people to ensure that claimants are supported to claim UC successfully.
- 16. Since 2018, the Department has held a number of workshops and webinars with organisations including Local Authorities, Housing Associations, third sector organisations with relevant insights and experience, focusing on three work streams: (1) Service Design; (2) the Delivery Model and (3) How we identify and support Vulnerable Claimants.
- 17. In early 2021, the Department started to re-engage with stakeholders, to discuss voluntary migrations, recognising that the department estimates a number of existing claimants would see a higher level of entitlement on UC than they currently receive, and aims to highlight to claimants that they are able to move to UC, and benefit from a higher rate before being mandated to do so. Our discussions with stakeholders allowed them to provide their thoughts and insight into our approach.
- 18. The Department will continue to engage with stakeholders in this manner and is actively ramping up our engagement. This will ensure the Department continues to get the necessary insight from concerned groups as the Move to UC design progresses.

EXPLANATION AND EFFECT OF THE PROPOSED CHANGES

Abolition of the Secretary of State discretion to determine that claims for universal credit may not be made

- 19. Regulation 4 of the 2014 Regulations permits the Secretary of State to suspend taking new UC claims to safeguard the efficient administration or to ensure the effective testing of systems. This provision was needed when UC was in its infancy as an additional safeguard to its safe and controlled introduction. However, UC is now fully rolled-out and the robustness of UC IT systems and administration is now such that this power is highly unlikely ever to be exercised and should therefore be revoked.

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20. **Regulation 2** and the **Schedule** make amendments to various pieces of legislation to achieve the above.

Abolition of the exclusion of claims for certain existing benefits

21. In the same way that regulation 4 of the 2014 Regulations was pertinent during the roll-out of UC, regulation 6 is also hangover from the period when UC was being phased in gradually based on postcode where claimant's met certain conditions.

22. The primary function of regulation 6 was to prevent³¹ a person returning to HB, Tax Credits or IS once they have claimed, or are receiving, UC but was superseded in 2015 by article 7 of the Welfare Reform Act 2012 (Commencement no 23 and Transitional and Transitory Provisions) Order no 2332 which was a more sweeping provision preventing claims for HB, Tax Credits and IS where a person could claim UC. Any exception that remained relevant (principally those claimants in temporary and supported accommodation who continued to be entitled to UC) were replicated in article 7.

23. As a result, the Department believes that this provision is no longer needed, especially as it is covered elsewhere. Therefore regulation 3 revokes regulation 6 of the 2014 Regulations to achieve this.

Termination of existing benefits – removal of requirement for Secretary of State to determine that the basic conditions are met

24. The amendments include a provision that will remove a sub-paragraph, 8(1)(b), of the 2014 Regulations. This provision was also introduced for the very early stages of the UC rollout. It requires that the Secretary of State is satisfied that the basic conditions of eligibility for UC (excluding the condition that a claimant commitment has been agreed) have been met before awards of IS, HB or Tax Credits can be terminated when UC is claimed.

25. A full decision on meeting these Basic Conditions does not have to have been made for SoS to be 'satisfied' that the claimant meets them and for IS, HB or tax credits awards to be terminated. Thus, in practice existing benefits are terminated even where further consideration may be required – for example a Right of Residence/ Habitual Residence Test, or a determination as to whether the claimant is in full- or part-time education.

26. However, there may be cases where there is sufficient doubt as to whether the Basic Conditions are met at the point of the claim, such that termination of IS, HB and Tax Credits cannot be initiated without further investigation. It is in these instances that an unintended effect of the Regulations might occur.

³¹ Subject to certain exceptions which no longer apply or are replicated elsewhere.

³² https://www.legislation.gov.uk/uksi/2015/634/pdfs/ukxi_20150634_310319_en.pdf

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27. The provision governing the termination of JSA(IB) and ESA(IR) is contained in Commencement Orders rather than the Transitional Regulations. Here, the only requirement is that a UC claim has been made there is no matching requirement regarding the Basic Conditions.
28. This means that there could be cases where a doubt as to whether meeting the Basic Conditions means that an HB and/or Tax Credits award³³ cannot be terminated at the point of UC claim pending further investigation, but the JSA(IB) or ESA(IR) award must be. Where it is found that the claimant does not satisfy UC's basic conditions, the claimant would find themselves remaining on HB or Tax Credits (subject to continued entitlement), but unable to make a new claim for JSA(IB) or ESA(IR).
29. **Regulation 4** amends regulation 8 of the 2014 Regulations to achieve. this It also covers consequential amendments that need to be made to regulations 7, 12 and 12A also in the 2014 Regulations.

Managed migration - persons who claim as a different benefit unit

Revocation of regulation 47

The current regulation 47 of the 2014 Regulations provides for cases where claimants who were being treated as a couple or members of a polygamous marriage when they received a migration notice are treated as single when they claim UC. This could be because they separate after the issue of the notice or it could be because of differences between UC and existing benefits rules. For example, in existing benefits the members of a polygamous marriage are all treated as part of one award whereas in UC the parties to the first marriage are treated as a couple and the party to the second marriage is treated as single and this results in two separate awards. Also, in tax credits some married couples who live apart continue to be treated as couples for Tax Credit purposes whereas they are single for UC purposes.

30. It is likely, especially in those cases of couple separation, that as ex-members of the previous couple household will be claiming as single persons, they are likely to claim UC at different times after receiving the migration notice. Regulation 47 provides that when the first UC claim is made by one of those persons all awards of the existing benefit, to which they or their ex-partner are entitled, will terminate. This means that a claimant, who was receiving benefit for a partner from whom they had separated, could have their entitlement to benefits stopped if that partner (who was not entitled to existing benefits) makes a UC claim before they do, even though they may continue to meet the benefit's conditions of entitlement.
31. The above situation outlined in paragraph 26, does not align with the current treatment of cases where a couple, where one is entitled to existing benefits for the couple, separate without having been issued with migration notices. In these situations, the ex-member who was not previously on an existing benefit will need to claim UC on their own behalf if

³³ A claimant cannot receive IS and JSA(IB) or ESA(IR) at the same time, so this will not arise in IS cases.

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they need support while the other ex-member will remain entitled to their existing benefits which will be reassessed for them as single awards.

32. The removal of regulation 47 from the 2014 Regulations by **regulation 5** means that there will be consistency between when couples separate before being issued with a migration notice and the position for couples who separate after being issued with a migration notice in that in both cases the claimant who is receiving the benefit payments can remain on that benefit until they make a new UC claim as per the time period specified in the notification³⁴.
33. Regulation 47 also provides where there are UC claims on separate dates, both will start from the earliest of those dates i.e., if one claimant made a UC claim two months before the other the later claim would start from the earlier date. For this provision to apply, the later claim will need to have been made on or before that claimant's "final deadline" as prescribed by regulation 46(4).
34. This was put in place primarily to protect claimants on Tax Credits who are formally recognised as couples (for example are married or in a civil partnership or live as though they are) but who actually live apart. For example, where one member of the couple is away working in another part of the country for that period. Upon claiming UC, they will be treated as single claimants and have to make individual claims in their own right because they had lived apart or are expected to live apart for more than 6 months.
35. The provision ensured that if one of these claimants made their UC claim on a later day to the other, they did not lose out by having no entitlement between their tax credit termination, which would have occurred when the earlier claim was made, and the date on which they make their claim to UC.
36. However, upon reconsideration this provision is not, in its current state, necessary as there is already existing provision within the UC regulations³⁵ that will provide protection for Tax Credit couples, and it allows backdating for up to a month where a claimant has been entitled to an existing benefit and the notification of expiry of entitlement to that benefit was not sent to the claimant before the last day the claimant's entitlement expired.
37. The Department believes that this will provide sufficient protection since it is unlikely that a situation would arise where claims from these couples would need to be backdated for

³⁴ This position was also raised as a concern during the piloting of managed migration when processes were being developed for the migration of couples from existing benefits to UC.

³⁵ Regulation 26(3)(aa) of The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013.

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more than a month. These claimants will still see themselves as a couple and therefore, they will be very likely to co-ordinate the making of their individual single UC claims. It would seem highly unlikely that one would wait for more than a month to make their single claim.

38. **The Schedule** also makes consequential amendments to other pieces legislation to achieve the above.

Transitional Protection

39. It has always been the intention that if a claimant has a change in couple status (a couple separate or a single claimant forms a couple) after being issued with a migration notice then the Department would not consider awarding them Transitional Protection (TP)³⁶. This is because, even though the change in couple status may not, in its own right, have led to the termination of the claimant's existing benefit awards, it will be such a significant change in their circumstance to make meaningless any comparison between the level of their entitlement of their existing benefits as opposed to their new entitlement to UC.

40. The current provisions make clear that this is the position when a couple separate after being issued with a migration notice but before either makes a claim for UC. However, the regulations do not so clearly provide that TP should not be considered when a single notified existing claimant makes a new joint claim to UC as a member of a couple with another single existing benefit claimant.

41. Regulation 5(2) of these regulations therefore amends regulation 50(2) of the 2014 Regulations to make clear that TP should never need be considered for cases of single claimants who form a couple after being required to claim UC.

Managed migration – adjustment to transitional element where other elements increase

42. During the passage of the Welfare Reform Act 2012, the Department announced that existing benefit claimants who are migrated to UC by the Department who would otherwise have an initial lower entitlement to UC than they had to their existing benefits at the point they make their UC claim will be Transitionally Protected³⁷. To this end, regulation 55 of the 2014 Regulations establishes how Transitional Protection will be applied to the UC award via the calculation of a Transitional Element (TE) in UC.

43. The announced policy has also always been that TE will subsequently be reduced by an increase in a UC element already in award or the award of a new UC element.³⁸ Although this is the case, an issue has been identified in the legislative structure that where a UC claimant:

³⁶ Transitional protection will be provided in the form of a transitional element. This will be calculated by comparing the total amount of all existing benefits that the claimant has been awarded with the total amount of UC that they would be entitled to when calculated according to the circumstances on which the claimant's existing benefit awards were based.

³⁷ <https://www.gov.uk/government/publications/transitional-protection-universal-credit-policy-briefing-note>

³⁸ Other than the childcare costs element.

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- was previously on ESA(IR) and was in receipt of both the Severe Disability Premium (SDP) and the Work-Related Activity Component
- was moved to UC by the Department and awarded the Limited Capability for Work (LCW) addition and received TE e.g., SDP as this is not replicated in UC.

they could lose out financially at a later date if they were subsequently found to have Limited Capability for Work and Work-related Activity (LCWRA)³⁹.

44. From a policy perspective, it has always been the intention that a reassessment from LCW to LCWRA be treated as an increase in the claimant's health related element and TE should therefore be reduced by the amount of the difference between the LCW and the LCWRA.
45. However, the issue identified in the legislative structure means that LCW and the LCWRA are treated as two distinctly different elements. They are not two rates of the same element and therefore, where a claimant's health deteriorates and their work capability is reassessed, they do not experience an "increase" in their health-related element. Instead, the LCW is terminated and the LCWRA is awarded as a new element.
46. This means, that under a strict reading of regulation 55, the claimant's TE should be reduced by the full amount of the LCWRA (not the difference between it and the LCW) whilst the LCW amount would also be stopped. This could result in claimants having their overall entitlement to UC reduced when they experience a deterioration in their health. See **Annex (ii)** for an example that illustrates the above.
47. As a result, **regulation 6** amends the 2014 Regulations to put it beyond doubt that the treatment of the LCWRA as a relevant increase is an exception to the general rule regarding amounts awarded for the first time to ensure these claimants do not lose in the above cases where LCWRA is subsequently applied to the UC award.

Managed migration - protection for students

48. Regulation 60 of the 2014 Regulations make provision for the treatment of existing benefit claimants who are in full-time education,⁴⁰ but upon making a new UC claim, having received a migration notice, would not meet the UC basic condition⁴¹ that they are "not receiving education". (This only affects single UC claimants, or couples who are both students, as joint claimants still qualify for UC if only one of them meets that condition.)
49. In these cases, regulation 60 exempts the claimants from this condition so they can:

- claim and be entitled to UC;

³⁹ This would also apply to claimants who were naturally migrated to UC and awarded the SDP Transitional Payment as this payment is 'turned into' TE.

⁴⁰ See regulation 12(2) of the UC Regulations 2013.

⁴¹ Section 4 (Basic Conditions) of The Welfare Reform Act 2012 (2012 C5).

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- be awarded TP;
 - until the course they are attending (at the point they make their UC) ends.
50. As a result, a claimant could cease to be entitled to UC and then make another claim (which might be months or even years later) if they remained on the course they were on when first claiming UC. However, any other TPs they were receiving would have ceased, subject to the exception that allows TP to be carried forward to a new claim within 4 months where the previous award ceased because of earnings
51. The amendment being made via **regulation 7** stipulates that where the UC awards ends the exemption will only be reapplied where transitional protection would be reapplied.
52. This clarifies the intention of the regulations and ensures that the protection given to full-time students is consistent with the treatment of other forms of TP that can be applied to those who move to UC which are:
- the transitional capital disregard, which is applied to Tax Credit claimants with capital of over £16,000 who are required to claim UC; and
 - the Transitional Severe Disability Premium Element which can be awarded to eligible ex-recipients of existing benefits' Severe Disability Premium.
53. Regulation 7 also provides that the full-time student protection will cease following a sustained reduction of earning and following a change in couple status in the same way that the TE and the Transitional Capital Disregard will cease following those changes. This change creates greater consistency in the application of the suite of Transitional Protection measures that the Department is providing those who move to UC.

Abolition of discretionary hardship payments

54. As the Committee is aware, in the October 2018 Budget announcement, the Department committed to building on the introduction of the Transitional Housing Payments to HB for claimants who move to UC, which provides a two-week run-on of payments of HB when a claimant moves to UC. This was primarily in response to the consultation on the 2019 Regulations by the Committee⁴². In the Committee's report it stated:

"We do not believe that out of work claimants whose circumstances have not changed, and who may be completely reliant on benefits paid fortnightly, should bear the risks of the Government's policy that Universal Credit be paid monthly. The Government is proposing that they be offered a choice between financial hardship as they wait for their first payment or getting into debt to the Department by requesting an advance payment. We do not believe that this is acceptable."

55. As a result, the Department accepted the recommendation and a two-week run-on of payments of ESA(IR), IS or JSA(IB) was introduced (from 22nd July 2020) to smooth the

⁴² Universal Credit (Managed Migration) Regulations 2018 (publishing.service.gov.uk) See recommendation 9 of the Government's response.

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transition for claimants moving from those existing benefits to UC who will receive their first payment of UC five weeks after a new UC claim is made.

56. The Government's response to the Committee also highlighted that:

“As the managed migration test period will begin in July 2019, before the run on is introduced, we will include in the regulations the power to make discretionary payments to managed migrated claimants facing hardship. This will allow the Department the discretion to provide financial support to claimants who migrate ahead of the run-on commencing where this is needed to avoid hardship.”

57. The two-week run-ons of ESA(IR), IS and JSA(IB) were introduced in July 2020. As the main policy intention behind the introduction of a Discretionary Hardship Payment (DHP) was to provide claimants who claimed UC (as part of the manage migration pilot) with a payment equivalent to these two-week run-ons before the run-on was introduced, the Department feels that provision to make such payments is no longer needed.

58. **Regulation 8** therefore removes provision for these payments to be made.

Managed migration – abolition of the limit on number of cases migrated

59. The 2019 Regulations gave the Department the ability to manage migrate claimants from existing benefits to UC where no relevant change of circumstances had taken place by issuing a migration notice.

60. The 2019 Regulations also limited the number of claimants the Department could move in this manner by stipulating that when the number of awards made to persons who have been issued with a migration notice has reached 10,000, no further migration notices can be issued.

61. This regulation was added in response to concerns expressed by stakeholders over the uncertainty of the process and the impact to existing benefit claimants who may have circumstances that needed specific consideration when moving to UC.

62. Prior to its suspension, the emphasis of the pilot was to develop a better understanding of the processes that would be needed to support existing claimants to safely move to UC, through careful design and testing with small groups of claimants. This was in-keeping with the way in which the UC service is enhanced on an ongoing basis, regularly conducting research with claimants and DWP staff to understand how UC is working and where improvements can be made.

63. In response to the pandemic the UC service has also demonstrated the ability to scale considerably to meet demand in a way that supported people to claim UC when they were facing uncertain circumstances.

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64. We also reiterate our commitment to moving claimants across safely in addition to working with external stakeholders regarding voluntary migration.
65. **Regulation 9** removes the limit set on UC programme's test and learn process as to how many claimants can be notified and migrated to UC.

IMPACT OF THE 2022 REGULATIONS

66. From 2022 there will be approximately 1.7 million households who expect will need to be notified they are required to move to UC from existing benefits. This figure (used in AME estimates and OBR forecasts) are those we expect to manage migrate after households that move due to natural migration, voluntary moves or legacy benefits closed are accounted for. Of those being moved to UC, we expect the bulk will be those receiving ESA(IR) and tax credits. See Table 1 which estimates the current legacy benefit caseload combinations in 2021/22. Not all of these households will necessarily be moved to UC via managed migration, as some will have a change of circumstance that leads to a natural migration or choose to claim UC voluntarily, but it gives a good indication of the type of household that will be moved.

Table 1. Breakdown of claimants remaining on existing benefits

Benefit	Number	Percentage
JSA (JSA only / JSA & CTC and/or HB)	100,000	<5%
ESA (ESA only / JSA & CTC and/or HB)	1,300,000	45%
IS (IS only / IS and CTC and/or HB)	200,000	5%
Tax Credits with/without HB (no JSA/IS or ESA)	1,300,000	40%
HB only	100,000	5%
Total	3,000,000	100%

Figures are rounded to the nearest 100,000 and nearest 5%.

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67. As the Committee can see from the above, during Move to UC we expect a large proportion of the caseload being migrated from existing benefits will have a disability or health condition (around 45% are on Employments and Support Allowance)⁴³.

Revocation of regulation 47

68. The amendments being made to regulation 47 of the 2014 Regulations in relation to couples separating are designed, (i) to align better with the current treatment of couples supported by legacy benefits that separate and have not been issued with a migration notice, and (ii) to take into account the fact that under the provisions, as they commonly stand, a claimant's existing benefit can be terminated based on the actions of another individual; as this results in a complexity that may not be understandable to all, especially if the claimant has a learning disability, we are seeking to amend it.

Abolition of discretionary hardship payments

69. Like all existing benefits who are moved to UC, Tax Credits recipients are currently eligible to claim an MDHP. In contrast, TC recipients will not be eligible for the two-week run-on as this is only available to those on income related benefits (ESA(IR), IS and JSA). The removal of the MDHP could therefore have an impact on those disabled people who only receive tax credits. However, it should be noted that guidance issued to staff on considering the amount of MDHP it might be appropriate to make suggested that this be based on the amount of the ESA(IR), IS and JSA(IB) personal allowance rate, in order to reflect the two week run-ons, minus any earned income that the claimant would have. Given that a WTC claimant would have to be working at least 16 hours a week, being paid at or above the National Minimum Wage, in following the guidance issued for MDHP, it would have been unlikely a MDHP would have been made to these claimants.

70. It is also likely that tax credit only cases will have alternative forms of income, for example earnings or capital, to help support them until they receive their first UC payment. They will also be able to claim an advance of 100% of their estimated UC entitlement within days of claiming which can be phased over 24 months.

Managed migration - abolition of the limit on number of cases migrated

71. From an operational perspective, UC currently accepts claims from all claimant types, including those with a disability or health condition. Most claims are made via the online channel. However, claimants have an option to claim via telephone and face-to-face channels. Arrangements are also in place (using the DWP Visiting Service) for claimants who are not able to use any of these channels and do not have an appointee to administer their claim to enable them to claim UC.

⁴³ Other existing benefits could also have claimants who have a disability or health condition but it is not currently possible to identify how many.

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72. Although the above arrangements are already in place, and enhancements have been made since the implementation of UC, we will consider how to design and adapt processes to ensure the safe movement of the most vulnerable claimants to UC. The 2019 Regulations themselves also have certain safeguards so:

- claimants with health conditions can extend the time by which they need to make a new UC claim, if they are finding it difficult to complete the claim within the timescales they have been given;
- where it is identified that existing benefit claimants are vulnerable or have complex needs and they have not made a new UC claim by the deadline day, their existing benefit claims will continue until such time that it is felt that the claimant is capable of continuing with the managed migration process or for a home visit to be arranged to help them make a new UC claim.

The transitional element – initial amount and adjustment where other elements increase

73. Not making the change would mean that claimants who are awarded TE and have LCW would have any TE awarded reduced if they were reassessed as having LCWRA by the full amount of the LCWRA addition rather than the difference between the LCW and LCWRA addition. This amendment clarifies this exception in Regulation 55 to ensure these claimants do not lose when their health deteriorates.

MONITORING AND EVALUATION

74. The continuing rollout of UC in this final phase will be closely monitored, reflecting the careful and considered approach of the department which will be informed by user research and testing.

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ANNEX (i)

LEARNINGS TO FOCUS ON

Stage	Learning
Identify the different needs and circumstances of people to move	<ul style="list-style-type: none"> • Are we able to gather from across government the accurate and reliable data to identify people in scope to move? • Do we have accurate data that may help identify circumstances that may affect someone's move? • What processes and tools are required for these activities to perform them efficiently? For example, collecting information from our own systems and others e.g., LAs and HMRC
Notify claimants to make a claim to UC	<ul style="list-style-type: none"> • Can we identify different notification needs, and how do we successfully notify claimants with different needs? • How well do claimants understand the impact of the notification (what is being asked of them/ what they need to do by when / where to get help)?
Provide support that people need in order to make a successful claim to UC	<ul style="list-style-type: none"> • What different levels of support and types of support are needed for different groups of claimants? • How to effectively provide different types of support for different needs at different times, including which organisations may be best suited to provide different support for different needs. • How well claimants understand the support available to them.
Confirm a claimants entitlement from legacy benefits and ensure they are paid the correct award	<ul style="list-style-type: none"> • What processes and tools do we need to accurately and efficiently identify claimants that have made a claim to UC and apply and calculate Transitional Protection? • What processes and tools do we need to accurately identify when someone has not made a claim by their deadline date and what support is needed in this situation?
Provide support that moved to UC claimants may need during their first assessment period	<ul style="list-style-type: none"> • Do move to UC claimants encounter different barriers in the service. • What solutions work to reduce these barriers.

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ANNEX (ii)

Employment and Support Allowance claimant moving to UC who is in the Work-related Activity Group

An income-related Employment and Support Allowance claimant who is aged over 25 is moved to UC as part of the managed migration to UC. As part of their ESA(IR) award they also receive the Work-related Activity Component (WRAC) and Severe Disability Premium. On being migrated to UC by the Department they are awarded the Limited Capability for Work (LCW) addition⁴⁴ as part of their UC award. As the SDP is not replicated in UC, they are awarded a Transitional Element (TE). They are then subsequently found to have Limited Capability for Work and Work-related Activity (LCWRA).

Amendments to regulations not applied

ESA(IR) entitlement per month entitlement/ LCWRA per month		UC entitlement/ LCW per month		UC
Personal Allowance –	£323.70	Standard Allowance –	£324.84	
Standard Allowance –	£324.84			
WRAC –	£128.70	LCW –	£128.89	
LCWRA –	£343.63			
SDP –	£291.63	TE ⁴⁵ –	£290.30	
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Total	£744.03	Total	£744.03	
	Total	£668.47		

Once LCWRA is applied to the UC award it is taken fully into account causing the TE of £290.30 to be eroded completely. This giving them an overall loss of £75.56 a month.

⁴⁴ Via regulation 19 of the 2014 Regulations. Saving for this provided under The Employment and Support Allowance and Universal Credit (Miscellaneous Amendments and Transitional and Savings Provisions) Regulations 2017. https://www.legislation.gov.uk/uksi/2017/204/pdfs/ukxi_20170204_en.pdf

⁴⁵ Existing benefit amount (£744.03) – UC entitlement (£453.73) = TE (£290.30).

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Amendments to regulations applied

ESA(IR) entitlement per month entitlement/ LCWRA per month		UC entitlement/ LCW per month		UC
Personal Allowance –	£323.70	Standard Allowance –	£324.84	
Standard Allowance –	£324.84			
WRAC –	£128.70	LCW –	£128.89	
LCWRA –	£343.63			
SDP –	£291.63	TE –	£290.30	
TE –	£75.56			
<hr/>		<hr/>		
Total	£744.03	Total	£744.03	
	Total	£744.03		

Once LCWRA applied to the UC award the difference between the LCW and LCWRA addition are worked out and deducted from the TE of £290.30 giving a continuing payment of TE of £75.56⁴⁶.

⁴⁶ If this was a claimant who had been **awarded** TE because they had qualified for the SDP Transitional Payment, the loss would be £70.26.

Annex L: Draft Universal Credit (Transitional Provision) Amendment Regulations Shared with SSAC for meeting on 8th December 2021

STATUTORY INSTRUMENTS

2022 No.

SOCIAL SECURITY

The Universal Credit (Transitional Provisions) Amendment Regulations 2022

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - - - ***

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 42(1), (2) and (3) of and paragraph 1(1), 3(1)(a) to (c), 4(1)(a), 2(c) and (d) and 3(a) and 6 of Schedule (6) to the Welfare Reform Act 2012⁽⁴⁷⁾.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992⁽⁴⁸⁾ (“the 1992 Act”), the Secretary of State has referred proposals in respect of these Regulations to the Social Security Advisory Committee.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Universal Credit (Transitional Provisions) Amendment Regulations 2022 and come into force on XX.

(2) Any amendment made by these Regulations has the same extent as the provision amended.

(3) In these Regulations the “Transitional Provisions Regulations” means the Universal Credit (Transitional Provisions) Regulations 2014⁽⁴⁹⁾

Abolition of the Secretary of State discretion to determine that claims for universal credit may not be made

2.—(1) Regulation 4 of the Transitional Provisions Regulations (Secretary of State discretion to determine claims for universal credit may not be made) is omitted.

(2) The Schedule contains consequential provisions.

⁽⁴⁷⁾2012 c.5.

⁽⁴⁸⁾1992 c. 5.

⁽⁴⁹⁾S.I. 2014/1230 amended by S.I. 2019/1152 [insert relevant amending instruments]

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

Abolition of the exclusion of claims for certain existing benefits

3. Regulation 6 of the Transitional Provisions Regulations (exclusion of claims for certain existing benefits) is omitted.

Termination of existing benefits – removal of requirement for Secretary of State to determine that the basic conditions are met

4.—(1) The Transitional Provisions Regulations are amended as follows.

(2) In paragraph (1) of regulation 7 (termination of awards of certain existing benefits: new claimant partners), omit sub-paragraph (d) and the “and” preceding it.

(3) In paragraph (1)(a) of regulation 8 (termination of awards of certain existing benefits; other claimants), after “is made” insert “, whether or not subsequently withdrawn”.

(4) In paragraph (1) of regulation 8 (termination of awards of certain existing benefits; other claimants), omit sub-paragraph (b) and the “and” preceding it.

(5) In paragraph (1) of regulation 12 of the Transitional Provisions Regulations (modification of tax credits legislation: overpayments and penalties) omit sub-paragraph (c) and the “and” preceding it.

(6) In paragraph (1) of regulation 12A of the Transitional Provisions Regulations (modification of tax credits legislation: finalisation of tax credits) omit sub-paragraph (c) and the “and” preceding it.

Managed migration - persons who claim as a different benefit unit

5.—(1) Regulation 47 of the Transitional Provisions Regulations (Notified persons who claim as a different benefit unit) is omitted.

(2) In regulation 50(2) of the Transitional Provisions Regulations (Secretary of State to determine whether transitional protection applies) omit “regulation 47 (notified persons who claim as a different benefit unit)” and insert

- “(a) notified persons who were a couple for the purposes of an award of an existing benefit when the migration notice was issued are single persons or members of a different couple for the purposes of a claim for universal credit; or
- (b) notified persons who were single for the purposes of an award of an existing benefit when the migration notice was issued are a couple for the purposes of a claim for universal credit; or
- (c) notified persons who were members of a polygamous marriage for the purposes of an award of existing benefit when the migration notice was issued are a couple or single persons for the purposes of universal credit.”

(3) The Schedule contains consequential provisions.

Managed migration – adjustment to transitional element where other elements increase

6.—(1) Regulation 55 (the transitional element – initial amount and adjustment where other elements increase) of the Transitional Provisions Regulations is amended as follows.

(2) In paragraph 4, after “relevant increase is” insert “, subject to paragraph (5),”

(3) At the end insert the following paragraph:—

“(5) Where the LCW element is replaced by the LCWRA element, “the relevant increase” is to be treated as the difference between the amounts of those elements.

(6) “LCW element”⁽⁵⁰⁾ and “LCWRA element” have the same meaning as in the Universal Credit Regulations”

⁽⁵⁰⁾[Include footnote to explain LCW element is abolished but continued for certain claimants by transitional provisions]

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/****)

Managed migration - protection for full-time students

7. In regulation 60 of the Transitional Provisions Regulations (protection for full-time students until course completed) insert “—(1)” at the beginning and add the following paragraph—

“(2) Paragraph (1) does not apply to any assessment period in respect of which a transitional element or transitional capital disregard would (if the claimant had been entitled to that element or that disregard) have ceased to apply by virtue of regulation 56 (circumstances in which transitional protection ceases) or regulation 57 (application of transitional protection to a subsequent award).”

Abolition of discretionary hardship payments

8. Regulation 64 of the Transitional Provisions Regulations (discretionary hardship payments) is omitted.

Managed migration - abolition of the limit on number of cases migrated

9. Regulation 2 of the Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019 (Managed migration pilot: limit on the number of cases migrated)⁽⁵¹⁾ is omitted.

Signed by authority of the Secretary of State for Work and Pensions

	<i>Name</i>
	Minister of State
Date	Department for Work and Pensions

SCHEDULE

Regulations 2 and 5

Consequential Amendments

Amendments consequential on regulation 2

1. In paragraph (5) of regulation 44 of the Transitional Provisions Regulations (migration notice), omit sub-paragraph (b) (but not the “or” following it).

2.—(1) The Welfare Reform Act 2012 (Commencement No.9 and Transitional and Transitory Provisions and Commencement No.8 and Savings and Transitional Provisions (Amendment)) Order 2013⁽⁵²⁾ is amended as follows.

(2) In article 3A (incorrect information regarding residence in a relevant district or meeting the gateway conditions), in paragraph (3), omit “(and a determination had not been made under regulation 4 of the Universal Credit (Transitional Provisions) Regulations 2014, preventing a claim for universal credit being made with respect to the area in question or the category of case in question)”.

(3) In article 5A (transitional provision where the Secretary of State determines that claims for universal credit may not be made: effect on claims for employment and support allowance and jobseeker’s allowance), in paragraph (1), omit “a determination under regulation 4(1) of the 2014 Transitional Regulations (claims for universal credit may not be made in an area or category of case), or by virtue of regulation 4A of those Regulations (restriction on claims for universal credit by persons entitled to a severe disability premium) or”.

(4) In article 6 (transitional provision: where the abolition of income-related employment and support allowance and income-based jobseeker’s allowance is treated as not applying), in paragraph (1)(e)(ii), omit—

(a) “(including a case that relates in whole or in part to residence in an area)”; and

⁽⁵¹⁾S.I. 2019/1152.

⁽⁵²⁾S.I. 2013/983, amended by S.I. 2014/1452, S.I. 2014/2321, S.I. 2015/634, S.I. 2017/483, S.I. 2019/10, S.I. 2019/27, S.I. 2019/167.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

- (b) “regulation 4(1) of the 2014 Transitional Regulations (determination that claims for universal credit may not be made) or the claim is or would be one to which regulation 4A of those Regulations (restriction on claims for universal credit by persons entitled to a severe disability premium) or”.

3.—(1) The Welfare Reform Act 2012 (Commencement No.21 and Transitional and Transitory Provisions) Order 2015⁽⁵³⁾ is amended as follows.

(2) In article 6 (transitional provision: claims for housing benefit, income support or a tax credit), in paragraph (11), omit “by virtue of a determination made under regulation 4, or by virtue of regulation 4A of the Universal Credit (Transitional Provisions) Regulations 2014, or”.

4.—(1) The Welfare Reform Act 2012 (Commencement No.23 and Transitional and Transitory Provisions) Order 2015⁽⁵⁴⁾ is amended as follows.

(2) In article 7 (transitional provision: claims for housing benefit, income support or a tax credit), in paragraph (2), omit “by virtue of a determination made under regulation 4, or by virtue of regulation 4A of the Universal Credit (Transitional Provisions) Regulations 2014 or”.

(3) In article 8 (amendment of the Welfare Reform Act 2012 (Commencement No.9 and Transitional and Transitory Provisions and Commencement No.8 and Savings and Transitional Provisions (Amendment)) Order 2013), omit paragraphs (1) to (3).

5.—(1) The Welfare Reform Act 2012 (Commencement No.31 and Savings and Transitional Provisions and Commencement No.21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019⁽⁵⁵⁾, is amended as follows.

(2) In article 8 (transitional provision: where restrictions on claims for universal credit are in place), in paragraph (1) omit sub-paragraphs (a) and (b).

Amendments consequential on regulation 5.

6.—(1) The Transitional Provisions Regulations are amended as follows to remove the references to regulation 47.

(2) In regulation 2 (Interpretation) in paragraph (4) omit the reference to “and regulation 47 (notified persons who claim as a different benefit unit)”.

(3) In regulation 5 (Exclusion of other benefits), in paragraph (2)(ab), for “46(1) or 47(2)” substitute “or 46(1)”.

(4) In regulation 8A (Transitional housing payment) in the preliminary text for “46 or 47” substitute “or 46” and in sub-paragraphs (a) and (b) for “46(1) or 47(2)” substitute “or 46(1)”.

(5) In regulation 8B (Effect on universal credit award of two week run-on etc.) for “46(1) or 47(2)” substitute “or 46(1)”.

(6) In regulation 13 (Appeals etc relating to certain existing benefits) in paragraph (3) for “46 or 47” substitute “or 46”.

(7) In regulation 46 (Termination of existing benefits if no claim before the deadline) omit paragraph (5).

(8) In regulation 58 (Qualifying claim – Secretary of State may set later commencement day) omit “or 47(4) (claim made by the final deadline)”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230) (“the Transitional Provisions Regulations”) and the Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019.

⁽⁵³⁾S.I. 2015/33, as amended by S.I. 2015/634, 2017/483, 2019/10, S.I. 2019/27, S.I. 2019/167.

⁽⁵⁴⁾S.I. 2015/634, as amended by S.I. 2017/376, S.I. 2019/10, S.I. 2019/27, S.I. 2019/167.

⁽⁵⁵⁾S.I. 2019/37, as amended by S.I. 2019/935.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

Regulation 1 provides for citation, commencement and extent.

Regulation 2 omits regulation 4 of the Transitional Provisions Regulations (Secretary of State discretion to determine claims for universal credit may not be made). This removes the discretion of the Secretary of State to temporarily exclude universal credit claims in any area or in any category of case if considered necessary to safeguard the efficient administration of universal credit.

Regulation 3 omits regulation 6 of the Transitional Provisions Regulations (exclusion of claims for certain existing benefits), which excludes universal credit claimants from claiming income support, housing benefit or tax credits. Regulation 6 has been superseded by orders made under section 150(3) of the Welfare Reform Act 2012.

Regulation 4 amends regulation 7, 8, 12 and 12A of the Transitional Provisions Regulations. The effect of these omissions is that there is no longer a requirement for the Secretary of State to be satisfied that the claimant or claimants meet the basic conditions specified in section 4(1)(a) to (d) of the Welfare Reform Act 2012 (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Welfare Reform Act 2012) when a universal credit claim is made.

Regulation 5 aligns the termination of any existing benefits for notified persons who claim as a different benefit unit with the termination of existing benefits upon natural migration following a change in couple status. Paragraph 2 confirms that if a notified person claims universal credit as a different benefit unit they will not qualify for transitional protection.

Regulation 6 provides that when calculating the adjustment of a transitional element under regulation 55 of the Transitional Provisions Regulations, if the LCWRA element replaces the LCW element the “relevant increase” is the difference between the two amounts.

Regulation 7 states that the protection for full time students provided in Regulation 60 of the Transitional Provisions Regulations will cease to apply in the same way as any of the other forms of transitional protection. In addition, that protection for full-time students will only apply to a subsequent award in the same circumstances as other forms of transitional protection can apply to a subsequent award.

Regulation 8 abolishes discretionary hardship payments.

Regulation 9 removes the limit on the number of awards of universal credit made to persons to whom a migration notice has been issued. This was previously limited to 10,000 awards and is now unlimited.

The Schedule contains amendments consequential on regulations 2 and 5.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

Annex M: Keeling Version – Universal Credit (Transitional Provision) Amendment Regulations 2022

Amendments for regulation 2

2014 No. 1230

SOCIAL SECURITY

UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2014

PART 2

TRANSITION TO UNIVERSAL CREDIT

CHAPTER 1

ENTITLEMENT TO CLAIM UNIVERSAL CREDIT

~~Secretary of State discretion to determine that claims for universal credit may not be made~~

- ~~4. (1) Where the Secretary of State considers it necessary, in order to—~~
- ~~(a) safeguard the efficient administration of universal credit; or~~
 - ~~(b) ensure the effective testing of systems for the administration of universal credit,~~
- ~~to cease to accept claims in any area, or in any category of case (either in all areas or in a specified area), the Secretary of State may determine that claims for universal credit may not be made in that area, or in that category of case.~~
- ~~(2) A determination under paragraph (1) has effect until it ceases to have effect in accordance with a further determination made by the Secretary of State.~~
- ~~(3) More than one determination under paragraph (1) may have effect at the same time.~~

PART 4

MANAGED MIGRATION TO UNIVERSAL CREDIT

The Migration Process

Migration notice

44.—(1) The Secretary of State may, at any time, issue a notice (“a migration notice”) to a person who is entitled to an award of an existing benefit—

- (a) informing the person that all awards of any existing benefits to which they are entitled are to terminate and that they will need to make a claim for universal credit; and
- (b) specifying a day (“the deadline day”) by which a claim for universal credit must be made.

(2) The migration notice may contain such other information as the Secretary of State considers appropriate.

(3) The deadline day must not be within the period of three months beginning with the day on which the migration notice is issued.

(4) If the person who is entitled to an award of an existing benefit is, for the purposes of that award, a member of a couple or a member of a polygamous marriage, the Secretary of State must also issue the migration notice to the other member (or members).

(5) The Secretary of State may cancel a migration notice issued to any person—

- (a) if it has been issued in error;
- ~~(b) if the Secretary of State has made a determination in accordance with regulation 4 (discretion to determine that claims for universal credit may not be made) that would affect a claim by that person; or~~
- (c) in any other circumstances where the Secretary State considers it necessary to do so in the interests of the person, or any class of person, or to safeguard the efficient administration of universal credit.

(6) A “notified person” is a person to whom a migration notice has been issued.

Consequential amendments for regulation 2

2013 No. 983 (C. 41)

SOCIAL SECURITY

**THE WELFARE REFORM ACT 2012 (COMMENCEMENT NO. 9
AND TRANSITIONAL AND TRANSITORY PROVISIONS AND
COMMENCEMENT NO. 8 AND SAVING AND TRANSITIONAL
PROVISIONS (AMENDMENT)) ORDER 2013**

Incorrect information regarding residence in a relevant district or meeting the gateway conditions

(1) This article applies where a claim for universal credit is made and it is subsequently discovered that the single claimant or either or both of two joint claimants gave incorrect information regarding his or her (or their) residing in one of the relevant districts or meeting the gateway conditions and the conditions referred to in paragraph (2) are met and the condition referred to in paragraph (2) is met.

(2) The conditions referred to are that, on the date on which the claim was made, the claimant—

- (a) did not reside in one of the relevant districts (unless paragraph (3) applies); or
- (b) did reside in one of the relevant districts but did not meet the gateway conditions.

(2) The condition referred to is that, on the date on which the claim was made, the claimant did not reside in one of the relevant districts (unless paragraph (3) applies).

(3) This paragraph applies where the claimant resided in an area apart from the relevant districts with respect to which the provisions of the Act referred to in Schedule 2 were in force in relation to a claim for universal credit and the conditions (if any) that applied to such a claim, for those provisions to come into force, were met (~~and a determination had not been made under regulation 4 of the Universal Credit (Transitional Provisions) Regulations 2014, preventing a claim for universal credit being made with respect to the area in question or the category of case in question~~).

(4) Where the discovery is made before the claim for universal credit has been decided—

- (a) the claimant is to be informed that the claimant is not entitled to claim universal credit;
- (b) if the claimant (or, in the case of joint claimants, either of them) makes a claim for old style ESA, old style JSA or income support (“the specified benefit”) and the date on which that claim is made (as determined in accordance with the Claims and Payments Regulations 1987) is after the date on which the claim for universal credit was made, but no later than one month after the date on which the information required by sub-paragraph (a) was given—

- (i) the claim for the specified benefit is to be treated as made on the date on which the claim for universal credit was made or the first date on which the

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

claimant would have been entitled to the specified benefit if a claim had been made for it on that date, if later; and

(ii) any provision of the Claims and Payments Regulations 1987 under which the claim for the specified benefit is treated as made on a later date does not apply;

(c) if the claimant (or, in the case of joint claimants, either of them) makes a claim for housing benefit and the date of that claim (as determined in accordance with the Housing Benefit Regulations 2006 or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (together referred to as “the Housing Benefit Regulations”)) is after the date on which the claim for universal credit was made, but no later than one month after the date on which the information required by sub-paragraph (a) was given—

(i) the claim for housing benefit is to be treated as made on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to housing benefit if a claim had been made for it on that date, if later; and

(ii) any provision of the Housing Benefit Regulations under which the claim for housing benefit is treated as made on a later date does not apply;

(d) if the claimant (or, in the case of joint claimants, either of them) makes a claim for a tax credit and that claim is received by a relevant authority at an appropriate office (within the meaning of the Tax Credits (Claims and Notifications) Regulations 2002 (“the 2002 Regulations”)) during the period of one month beginning with the date on which the information required by sub-paragraph (a) was given—

(i) the claim for a tax credit is to be treated as having been received by a relevant authority at an appropriate office on the date on which the claim for universal credit was made or the first date on which the claimant would have been entitled to a tax credit if a claim had been so received on that date, if later; and

(ii) any provision of the 2002 Regulations under which the claim is treated as having been made on a later date does not apply.

(5) Where the discovery is made after a decision has been made that the claimant is entitled to universal credit, but before any payment has been made—

(a) that decision is to cease to have effect immediately, by virtue of this article;

(b) the claimant is to be informed that they are not entitled to claim universal credit; and

(c) sub-paragraphs (b) to (d) of paragraph (4) apply.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(6) Where the discovery is made after a decision has been made that the claimant is entitled to universal credit and one or more payments have been made in respect of the claimant, the decision is to be treated as a decision under [section 8](#) of the Social Security Act 1998.

(7) For the purposes of paragraph (4), a person makes a claim for old style ESA or old style JSA where he or she makes a claim for an employment and support allowance or a jobseeker's allowance and the claim is subject to Part 1 of the 2007 Act or the 1995 Act respectively as those provisions have effect apart from the amendments made by the amending provisions.

Transitional provision where the Secretary of State determines that claims for universal credit may not be made: effect on claims for employment and support allowance and jobseeker's allowance

5A.— (1) Where a person makes a claim for an employment and support allowance or a jobseeker's allowance at a time when they would not be able to make a claim for universal credit by virtue of ~~a determination under regulation 4(1) of the 2014 Transitional Regulations (claims for universal credit may not be made in an area or category of case) or by virtue of regulation 4A of those Regulations (restriction on claims for universal credit by persons entitled to a severe disability premium)~~ or article 4(11) of the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019 (no claims for universal credit by frontier workers) and where the amending provisions would otherwise have come into force in relation to the claim by virtue of article 4(2)(a) or any corresponding provision in any order made under section 150(3) of the Act other than this Order, then—

(a) in relation to a claim for an employment and support allowance, Part 1 of the 2007 Act and the Welfare Reform Act 2009 are to apply as though the amending provisions and the provisions referred to in article 7(1)(c), (d) and (f) had not come into force in relation to the claim;

(b) in relation to a claim for a jobseeker's allowance, the 1995 Act, the Social Security Administration Act 1992 and the Social Security Act 1998 are to apply as though the amending provisions and the provisions referred to in article 7(1)(a), (b) and (e) had not come into force in relation to the claim.

(2) Paragraph (1) does not apply in relation to the claim for an employment and support allowance or a jobseeker's allowance that falls within article 4(2)(g) (claims for an employment and support allowance or a jobseeker's allowance during specified periods with respect to a claim for universal credit, or an award of universal credit without a claim), or an analogous provision in any other order that brings into force the amending provisions.

(3) For the purposes of this article, paragraphs (5) to (7) of article 5 apply for the purpose of deciding—

(a) whether a claim for an employment and support allowance or a jobseeker's allowance is made; and

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(b) the date on which the claim is made or is to be treated as made.

(3) For the purposes of this article, paragraphs (5) to (7) of article 5 apply for the purpose of determining—

(a) whether a claim for ESA or JSA is made; and

(b) the date on which the claim is made or treated as made. Transitional provision: where the abolition of income-related employment and support allowance and income-based jobseeker's allowance is treated as not applying

6.— (1) Paragraph (2) applies where—

(a) a person has or had a new style ESA award or a new style JSA award (“the award”) by virtue of the coming into force of the amending provisions under any secondary legislation;

(b) in respect of all or part of the period to which the award relates, the person—

(i) makes a claim, or is treated as making a claim, for universal credit; or

(ii) makes an application to the Secretary of State for supersession of the decision to make the award, on the basis of a relevant change of circumstances that would relate to the grounds for entitlement to an income-related employment and support allowance or an income-based jobseeker's allowance if the amending provisions had not come into force;

(c) if the amending provisions had not come into force and, in the case of a claim for universal credit, an application for supersession of the decision to make the award had been made, the person would be entitled to an income-related employment and support allowance or an income-based jobseeker's allowance, as the case may be, with respect to the period for which the claim for universal credit or application for supersession is made; or an income-based jobseeker's allowance, as the case may be, with respect to the period for which the claim for universal credit or application for supersession is made;

(d) where the person makes an application for supersession of the decision to make the award, the period in respect of which the application is made does not include any period in respect of which the person has been awarded universal credit and;

(e)

(i) on the date on which the claim for universal credit is made, or the application for supersession is received, as the case may be, the claim does not, or, in the case of an application for supersession, a claim for universal credit by the person would not, fall within any case (including a case with respect to which an award of universal credit may be made without a claim) in

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

relation to which the provisions of the Act referred to in Schedule 2 are in force (“the UC commencement case”); or

(ii) on that date, the claim for universal credit does, or, in the case of an application for supersession, a claim for universal credit by the person would, fall within the UC commencement case, but the claim does or would fall within a case ~~(including a case that relates in whole or in part to residence in an area)~~ that is the subject of a determination made by the Secretary of State under ~~regulation 4(1) of the 2014 Transitional Regulations (determination that claims for universal credit may not be made) or the claim is or would be one to which regulation 4A of those Regulations (restriction on claims for universal credit by person entitled to a severe disability premium) or~~ article 4(11) of the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019 (no claims for universal credit by frontier workers) applies.

(e) where the person makes a claim, or is treated as making a claim, for universal credit, the claim does not fall within a case referred to in article 4(2)(b), (c) or (d); and
(f) on the day on which the claim for universal credit is made or treated as made, or the application for supersession is received, as the case may be, the person—

- (i) does not reside in one of the relevant districts; or
- (ii) does not fall within the Pathfinder Group.

(2) Where this paragraph applies, then, in relation to the award and with effect from the first day of the period in respect of which the claim is made or treated as made, or the application for supersession is made, the 1995 Act or Part 1 of the 2007 Act, as the case may be, is to apply as though the amending provisions had not come into force 2.

(3) For the purposes of paragraph (1)—

(a) the Claims and Payments Regulations 2013 apply for the purpose of deciding—

- (i) whether a claim for universal credit is made or is to be treated as made; and
- (ii) the day on which the claim is made or is to be treated as made;

(4) For the purposes of paragraph (2), the reference to the period in respect of which the application for supersession is made is a reference to the period beginning with the day from which the superseding decision takes effect in accordance with section 10(5) of the Social Security Act 1998 and regulation 35 of, and Schedule 1 to, the Decisions and Appeals Regulations 2013 (effectives dates: Secretary of State decisions).

(5) For the purposes of paragraph (2), the reference to the first day of the period in respect of which the claim for universal credit is made or treated as made, in a case where the time for

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

making a claim for universal credit is extended under regulation 26(2) of the Claims and Payments Regulations 2013, is a reference to the first day of the period in respect of which the claim is, by reason of the operation of that provision, timeously made or treated as made.

(6) For the purposes of this article, “secondary legislation” means an instrument made under an Act.

2015 No. 33 (C. 4)

SOCIAL SECURITY

**THE WELFARE REFORM ACT 2012 (COMMENCEMENT NO. 21
AND TRANSITIONAL AND TRANSITORY PROVISIONS) ORDER
2015**

6.— (1) Except as provided by paragraphs (2) to (5) and (11), a person may not make a claim for housing benefit, income support or a tax credit (in the latter case, whether or not as part of a Tax Credits Act couple) on any date where, if that person made a claim for universal credit on that date (in the capacity, whether as a single person or as part of a couple, in which he or she is permitted to claim universal credit under the Universal Credit Regulations 2013), the provisions of the Act listed in Schedule 2 to the No. 9 Order would come into force under article 3(1) and (2)(a) of this Order in relation to that claim for universal credit.

(2) Paragraph (1) does not apply to a claim for housing benefit in respect of specified accommodation or temporary accommodation.

(3) Paragraph (1) does not apply to a claim for housing benefit where—

(a) in the case of a claim for housing benefit, the claim is made by a member of a State Pension Credit Act couple who has reached the qualifying age for state pension credit, where the other member has not reached that age, and entitlement begins, or in the case of claims made in advance of entitlement is to begin—

(i) before 15th May 2019; or

(ii) on or after 15th May 2019 where one of the savings in the sub-paragraphs of article 4(1) of the Welfare Reform Act 2012 (Commencement No. 31 and Savings and Transitional Provisions and Commencement No. 21 and 23 and Transitional and Transitory Provisions (Amendment)) Order 2019 applies to that person and the saving has not ceased to have effect under article 4(2) of that Order, and entitlement to housing benefit is to be construed in accordance with article 2 of that Order;

(4) Paragraph (1) does not apply to a claim for a tax credit where a person or persons makes or make a claim for child tax credit or working tax credit and on the date on which he or she (or they) makes or make the claim he or she (or they) has or have an award of working tax credit or child tax credit respectively.

(5) Paragraph (1) does not apply to a claim for a tax credit where a person has or had, or persons have or had, an award of_ child tax credit or working tax credit in respect of a tax year and that person or those persons makes or make (or is or are treated as making) a claim for that tax credit for the next tax year.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(6) In paragraph (4), the reference to a person having an award of tax credit includes where the person is “treated as being entitled to a tax credit” in the circumstances referred to in regulation 11(1) and (2)(a) to (ca) of the Universal Credit (Transitional Provisions) Regulations 2014(c) but as if, in regulation 11(1), for “For the purposes of regulations 7(7) and 8(4)” there were substituted “For the purposes of article 6(4) of the Welfare Reform Act 2012 (Commencement No. 21 and Transitional and Transitory Provisions) Order 2015”.

(7) Subject to paragraph (8), for the purposes of this article—

- (a) a claim for housing benefit, income support or a tax credit is made by a person on the date on which he or she takes any action which results in a decision on a claim being required under the relevant Regulations; and
- (b) it is irrelevant that the effect of any provision of the relevant Regulations is that, for the purpose of those Regulations, the claim is made or treated as made on a date that is earlier than the date on which that action is taken.

(8) Where under the provisions referred to in paragraph (9), a claim for housing benefit or income support is treated as made at a date that is earlier than the date on which the action referred to in paragraph (7)(a) is taken, the claim is treated as made on that earlier date.

(9) The provisions referred to are—

- (a) in the case of a claim for housing benefit, regulation 83(4E), (4F), (5)(d) or (8) of the Housing Benefit Regulations 2006 (“the 2006 Regulations”) or, as the case may be, regulation 64(5F), (5G), (6)(d) or (9) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (“the 2006 (SPC) Regulations”); or
- (b) in the case of a claim for income support, 1regulation 6(1A)(b) and 6A of the Social Security (Claims and Payments) Regulations 1987.

(10) For the purposes of this article—

- (a) “couple” (apart from in the expressions “State Pension Credit Act couple” and “Tax Credit Act couple”), has the meaning given in section 39 of the Act;
- (b) “housing benefit” means housing benefit under section 130 of the Social Security Contributions and Benefits Act 1992;
- (c) “income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992;
- (d) “qualifying age for state pension credit” means the qualifying age referred to in section 1(6) of the State Pension Credit Act 2002;
- (e) the “relevant Regulations” means—

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- (i) in the case of a claim for housing benefit, the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations;
- (ii) in the case of a claim for income support, the Social Security (Claims and Payments) Regulations 1987;
- (iii) in the case of a claim for a tax credit, the Tax Credits (Claims and Notifications) Regulations 2002;

(f) “specified accommodation” means accommodation to which one or more of subparagraphs (2) to (5) of paragraph 3A of Schedule 1 to the Universal Credit Regulations 2013 applies;

(g) “state pension credit” means state pension credit under the State Pension Credit Act 2002;

(h) “State Pension Credit Act couple” means a couple as defined in section 17 of the State Pension Credit Act 2002;

(i) “tax credit” (including “child tax credit” and “working tax credit”) and “tax year” have the same meanings as in the Tax Credits Act 2002(c);

(j) “Tax Credits Act couple” means a couple as defined in section 3(5A) of the Tax Credits Act 2002.

(k) “temporary accommodation” means accommodation which falls within Case 1 or Case 2 under paragraph 3B of Schedule 1 to the Universal Credit Regulations (11) Paragraph (1) does not apply to a claim for housing benefit, income support or a tax credit where, by virtue of a determination made under regulation 4 or by virtue of regulation 4A of the Universal Credit (Transitional Provisions) Regulations 2014, or by virtue of article 4(11) of the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019 the person in question would be prevented from making a claim for universal credit as referred to in that paragraph.

(11) Paragraph (1) does not apply to a claim for housing benefit, income support or a tax credit where, ~~by virtue of a determination made under regulation 4, or by virtue of regulation 4A of the Universal Credit (Transitional Provisions) Regulations 2014, or~~ by virtue of article 4(11) of the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019 the person in question would be prevented from making a claim for universal credit as referred to in that paragraph.

2015 No. 634 (C. 32)

SOCIAL SECURITY

**THE WELFARE REFORM ACT 2012 (COMMENCEMENT NO. 23
AND TRANSITIONAL AND TRANSITORY PROVISIONS) ORDER
2015**

Transitional provision: claims for housing benefit, income support or a tax credit

7.—(1) Except as provided by paragraphs (2) to (6), a person may not make a claim for housing benefit, income support or a tax credit (in the latter case, whether or not as part of a Tax Credits Act couple) on any date where, if that person made a claim for universal credit on that date (in the capacity, whether as a single person or as part of a couple, in which he or she is permitted to claim universal credit under the Universal Credit Regulations 2013), the provisions of the Act listed in Schedule 2 to the No. 9 Order would come into force under article 3(1) and (2)(a) to (c) of this Order in relation to that claim for universal credit.

(2) Paragraph (1) does not apply to a claim for housing benefit, income support or a tax credit where, ~~by virtue of a determination made under regulation 4 or by virtue of regulation 4A of the Universal Credit (Transitional Provisions) Regulations 2014~~, or by virtue of article 4(11) of the Welfare Reform Act 2012 (Commencement No 32 and Savings and Transitional Provisions) Order 2019]the person in question would be prevented from making a claim for universal credit as referred to in that paragraph.

(3) Paragraph (1) does not apply to a claim for housing benefit in respect of specified accommodation.

(4) Paragraph (1) does not apply to a claim for housing benefit or a tax credit where—

- (a) in the case of a claim for housing benefit, the claim is made by a person who has reached the qualifying age for state pension credit, or by a person who is a member of a State Pension Credit Act couple the other member of which has reached that age;
- (b) in the case of a claim for a tax credit, the claim is made by—

- (i) a person who has reached the qualifying age for state pension credit;
- (ii) a Tax Credits Act couple both members of which have reached, or either member of which has reached, that age; or
- (iii) in a case not covered by paragraph (i), a person who is a member of a State Pension Credit Act couple where the other member of the couple has reached that age.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(5) Paragraph (1) does not apply to a claim for a tax credit where a person or persons makes or make a claim for child tax credit or working tax credit and on the date on which he or she (or they) makes or make the claim he or she (or they) is or are entitled to working tax credit or child tax credit respectively.

(6) Paragraph (1) does not apply to a claim for a tax credit where a person is or was, or persons are or were, entitled to child tax credit or working tax credit in respect of a tax year and that person or those persons makes or make (or is or are treated as making) a claim for that tax credit for the next tax year.

(7) In paragraph (5), the reference to a person being entitled to a tax credit includes where a person is treated as being entitled to a tax credit in the circumstances referred to in regulation 11 of the Universal Credit (Transitional Provisions) Regulations 2014 but as if regulation 11 were amended as follows—

(a) in paragraph (1), for “For the purposes of regulations 7(7) and 8(4)” substitute “For the purposes of article 6(5) of the Welfare Reform Act 2012 (Commencement No. 23 and Transitional and Transitory Provisions) Order 2015”; and

(b) for paragraph (2)(d)(iii), substitute— “(iii) the person’s claim for child tax credit or working tax credit is made during the period of 30 days starting with the date on the notice referred to in paragraph (ii).”.

(8) Subject to paragraph (9), for the purposes of this article—

(a) a claim for housing benefit, income support or a tax credit is made by a person on the date on which he or she takes any action which results in a decision on a claim being required under the relevant Regulations; and

(b) it is irrelevant that the effect of any provision of the relevant Regulations is that, for the purpose of those Regulations, the claim is made or treated as made on a date that is earlier than the date on which that action is taken.

(9) Where under the provisions referred to in paragraph (10), a claim for housing benefit or income support is treated as made at a date that is earlier than the date on which the action referred to in paragraph (8)(a) is taken, the claim is treated as made on that earlier date.

(10) The provisions referred to are—

(a) in the case of a claim for housing benefit, regulation 83(4E), (4F), (5)(d) or (8) of the 2006 Regulations or, as the case may be, regulation 64(5F), (5G), (6)(d) or (9) of the 2006 (SPC) Regulations; or

(b) in the case of a claim for income support, regulation 6(1A)(b) or 6A of the Claims and Payments Regulations 1987.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(11) For the purposes of this article—

- (a) “couple” (apart from in the expressions “State Pension Credit Act couple” and “Tax Credit Act couple”), has the meaning given in section 39 of the Act;
- (b) “housing benefit” means housing benefit under section 130 of the Social Security Contributions and Benefits Act 1992;
- (c) “income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992;
- (d) “qualifying age for state pension credit” means the qualifying age referred to in section 1(6) of the State Pension Credit Act 2002;
- (e) “the 2006 Regulations” means the Housing Benefit Regulations 2006;
- (f) “the 2006 (SPC) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006;
- (g) “the relevant Regulations” means—
 - (i) in the case of a claim for housing benefit, the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations;
 - (ii) in the case of a claim for income support, the Claims and Payments Regulations 1987;
 - (iii) in the case of a claim for a tax credit, the Tax Credits (Claims and Notifications) Regulations 2002;
- (h) “specified accommodation” means accommodation to which one or more of subparagraphs (2) to (5) of paragraph 3A of Schedule 1 to the Universal Credit Regulations 2013 applies;
 - (i) “State Pension Credit Act couple” means a couple as defined in section 17 of the State Pension Credit Act 2002;
 - (j) “tax credit” (including “child tax credit” and “working tax credit”) and “tax year” have the same meanings as in the Tax Credits Act 2002;
- (k) “Tax Credits Act couple” means a couple as defined in section 3(5A) of the Tax Credits Act 2002.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

Amendment of the Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013

~~8.—(1) Paragraphs (2) and (3) apply in relation to a case where a claim for universal credit is made on or after 18th March 2015.~~

~~(2) Where this paragraph applies, in article 3A(3) of the No. 9 Order, at the end insert “(and a determination had not been made under regulation 4 of the Universal Credit (Transitional Provisions) Regulations 2014, preventing a claim for universal credit being made with respect to the area in question or the category of case in question)”.~~

~~(3) Where this paragraph applies, any reference in the No. 11 Order, the No. 13 Order, the No. 14 Order, the No. 16 Order, the No. 17 Order, the No. 19 Order, the No. 21 Order or the No. 22 Order to article 3A of the No. 9 Order is a reference to that article as amended by paragraph (2).~~

(4) Paragraph (5) applies in relation to a case where a claim for an employment and support allowance or a jobseeker’s allowance is made on or after 18th March 2015.

(5) Where this paragraph applies, for paragraph (3) of article 5A of the No. 9 Order substitute—

“(3) For the purposes of this article, paragraphs (5) to (7) of article 5 apply for the purpose of determining—

- (a) whether a claim for ESA or JSA is made; and
- (b) the date on which the claim is made or treated as made.”.

2019 NO. 37 (C. 1)

SOCIAL SECURITY

**THE WELFARE REFORM ACT 2012 (COMMENCEMENT NO. 31 AND SAVINGS AND TRANSITIONAL PROVISIONS AND COMMENCEMENT NO. 21 AND 23 AND TRANSITIONAL AND TRANSITORY PROVISIONS (AMENDMENT))
ORDER 2019**

Transitional provision: where restrictions on claims for universal credit are in place

8.—(1) This article applies to a member of a mixed-age couple who, further to articles 3 to 7, is excluded from entitlement to state pension credit or housing benefit, and is also prevented from claiming universal credit by virtue of—

- ~~(a) regulation 4 of the Universal Credit (Transitional Provisions) Regulations 2014 (claims for universal credit may not be made in an area or category of case);~~
- ~~(b) regulation 4A of those Regulations (restriction on claims for universal credit by persons entitled to a severe disability premium); or~~
- (c) article 4(11) of the Welfare Reform Act 2012 (Commencement No. 32 and Savings and Transitional Provisions) Order 2019 (no claims for universal credit by frontier workers).

(2) Where this article applies, the member of the mixed-age couple who has attained the qualifying age for state pension credit is, for the purposes of an award of benefit referred to in the following sub-paragraphs to that member, to be treated as—

- (a) meeting the basic condition of entitlement (upper age limit) for—
 - (i) income support, in section 124(1)(aa) of the 1992 Act;
 - (ii) a jobseeker's allowance, in section 1(2)(h) of the 1995 Act; or
 - (iii) an employment and support allowance, in section 1(3)(c) of the 2007 Act; and
- (b) not having attained that age for housing benefit, for the purposes of regulation 5 of the Housing Benefit Regulations 2006 and regulation 5 of the Housing Benefit SPC Regulations, so that the Housing Benefit Regulations 2006 apply to the assessment of the award.

(3) This article continues to apply until the award of benefit referred to in paragraph (2)(a) or (b) terminates, regardless of whether paragraph (1)(a), (b) or (c) continues to apply throughout the award.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(4) Where a member of a mixed-age couple who has attained the qualifying age for state pension credit is entitled to income support by virtue of paragraph (2)(a)(i), references to a claimant's partner in paragraphs 9 and 9A (conditions for pensioner premium) and in paragraph 10 (condition for higher pensioner premium) of Schedule 2 to the Income Support (General) Regulations 1987 have effect as though they were references to the claimant.

(5) In this article—

“the 1995 Act” means the Jobseekers Act 1995;

“the 2007 Act” means the Welfare Reform Act 2007;

“employment and support allowance” means an employment and support allowance under Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the 2012 Act that remove references to an income-related employment and support allowance;

“income support” has the same meaning as in Part VII of the 1992 Act;

“jobseeker's allowance” means a jobseeker's allowance under the 1995 Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the 2012 Act that remove references to an income-based jobseeker's allowance.”.

Amendments for regulation 3

2014 No. 1230

SOCIAL SECURITY

UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2014

CHAPTER 2

ENTITLEMENT TO OTHER BENEFITS

Exclusion of claims for certain existing benefits

~~6. (1) Except as provided in paragraphs (5) to (9) a universal credit claimant may not make a claim for income support, housing benefit or a tax credit.~~

~~(2) For the purposes of this regulation, a person is a universal credit claimant if—~~

~~(a) the person is entitled to universal credit;~~

~~(b) the person has made a claim for universal credit, a decision has not yet been made on that claim and the person has not been informed (in accordance with an order made under section 150(3) of the Act) that he or she is not entitled to claim universal credit;~~

~~(ba) (i) the conditions in regulation 6(1)(a), (b) and (c) or 6(2)(a), (b) and (c) of the Claims and Payments Regulations (claims not required for entitlement to universal credit in certain cases) are met in relation to the person;~~

~~(ii) he or she may be entitled to an award of universal credit without making a claim if the conditions in regulation 6(1)(d) and (e) or, as the case may be, 6(2)(d) and (e) of those Regulations are also met; and~~

~~(iii) either the Secretary of State has no information in relation to the person which may indicate a change of circumstances as referred to in regulation 6(1)(e) or, as the case may be, 6(2)(e) of those Regulations, or the Secretary of State has such information but no decision has been made that the person is entitled to universal credit;~~

~~(c) the person was previously entitled to a joint award of universal credit which terminated because the person ceased to be a member of a couple, he or she is not exempt (by virtue of regulation 9(6) of the Claims and Payments Regulations) from the condition of entitlement to universal credit that he or she makes a claim for it and the period of one month, starting with the date on which the person notified the Secretary of State that he or she had ceased to be a member of a couple, has not expired;~~

~~(ca) the person may be entitled to an award of universal credit in circumstances where, by virtue of regulation 9(6), (7) or (10) of the Claims and Payments Regulations (claims for universal credit by members of a couple), it is not a condition~~

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/****)

~~of entitlement that he or she makes a claim for it, but no decision has yet been made as to the person's entitlement;~~

~~(d) the person is treated, under the Claims and Payments Regulations, as having made a claim for universal credit, but no decision has yet been made as to the person's entitlement;~~

~~(e) a decision has been made that the person is not entitled to universal credit and—~~

~~(i) the Secretary of State is considering whether to revise that decision under section 9 of the Social Security Act 1998, whether on an application made for that purpose, or on the Secretary of State's own initiative; or~~

~~(ii) the person has appealed against that decision to the First tier Tribunal and that appeal or any subsequent appeal to the Upper Tribunal or to a court has not been finally determined.~~

~~(3) For the purposes of paragraph (1)—~~

~~(a) a universal credit claimant makes a claim for benefit mentioned in that paragraph if the claimant takes any action which results in a decision on a claim being required under the relevant Regulations; and~~

~~(b) except as provided in [paragraphs (5) to (7B)], it is irrelevant that the effect of any provision of the relevant Regulations is that, for the purposes of those Regulations, the claim is made or treated as made at a time when the claimant was not a universal credit claimant.~~

~~(4) The relevant Regulations are—~~

~~(a) in relation to a claim for income support, the Social Security (Claims and Payments) Regulations 1987 ("the 1987 Regulations");~~

~~(b) in relation to a claim for housing benefit, the Housing Benefit Regulations 2006 ("the 2006 Regulations") or, as the case may be, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 ("the 2006 (SPC) Regulations");~~

~~(c) in relation to a claim for a tax credit, the Tax Credits (Claims and Notifications) Regulations 2002.~~

~~(5) A universal credit claimant is not precluded from making a claim for income support if—~~

~~(a) first notification of the claimant's intention to make that claim was made, or deemed to be made, for the purposes of regulation 6(1A)(c) [or 6A] of the 1987 Regulations, before the date on which the claim for universal credit was made or treated as made; and~~

~~(b) in accordance with the 1987 Regulations, the claimant's entitlement to income support in connection with the claim will (if the claimant is entitled to income support) pre-date—~~

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/****)

- ~~(i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or~~
- ~~(ii) where the claimant is a new claimant partner and regulation 7(4) would apply to the award, the date on which it would terminate in accordance with that provision.~~

~~(6) A universal credit claimant is not precluded from making a claim for housing benefit if—~~

- ~~(a) first notification of the claimant's intention to make that claim was given (within the meaning of regulation 83(5)(d) of the 2006 Regulations or, as the case may be, regulation 64(6)(d) of the 2006 (SPC) Regulations) before the date on which the claim for universal credit was made or treated as made; and~~
- ~~(b) in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations, the claimant's entitlement to housing benefit in connection with the claim will (if the claimant is entitled to housing benefit) pre date—~~

- ~~(i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or~~
- ~~(ii) where the claimant is a new claimant partner and regulation 7(5)(b) would apply to the award, the date on which it would terminate in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations.~~

~~(7) A universal credit claimant is not precluded from correcting or completing a claim for housing benefit which was defective within the meaning of the 2006 Regulations or the 2006 (SPC) Regulations if—~~

- ~~(a) the defective claim was made before the date on which the claim for universal credit was made or treated as made; and~~
- ~~(b) in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations, the claimant's entitlement to housing benefit in connection with the claim will (if the claimant is entitled to housing benefit) pre date—~~

- ~~(i) the date, or anticipated date, of the claimant's entitlement to universal credit in connection with the current award or claim; or~~
- ~~(ii) where the claimant is a new claimant partner and regulation 7(5)(b) would apply to the award, the date on which it would terminate in accordance with the 2006 Regulations or, as the case may be, the 2006 (SPC) Regulations.~~

~~(7A) A claimant who is a universal credit claimant by virtue of sub paragraph (ba) of paragraph (2) (and no other sub paragraph) is not precluded from—~~

- ~~(a) making a claim for income support for a period starting on or after the relevant date if first notification of the claimant's intention to make that claim was made, or deemed to be made, for the purposes of regulation 6(1A)(c) or 6A of the 1987~~

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

~~Regulations, during the period starting with the relevant date and ending with 15th November 2015;~~

~~(b) making a claim for housing benefit for a period starting on or after the relevant date if first notification of the claimant's intention to make that claim was given (within the meaning of regulation 83(5)(d) of the 2006 Regulations or, as the case may be, regulation 64(6)(d) of the 2006 (SPC) Regulations), during the period starting with the relevant date and ending with 15th November 2015;~~

~~(c) correcting or completing a claim for housing benefit for a period starting on or after the relevant date, where that claim was defective within the meaning of the 2006 Regulations or the 2006 (SPC) Regulations and was made during the period starting with the relevant date and ending with 15th November 2015.~~

~~(7B) For the purposes of paragraph (7A), the "relevant date" is—~~

~~(a) where the conditions in regulation 6(1)(a), (b) and (c) of the Claims and Payments Regulations are met in relation to the claimant, the day after the claimant's last day of entitlement to universal credit;~~

~~(b) where the conditions in regulation 6(2)(a), (b) and (c) of the Claims and Payments Regulations are met in relation to the claimant, the first date on which the claimant would have been entitled to universal credit if the claimant had been so entitled.~~

~~(8) A universal credit claimant is not precluded from making a claim for housing benefit in respect of specified accommodation or temporary accommodation.~~

~~(9) A universal credit claimant is not precluded from making a claim for a tax credit which the claimant is treated as having made by virtue of regulation 7(7) or 8(4)(a).~~

Amendments for regulation 4

2014 No. 1230

SOCIAL SECURITY

UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2014

CHAPTER 2

ENTITLEMENT TO OTHER BENEFITS

Termination of awards of certain existing benefits: new claimant partners

7.—(1) This regulation applies where—

- (a) a person (“A”) who was previously entitled to universal credit ceases to be so entitled on becoming a member of a couple;
- (b) the other member of the couple (“the new claimant partner”) was not entitled to universal credit immediately before formation of the couple;
- (c) the couple is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having made a claim for universal credit; ~~and~~
- ~~(d) the Secretary of State is satisfied that the claimants meet the basic conditions specified in section 4(1)(a) to (d) of the Act (other than any of those conditions which they are not required to meet by virtue of regulations under section 4(2) of the Act).~~

(2) Subject to paragraphs (4) and (5), where this regulation applies, all awards of income support or housing benefit to which the new claimant partner would (were it not for the effect of these Regulations) have been entitled during the relevant period are to terminate, by virtue of this regulation—

- (a) on the day before the first date on which the joint claimants are entitled to universal credit in connection with the claim; or
- (b) if the joint claimants are not entitled to universal credit, on the day before the first date on which they would have been so entitled, if all of the basic and financial conditions applicable to them had been met; or
- (c) if the new claimant partner became entitled to an award after the date on which it would otherwise terminate under sub-paragraph (a) or (b), at the beginning of the first day of entitlement to that award.

(3) For the purposes of this regulation, “the relevant period” is the period starting with the first day of the assessment period (in relation to A’s award of universal credit) during which A and the new claimant partner formed a couple and ending with the date of formation of the couple.

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/****)

(4) Where the new claimant partner was entitled during the relevant period to income support, he or she was at that time a member of a couple and the award included an amount in respect of the new claimant partner and their partner at that time (“P”), the award of income support terminates, by virtue of this regulation, on the date on which the new claimant partner and P ceased to be a couple for the purposes of the Income Support (General) Regulations 1987, unless it terminates on that date in accordance with other legislative provision, or terminated on an earlier date.

(5) An award of housing benefit to which the new claimant partner is entitled does not terminate by virtue of this regulation where—

- (a) the award is in respect of specified accommodation or temporary accommodation;
- or
- (b) the new claimant partner leaves the accommodation in respect of which housing benefit was paid, in order to live with A

(6) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

(7) Where the new claimant partner was, immediately before forming a couple with A, treated by regulation 11 as being entitled to a tax credit, the new claimant partner is to be treated, for the purposes of the 2002 Act, as having made a claim for the tax credit in question for the current tax year.

Termination of awards of certain existing benefits: other claimants

8.-(1) This regulation applies where—

- (a) a claim for universal credit (other than a claim which is treated, in accordance with regulation 9(8) of the Claims and Payments Regulations, as having been made) is made *whether or not subsequently withdrawn*; ~~and~~
- ~~(b) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to (d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).~~

(2) Where this regulation applies, all awards of income support or a tax credit to which the claimant (or, in the case of joint claimants, either of them) is entitled on the date on which the claim is made are to terminate, by virtue of this regulation—

- (a) on the day before the first date on which the claimant is entitled to universal credit in connection with the claim; or

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(b) if the claimant is not entitled to universal credit, on the day before the first date on which he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

“(2A) Subject to paragraph (3), an award of housing benefit that a claimant has on the day specified in paragraph (2) (the termination day for an award of a tax credit) terminates on the last day of the period of two weeks beginning with the day after that day.

(3) An award of housing benefit to which a claimant is entitled in respect of specified accommodation or temporary accommodation does not terminate by virtue of this regulation.

(4) Where this regulation applies and the claimant (or, in the case of joint claimants, either of them) is treated by regulation 11 as being entitled to a tax credit—

(a) the claimant (or, as the case may be, the relevant claimant) is to be treated, for the purposes of the 2002 Act and this regulation, as having made a claim for the tax credit in question for the current tax year; and

(b) if the claimant (or the relevant claimant) is entitled on the date on which the claim for universal credit was made to an award of a tax credit which is made in respect of a claim which is treated as having been made by virtue of sub-paragraph (a), that award is to terminate, by virtue of this regulation—

(i) on the day before the first date on which the claimant is entitled to universal credit; or

(ii) if the claimant is not entitled to universal credit, on the day before the first date on which he or she would have been so entitled, if all of the basic and financial conditions applicable to the claimant had been met.

(5) Where an award terminates by virtue of this regulation, any legislative provision under which the award terminates on a later date does not apply.

Modification of tax credits legislation: overpayments and penalties

12.-(1) This regulation applies where—

(a) a claim for universal credit is made, or is treated as having been made;

(b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made, entitled to a tax credit; ~~and~~

~~(c) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to~~

~~(d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).~~

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(2) Where this regulation applies, the 2002 Act applies in relation to the claimant with the following modifications.

(3) In section 28—

(a) in subsection (1)—

- (i) after "tax year" in both places where it occurs, insert "or part tax year";
- (ii) at the end insert "or treated as an overpayment of universal credit";

(b) in subsections (3) and (4), after "repaid" insert "to the Board or, as the case may be, to the Secretary of State";

(c) omit subsection (5);

(d) in subsection (6) omit "(apart from subsection (5))".

(4) For section 29(4) substitute- "(4) Where a notice states that this subsection applies in relation to an amount (or part of an amount), it may be recovered—

(a) subject to provision made by regulations, by deduction from payments of any tax credit under an award made for any period to the person, or either or both of the persons, to whom the notice was given; or

(b) subject to regulations made by the Secretary of State under the Social Security Administration Act 1992—

(i) by deductions under section 71ZC of that Act (Deduction from benefit--including universal credit);

(ii) by deductions under section 71ZD of that Act (Deduction from earnings);

or

(iv) as set out in section 71ZE of that Act (Court action etc).".

(5) In section 48 after the definition of "overpayment" insert-

""part tax year" means a period of less than a year beginning with 6th April and ending with the date on which the award of a tax credit terminated,".

(6) In Schedule 2, in paragraph 6(1)(a) and (c) and (2)(a), after "for the tax year" insert "or part tax year".

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

Modification of tax credits legislation: finalisation of tax credits

12A.-(1) This regulation applies where—

- (a) a claim for universal credit is made, or is treated as having been made;
- (b) the claimant is, or was at any time during the tax year in which the claim is made or treated as made, entitled to a tax credit; ~~and~~
- ~~(c) the Secretary of State is satisfied that the claimant meets the basic conditions specified in section 4(1)(a) to~~
- ~~(d) of the Act (other than any of those conditions which the claimant is not required to meet by virtue of regulations under section 4(2) of the Act).~~

(2) Subject to paragraph (3), where this regulation applies, the amount of the tax credit to which the person is entitled is to be calculated in accordance with the 2002 Act and regulations made under that Act, as modified by the Schedule to these Regulations ("the modified legislation").

(3) Where, in the opinion of the Commissioners for Her Majesty's Revenue and Customs, it is not reasonably practicable to apply the modified legislation in relation to any case or category of cases, the 2002 Act and regulations made under that Act are to apply without modification in that case or category of cases.

Amendments for regulation 5

2014 No. 1230

SOCIAL SECURITY

UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2014

PART 4

MANAGED MIGRATION TO UNIVERSAL CREDIT

~~Notified persons who claim as a different benefit unit~~

~~47.—(1) This regulation applies where—~~

- ~~(a) notified persons who were a couple for the purposes of an award of an existing benefit when the migration notice was issued are single persons or members of a different couple for the purposes of a claim for universal credit; or~~
- ~~(b) notified persons who were members of a polygamous marriage for the purposes of an award of an existing benefit when the migration notice was issued are a couple or single persons for the purposes of a claim for universal credit.~~

~~(2) If any of those notified persons makes a claim for universal credit on or before the deadline day then, notwithstanding anything in regulation 8 (termination of awards of certain existing benefits: other claimants), all awards of any existing benefits to which any of those persons is entitled terminate—~~

- ~~(a) in the case of housing benefit, on the last day of the period of two weeks beginning with the earliest day on which any of those persons is entitled to universal credit in connection with a claim (or, in a case where the person is not entitled to universal credit, on the day they would have been entitled if all the basic and financial conditions had been met); or~~
- ~~(b) in the case of any other existing benefit, on the day before the “earliest day” referred to in sub paragraph (a).~~

~~(3) If, where paragraph (2) applies—~~

- ~~(a) a notified person makes a claim for universal credit—~~
- ~~(b) —(i) on or before the deadline day, or~~
- ~~—(ii) after the deadline day, but on or before the “final deadline” referred to in regulation 46(4); and~~

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~~(b) there would otherwise be a gap between the termination of existing benefits and the commencement of the award, the award is to commence on the “earliest day” referred to in paragraph (2)(a).~~

~~(4) If none of those notified persons makes a claim for universal credit on or before the deadline day, all awards of any existing benefits to which any of them is entitled terminate in accordance with regulation 46(1), and regulation 46(3) applies in relation to any subsequent claim by any of those persons.~~

~~(5) An award of housing benefit to which a claimant is entitled in respect of specified accommodation or temporary accommodation does not terminate by virtue of this regulation.~~

Transitional Protection

Secretary of State to determine whether transitional protection applies

50.—(1) Before making a decision on a qualifying claim the Secretary of State must first determine whether—

- (a) a transitional capital disregard is to apply; or
- (b) a transitional element is to be included,
- (or both) in the calculation of the award.

(2) But the Secretary of State is not to determine whether a transitional element is to be included in a case where ~~regulation 47 (notified persons who claim as a different benefit unit)~~ applies.

- (a) notified persons who were a couple for the purposes of an award of an existing benefit when the migration notice was issued are single persons or members of a different couple for the purposes of a claim for universal credit; or*
- (b) notified persons who were single for the purposes of an award of an existing benefit when the migration notice was issued are a couple for the purposes of a claim for universal credit; or*
- (c) notified persons who were members of a polygamous marriage for the purposes of an award of existing benefit when the migration notice was issued are a couple or single persons for the purposes of universal credit*

Consequential amendments for regulation 5

2 Interpretation

(4) In regulation 46 (termination of existing benefits if no claim before the deadline) ~~and regulation 47 (notified persons who claim as a different benefit unit)~~ “terminate” in relation to an award of income-based jobseeker’s allowance or income-related employment and support allowance means treating that award as if the following provisions had come into force (including where a saving provision has ceased to apply) in relation to that award—

- (a) section 33(1)(a) and (b) and (2) of the Act (abolition of benefits);
- (b) paragraphs 22 to 26 of Schedule 3 to the Act (abolition of benefits: consequential amendments) and section 33(3) of the Act in so far as it relates to those paragraphs; and
- (c) the repeals in Part 1 of Schedule 14 to the Act (abolition of benefits superseded by universal credit) that come into force if a claim is made for universal credit.

CHAPTER 2

ENTITLEMENT TO OTHER BENEFITS

Exclusion of entitlement to certain benefits

5.-(1) Except as provided in paragraph (2), a claimant is not entitled to—

- (a) income support;
- (b) housing benefit;
- (c) a tax credit; or
- (d) state pension credit under the State Pension Credit Act 2002,

in respect of any period when the claimant is entitled to universal credit.

(2) Entitlement to universal credit does not preclude the claimant from entitlement—

- (a) to housing benefit in respect of specified accommodation or temporary accommodation;
- (ab) to housing benefit or income support where regulations 8(2A), ~~46(1) or 47(2)~~ *or 46(1)* apply; or
- (c) during the first assessment period for universal credit, where the claimant is a new claimant partner, to—

- (i) income support, where an award to which the new claimant partner is entitled terminates, in accordance with regulation 7(4), after the first date of entitlement to universal credit;
- (ii) housing benefit, where regulation 7(5)(b) applies and an award of housing benefit to which the new claimant partner is entitled terminates after the first date of entitlement to universal credit; or
- (iii) a tax credit, where an award to which the new claimant partner is entitled terminates, in accordance with the 2002 Act, after the first date of entitlement to universal credit.

Transitional housing payment

8A. Where an award of housing benefit terminates under regulation 8, ~~46(1) or 47(2) or 46(1)~~

- (a) the claimant is to be treated for the purposes of the Housing Benefit Regulations 2006(a) as entitled to universal credit during the period of two weeks mentioned in regulation 8(2A), ~~46(1) or 47(2) or 46(1)~~ even if no decision has been made on the claim; and
- (b) if a claim for universal credit is made because the claimant moves to new accommodation occupied as the claimant's home, then, notwithstanding anything in the Housing Benefit Regulations 2006, housing benefit is to be paid directly to the claimant during the period of two weeks mentioned in regulation 8(2A), ~~46(1) or 47(2) or 46(1)~~ and
- (c) if a claim for universal credit is made by a notified person then, notwithstanding anything in the Housing Benefit Regulations 2006, the weekly amount of housing benefit to which the person is entitled for that period of two weeks is the same as the weekly amount they were entitled to on the first day of that period.

Effect on universal credit award of two-week run-on of income support, income-based jobseeker's allowance and income-related employment and support allowance

8B. In a case where an award of income support, income-based jobseeker's allowance or income-related employment and support allowance is to continue for two weeks after the commencement of an award of universal credit by virtue of regulation 8(2A), ~~46(1) or 47(2) or 46(1)~~ or by virtue of regulation 5 (two-week run-on of income-based JSA and income-related ESA: day appointed for abolition) of the Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019—

- (a) regulation 79 of the Universal Credit Regulations applies as if the benefit in question was not included in the list of welfare benefits in section 96(10) of the Act (benefit cap); and

The Universal Credit (Transitional Provisions) Amendment Regulations 2022 (SI 2022/**)**

(b) in a case where the claimant has become entitled to an award of new style JSA or new style ESA on the termination of an award of income-based jobseeker's allowance or income-related employment and support allowance, the claimant is to be treated, for the purposes of regulation 73 of the Universal Credit Regulations (unearned income calculated monthly), as if they had been entitled to that award of new style JSA or new style ESA from the first day of the award of universal credit.

Appeals etc relating to certain existing benefits

13.-(1) This regulation applies where, after an award of universal credit has been made to a claimant-

- (a) an appeal against a decision relating to the entitlement of the claimant to income support, housing benefit or a tax credit (a "relevant benefit") is finally determined;
- (b) a decision relating to the claimant's entitlement to income support is revised under section 9 of the Social Security Act 1998 ("the 1998 Act") or superseded under section 10 of that Act;
- (c) a decision relating to the claimant's entitlement to housing benefit is revised or superseded under Schedule 7 to the Child Support, Pensions and Social Security Act 2000; or
- (d) a decision relating to the claimant's entitlement to a tax credit is revised under section 19 or 20 of the 2002 Act, or regulations made under section 21 of that Act, or is varied or cancelled under section 21A of that Act.

(2) Where the claimant is a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision or supersession of the decision the claimant would (were it not for the effect of these Regulations) be entitled to income support or housing benefit during the relevant period mentioned in regulation 7(3), awards of those benefits are to terminate in accordance with regulation 7.

(3) Where the claimant is not a new claimant partner and, as a result of determination of the appeal or, as the case may be, revision, supersession, variation or cancellation of the decision, the claimant would (were it not for the effect of these Regulations) be entitled to a relevant benefit on the date on which the claim for universal credit was made, awards of relevant benefits are to terminate in accordance with regulation 8, ~~46 or 47~~ or 46.

(4) The Secretary of State is to consider whether it is appropriate to revise under section 9 of the 1998 Act the decision in relation to entitlement to universal credit or, if that decision has been superseded under section 10 of that Act, the decision as so superseded (in either case, "the UC decision").

(5) Where it appears to the Secretary of State to be appropriate to revise the UC decision, it is to be revised in such manner as appears to the Secretary of State to be necessary to take account of—

- (a) the decision of the First-tier Tribunal, Upper Tribunal or court, or, as the case may be, the decision relating to entitlement to a relevant benefit, as revised, superseded, varied or cancelled; and
- (b) any finding of fact by the First-tier Tribunal, Upper Tribunal or court.

PART 4

MANAGED MIGRATION TO UNIVERSAL CREDIT

The Migration Process

Termination of existing benefits if no claim before the deadline

46.—(1) Where a notified person has not made a claim for universal credit on or before the deadline day, all awards of any existing benefits to which the person is entitled terminate—

- (a) in the case of housing benefit, on the last day of the period of two weeks beginning with the deadline day; and
- (b) in the case of any other existing benefit, on the day before the deadline day.

(2) An award of housing benefit to which a claimant is entitled in respect of specified accommodation or temporary accommodation does not terminate by virtue of this regulation.

(3) Where paragraph (1) applies and the notified person makes a claim for universal credit—

- (a) after the deadline day; and
- (b) on or before the final deadline specified in paragraph (4),

then, notwithstanding anything in regulation 26 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made)⁽⁵⁶⁾ as modified by regulation 15 of these Regulations, the award is to commence on the deadline day.

(4) The final deadline is the day that would be the last day of the first assessment period in relation to an award commencing on the deadline day.

~~(5) This regulation is subject to regulation 47.~~

⁽⁵⁶⁾regulation 26 was amended by S.I. 2014/2887.

Miscellaneous

Qualifying claim – Secretary of State may set later commencement day

58. Where the Secretary of State decides a qualifying claim, and it is not a case where the award is to commence before the date of claim by virtue of regulation 46(3) ~~or 47(4) (claim made by the final deadline)~~ or regulation 26 of the Claims and Payments Regulations (time within which a claim for universal credit is to be made) as modified by regulation 15 of these Regulations, the Secretary of State may determine a day on which the award of universal credit is to commence that is after, but no more than one month after, the date of claim.

Amendments for regulation 6

2014 No. 1230

SOCIAL SECURITY

UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2014

PART 4

MANAGED MIGRATION TO UNIVERSAL CREDIT

The Migration Process

The transitional element – initial amount and adjustment where other elements increase

55.—(1) The initial amount of the transitional element is—

- (a) if the indicative UC amount is greater than nil, the amount by which the total legacy amount exceeds the indicative UC amount; or
- (b) if the indicative UC amount is nil, the total legacy amount plus any amount by which the income which fell to be deducted in accordance with section 8(3) of the Act (that is the prescribed percentage of earned income above the work allowance and unearned income) exceeded the maximum amount.

(2) The amount of the transitional element to be included in the calculation of an award is—

- (a) for the first assessment period, the initial amount;
- (b) for the second assessment period, the initial amount reduced by the sum of any relevant increases in that assessment period;
- (c) for the third and each subsequent assessment period, the amount that was included for the previous assessment period reduced by the sum of any relevant increases (as in sub-paragraph (b)).

(3) If the amount of the transitional element is reduced to nil in any assessment period, a transitional element is not to apply in the calculation of the award for any subsequent assessment period.

(4) A “relevant increase” is, *subject to paragraph (5)*, an increase in any of the amounts that are included in the maximum amount under sections 9 to 12 of the Act including any of those amounts that is included for the first time⁽⁵⁷⁾, apart from the childcare costs element.

⁽⁵⁷⁾Section 10 was amended by section 14 of the Welfare Reform Act 2016 (c.7).

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(5) Where the LCW is replaced by the LCWRA element, “the relevant increase” is to be treated as the difference between the amounts of those elements.

(6) “LCW element” and “LCWRA element” have the same meaning as in the Universal Credit Regulations.

Amendments for regulation 7

2014 No. 1230

SOCIAL SECURITY

UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2014

Miscellaneous

Protection for full-time students until course completed

60. (1) Where a notified person does not meet the basic condition in section 4(1)(d) of the Act (not receiving education) on the day on which all awards of any existing benefit are to terminate as a consequence of a claim for universal credit because the person is undertaking a full-time course (see regulation 12(2) and 13 of the Universal Credit Regulations), that condition is not to apply in relation to the notified person while they are continuing to undertake that course.

(2) Paragraph (1) does not apply to any assessment period in respect of which a transitional element or transitional capital disregard would (if the claimant had been entitled to that element or that disregard) have ceased to apply by virtue of regulation 56 (circumstances in which transitional protection ceases) or regulation 57 (application of transitional protection to a subsequent award).

Amendments for regulation 8

2014 No. 1230

SOCIAL SECURITY

UNIVERSAL CREDIT (TRANSITIONAL PROVISIONS) REGULATIONS 2014

Miscellaneous

~~Discretionary hardship payments~~

~~64. The Secretary of State may, in such circumstances and subject to such conditions as the Secretary of State considers appropriate, make payments to notified persons who appear to be in hardship as a result of the termination of an existing benefit in accordance with these Regulations or otherwise as a result of the provisions of this Part.~~

Amendments for regulation 9

2019 No. 1152

SOCIAL SECURITY

THE UNIVERSAL CREDIT (MANAGED MIGRATION PILOT AND MISCELLANEOUS AMENDMENTS) REGULATIONS 2019

~~Managed migration pilot: limit on number of cases migrated~~

~~2. When the number of awards of universal credit made to persons to whom a notice has been issued under regulation 44 (migration notice) of the Universal Credit (Transitional Provisions) Regulations 2014 reaches 10,000, the Secretary of State must not issue further notices under that regulation.~~

