

Social Security Advisory Committee
Minutes of the meeting held on 9 November 2022

Chair: Dr Stephen Brien

Members: Bruce Calderwood
Carl Emmerson
Kayley Hignell
Phil Jones
Gráinne McKeever
Seyi Obakin
Charlotte Pickles
Liz Sayce

1. Private session

[RESERVED ITEM]

2. The Universal Credit (Administrative Earnings Threshold) (Amendment) Regulations 2023

2.1 The Chair welcomed the following officials to the meeting: Victoria Hogan (Employment Policy), Ashley Larder (Employment Policy), Francesca Galli (Employment Policy), Philip Thomas (Labour Market Analysis) Paul Towers (Working Age Benefits) and Bridget Hornibrook (DWP Legal).

2.2 The Committee raised the following main questions in discussion:

(a) It would be good to get a sense of what the Department is trying to achieve with these proposals?

The broader mission is to make sure that the core objective of Universal Credit (UC) is put in place. UC is an out of work benefit but also an in-work benefit. Early years focussed on claimants who were out of work. The Department wants to focus more on those, who traditionally, there has been no support. Ministers are concerned that progression in work is too low and that the current Administrative Earnings Threshold (AET) level (12 hours per week for a single person and 19 hours for a couple) needs to be higher. The balance is not right and needs to be redressed.

(b) What is the driver for the policy? Are Ministers' concerns based on available data, or have they visited and spoken to work coaches. What is the basis for thinking more could be achieved this way.

It is a bit of both. Previous Ministers did get feedback from work coaches. During briefing, Ministers are surprised by the low-level of earnings claimants have to attain before they cease to receive intensive work coach support and that this threshold is lower than two times the individual threshold for a couple. Current Ministers are new in post, but so far are sharing a similar view.

(c) Is this still as relevant as a few weeks ago?

Yes, this was something the now Prime Minister, as Chancellor, was keen to look at. It is just as relevant, seen in the context of in-work progression. There is evidence of inactivity, for example, one member of a couple can stay inactive if the couple's combined earnings from employment are equal to or above the couple's AET. It is an expensive policy as a lot of support is provided but if more claimants are supported back into work, it will help with the cost of living. The Department considers this a particularly relevant agenda for the next few years.

(d) What about operational capacity, and to what degree is there an understanding of the groups?

More work coaches can be recruited and so there should be no issues with delivery. On the point of understanding the groups, work coaches manage this well, but less is known about the Light Touch group, particularly couples.

(e) Can work coaches manage a further 250,000 claimants? The hiring of additional work coaches predates these regulations.

Wheels are in motion now to recruit more work coaches following the September 2022 change in regulations.

(f) Is the Department not finding it difficult to recruit more work coaches?

Recruitment is going to plan at the moment, but this may need revisiting.

(g) Does the Department have knowledge of people impacted? Logically it means people on lower pay need to work more hours. These claimants will have a range of specific characteristics and needs, for example, young people, disabled people. What does the Department know about their health conditions? How long are the waiting times for a work capability assessment? Will they have to work more while waiting – how will that be managed? Did the South Yorkshire, the proof-of-concept trial, identify the groups involved?

Only UC claimants who have declared a health condition and/or disability that does not affect their ability to work or those awaiting a Work Capability Assessment (WCA) are affected by the change in AET. UC claimants who have been assessed as having limited capability for work (LCW) or having limited capability for work-related activity (LCWRA) are not affected. The Department's analysis shows that 3% of claimants who will leave the Light Touch group because of the rise in AET are awaiting a WCA. On the length of time waiting for a WCA, information collected through the UC Build will be gathered and that can be reported back to the Committee.

- (h) What about people who have a health condition but do not meet the criteria for a WCA? Or older people who might be suffering pain. Is there flexibility? What is the level of discretion?**

Work coaches' expectations are clear in these situations. A holistic approach is applied and expectations are based on what the claimant can do.

- (i) Is the Department confident that safeguards are used? The South Yorkshire Proof of Concept (PoC) should have provided answers, but there is no evidence. How proactive are conversations for those who are not awaiting a WCA as they do not meet the criteria – are they identified?**

Colleagues have a framework for discretion. There has been a lot of work carried out with work coaches and team leaders via roadshows where they are given guidance on what they should be thinking about and where to go for support if they are handling tricky questions. A high volume of colleagues attended, and visits were made to those who could not attend to ensure there was confidence in handling these matters. The Department does rely on claimants to be forthcoming about any health conditions and is conscious that work coaches have the skills to support those conversations.

- (j) Did the Department gather any evidence about this from the South Yorkshire PoC? The use of discretion has been a long-standing question.**

The proof-of-concept in South Yorkshire was voluntary and different to AET issues. The objective was to prepare the ground ahead of rolling out a new voluntary offer for claimants in the Light Touch and Working Enough conditionality groups. Among the issues the PoC explored, it looked at different ways of engaging claimants to encourage take-up of the offer and collected feedback from claimants and Jobcentre Plus staff. The PoC influenced the design of the offer, including the learning and development required for work coaches to deliver effective progression support to working

UC claimants. The offer is now live in South Yorkshire and Cheshire and is planned to be rolled out nationally before the end of March 2023.

(k) Is it therefore the case that the Department does not have any evidence that safeguards are working in practice?

These claimants have a 30-minute claimant commitment review in which compliance officers sit in on those conversations. Claimants who have not declared a health condition can then be identified. This has been monitored closely since September 2022 as the Department wants to identify barriers.

(l) There is active work going on for the safeguards. Is there any data on different groups within earning thresholds? Did the PoC see any difference for different groups, for example, people with children, health conditions, young or older people?

For the groups being affected by the increase in the AET, new evidence has come from a Regression Discontinuity Design (RDD) study that compared the subsequent labour market outcomes among claimants flowing onto UC with earnings either side of the AET (at its pre-October levels). With its experimental design, the study is providing insights into how claimants' journeys through UC are influenced by early contact with JCP. Findings on the earnings impacts will be published shortly and the Department can provide the Committee with the report in advance of publication. Going forward, plans are being developed for further evidence-building. These plans are currently going through internal governance and scrutiny.

(m) Capacity links to good recruiting but this is an expensive policy with support from Jobcentres and work coaches. What is missing from the toolkit?

In terms of the toolkit, a lot exists already by way of the flexible support fund (FSF) together with external training. The Department wants to ensure work coaches have easy access to the available support for claimants. In this particular group, it is expected to see more people cycling in and out of work. The Department wants to learn what work coaches and claimants find useful.

There is a suite of learning and development for work coaches within the in-work progression space. A new senior management role (the Progression Lead) is being introduced which is currently called a Progression Champion. The Progression Lead will look at the requirements of the individual, speak to work coaches, work with other stakeholders and engage with employers to identify gaps. The Department is expecting people to work and earn more.

That may be beneficial to the employer where they may be having trouble retaining staff.

(n) Is the work with claimants and employers being tracked? Is the DWP budget sufficient for training opportunities?

The Department will have a 'lessons learned' log to see if there has been progression. The FSF is available where training is not already available in the local area. It is envisaged that the Progression Champion's local influence/intelligence will bring together employers and skills. The Department has also had dialogue with the Department for Education.

(o) Ministers were concerned that many were not subject to the IWS regime. The Department works on earnings rather than hours. Someone on minimum wage may have to work more hours before reaching the AET, however, someone who earns very little but does not work many hours could also meet the AET criteria. Is the Department content with that principle?

The core rationale for UC is earnings growth. That said, the Progression Commissioner's report looks at skills and progress rather than just working more hours. The principle of UC was always about earnings rather than numbers of hours.

(p) Will Ministers be relaxed with part-time accountants being in the light touch group which was once the case?

In practice that would be a very small part of cohort. The system does not collect the hourly rate as practically it is very hard to build something other than earnings into the system. Therefore, yes, Ministers will be relaxed.

The Annual Survey of Hours and Earnings (ASHE) provides evidence on earnings together with hours of work. The picture this evidence gives is of a compressed distribution of hourly earnings among those working limited hours. This is corroborated by evidence collected by the Low Pay Commission that has commented on the compression of hourly earnings among those earning close to the minimum wage.

(q) In principle, there may be concerns about a very well-paid person working one hour a week, however the confidence is that the vast amount of people on UC are near the minimum wage?

To be eligible for UC your savings must not exceed £16,000. This is likely to limit the number claiming UC who earn a very high hourly wage.

- (r) In terms of apprentices – what would be the nature of the conversation for someone who is effectively already doing what the Department wants?**

Many apprentices will be working 30 hours a week and so a vast majority will not be affected. If an apprentice is part time, the conversation will be along the same lines as someone working part time. There could be extra conversations about doing more work or a full-time apprenticeship. It would generally not be appropriate to ask them to give up an apprenticeship.

- (s) The AET for apprentices is the equivalent of 29.6 hours per week at the minimum wage, the no conditionality threshold is 30; so, the gap for the light touch group between the AET and no conditionality is 0.4 hours a week. Is this sensible?**

The Department believes that the large majority of apprentices work 30 hours a week. The conditionality Earnings Threshold (CET) for apprentices is a maximum of 30 hours per week so most apprentices will not be required to accept work-related requirements. An apprentice, who is required to work full time and has earnings above the AET but below their CET, would be allocated to the Light Touch regime. This scenario is considered to be unlikely.

- (t) What about apprentices who do not meet the AET criteria?**

If an apprentice has low earnings there will be a tailored conversation. Conditionality may not simply be to get a part time work; the work coach would have discretion to allow the claimant to fill, for example, the remaining two hours with something else.

- (u) The desire to bring more young people into scope is understandable. But the mechanism is based on the national minimum wage (NMW) which is set at different levels. If the gap grows, more young people will be captured, if it narrows, there will be less, which appears to be an arbitrary capture. Would it be better to simply have a group for younger people to target them specifically?**

The Department worked through different models for thresholds and wanted to keep it simple so everyone can understand what is required of them and the thresholds that applies to them. A simple threshold is also easier to operationalise. On balance, the conclusion was that everyone would benefit from having the threshold based on the National Living Wage.

- (v) **There is a single rule for individual claimants and couples in the Conditionality Earnings Threshold (CET). The CET is related to the NMW rather than the National Living Wage. The Direction of travel is to increase the AET, therefore shrinking gap between the CET and AET, particularly for younger people. Is that a deliberate act of policy or is it because the mechanism is eroding the difference?**

That would be correct if there are further increases in the AET but there probably will not be another rise in the AET. This matter was raised with Ministers but they are now content with the level of AET.

- (w) **This raises the question about what is happening now in the September group who are currently at risk of losing Transitional Protection (TP). Is something being done about them?**

If a claimant had earnings above the AET in their first Assessment Period (AP) and then their earnings fall below the AET for three consecutive APs, the TP would terminate in the AP following the third month of reduced earnings. An amendment is being brought forward to the UC (TP) regulations 2014 to ensure the current legal framework fully reflects that original policy intent. There is a small window where someone could be affected from 26/12/22 but those claimants have been identified to ensure they will not lose their TP.

- (x) **Is the Department effectively protecting that group?**

Yes, the Department can work within the regulations for that one month.

- (y) **To what extent have other countries doing similar work been identified? Where is it happening and what has been learnt?**

Very little and so it is important to get this right. It would be interesting to hear from others if they have seen helpful evidence.

A number of other countries provide support for those in work and receiving benefits. Making comparisons across countries, however, is difficult as the structure of labour markets and benefit systems differ markedly. UC is innovative in its approach to support people into work and to progress in work. The Department is building its evidence on claimant journeys on UC learning from these insights how best to deliver conditionality and support.

- (z) **To what degree does this intervention by design or otherwise interact with the Restart programme?**

Restart would not specifically be impacted because the criteria was intended for people who were out of work.

2.3 Following a period of private discussion, the Committee decided that it would not take these regulations on formal reference. Nonetheless, the Chair would write to the Minister for Employment regarding a number of points raised during the discussion, in particular the Committee's concern that there is insufficient data and understanding of both the current labour market conditions and what works for this group to ensure that the full impact can be understood, and the proposal delivered effectively.¹ The Committee was of the view that a relatively short pause, or phased roll-out, in implementation was likely to provide significantly more evidence in relation to the impacts on and unintended consequences for both claimants and operational staff, and is more likely to ensure that the proposals - which have the effect of doubling the number of claimants that would have been brought into the intensive support group as a consequence of September's increase to the AET - will deliver the desired policy intent.

3. Private Session

[RESERVED ITEM]

Date of next meeting

The next meeting is scheduled to take place on 7 December.

¹ A copy of Dr Stephen Brien's letter to the Minister for Employment is held at annex B.

Attendees

Guests and officials

Item 2: Victoria Hogan (Employment Policy)
Ashley Larder (Employment Policy)
Francesca Galli (Employment Policy)
Philip Thomas (Labour Market Analysis)
Paul Towers (Working Age Benefits)
Bridget Hornibrook (DWP Legal)

Observer: James Calverley (UC policy)

Secretariat: Denise Whitehead (Committee Secretary)
Dale Cullum (Assistant Secretary)
Gabriel Ferros (Analyst)
Anna Woods (Assistant Secretary)



Guy Opperman MP
The Minister for Employment
Department for Work and Pensions
Caxton House
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21 November 2022

Dear Minister,

The Universal Credit (Administrative Earnings Threshold) (Amendment) Regulations 2023

Many congratulations on your appointment as the Minister for Employment. I look forward to working with you on this important agenda and would welcome an early meeting to discuss ways in which the Committee can provide support as you take forward your priorities in this area.

The Committee undertook its statutory scrutiny of the above regulations at its meeting on 9 November. As you will be aware, these regulations further increase the Universal Credit Administrative Earnings Threshold (AET),² the point at which a claimant's earnings move them from the intensive work search group to the light touch group. We were advised that increasing the threshold would enable an estimated 120,000 low paid claimants to access opportunities to increase their earnings. We are grateful to Victoria Hogan and her team for presenting the regulations to us, and for providing engaged responses to the Committee's questions.

Following careful consideration of the regulations, the Committee has decided that, under the powers conferred by Section 173(1)(b) of the Social Security Administration Act 1992, it does not intend to take these regulations on formal reference. Nonetheless, I thought it would be helpful to provide some feedback from the Committee's scrutiny for your further consideration. The scrutiny focussed on the impact of operationalising the regulations with the current level of understanding and experience of higher levels of AET.

² Will rise to £618 per calendar month for individual claimants and £988 per calendar month for couples from 30 January 2022

In particular, we were concerned that there is insufficient data and understanding of both the current labour market conditions and what works for this group to ensure that the full impact can be understood, and the proposal delivered effectively.

The AET was increased to its existing level only very recently – on 26 September 2022 – and as yet, there is no evidence that the work-search behaviours of claimants impacted by it has changed.³ We welcome the plans being put in place by the Department to ensure it can learn from the delivery of the September increase, which in turn will inform its approach to the further rise in January 2023. We have been told that this will include capturing insights from operational leaders, work coaches and claimants through deep dives, internal evidence gathering and feedback from external stakeholders.

Nonetheless, it strikes us that there will be insufficient evidence gathered within such a small period to ensure that the proposed further expansion of this group will be delivered effectively. For example, we are concerned that not enough is currently understood about the impact throughout the UK (including the devolved nations) in relation to:

- younger claimants on the national minimum wage and apprentices;
- claimants awaiting a work capability assessment or who are pregnant;
- the impact of increased contact with work coaches on those who work an irregular shift patterns;
- the impact of work coach discretion in terms of the application of sanctions;
- the capacity of, and adequacy of training/support provided to, work coaches.

A phasing of the implementation of these latest regulations is likely to be beneficial in developing that greater understanding of the impact of a further increase to the AET. We believe that a relatively short pause (or phased roll-out) in implementation is likely to provide significantly more evidence on the impacts on and unintended consequences for both claimants and operational staff, and is more likely to ensure that the proposals - which have the effect of doubling the number of claimants that would have been brought into the intensive support group as a consequence of September's increase to the AET - will deliver the desired policy intent.

³ Around 122k claimants were expected to move into the intensive support group as a consequence of this change.

I would be very happy to discuss if that would be helpful.

A copy of this letter goes to the Secretary of State, Lady Stedman-Scott, the Permanent Secretary, Kate Davies, Ian Caplan and Victoria Hogan.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Stephen Brien'. The signature is written in a cursive style with a large 'S' and 'B'.

Stephen Brien
SSAC Chair