Explanatory Memorandum for the Social Security Advisory Committee

Claims and Payment Regulations for Universal Credit, Personal Independence Payment, Jobseekers Allowance (Contributory) and Employment Support Allowance (Contributory)

For the meeting of the Social Security Advisory Committee on Wednesday 13 June 2012

DWP Department for Work and Pensions

Introduction

The proposed Claims and Payments Regulations being presented to the Committee are designed to support the introduction of Universal Credit and Personal Independence Payment and the administration of the contributory Jobseekers Allowance and Employment Support Allowance after the introduction of Universal Credit (they do not apply to income based Jobseekers Allowance and income related ESA which will continue to be administered under existing provisions). The following explanatory memorandum sets out the proposals relating to claims, payments and deductions. Draft regulations are also provided so that the Committee can see how the drafts attempt to reflect those proposals. We will continue to refine the draft regulations between now and the autumn, improving the drafting where appropriate.

Section 33 of the Welfare Reform Act 2012 provides for the abolition of income-based JSA and income-related ESA. The proposed regulations, therefore, only apply to JSA and ESA when those benefits are contributory-only benefits. The existing Claims and Payments Regulations will, however, continue in force in relation to current-style JSA (which is both an income-based and contributions-based benefit) and current-style ESA (again an income-based and contributions-based benefit) until such a time as all claimants are claiming Universal Credit, new-style JSA (as a contributory-only benefit) and new-style ESA (as a contributory-only benefit).

In many respects the proposed provisions mirror those which exist in the current Claims and Payments Regulations (SI 1987/1968) (this is particularly the case for Jobseekers Allowance and ESA) but have key differences – explained in detail below in the Annexes - to support and ensure that the overall objectives of the new benefits are met.

The existing Claims and Payments Regulations will be revoked in so far as they apply to JSA and ESA, with savings for claimants still entitled to current-style JSA and ESA (including where certain groups of claimant are still able to claim current-style JSA or ESA after the launch of Universal Credit, as a result of the phased approach to migration).

Only one version of the Regulations will apply to a person at any one time.

Universal Credit will restructure the benefit system, creating one single income-replacement benefit for working age adults which unifies the current system of means-tested out of work and in-work benefits. It will be easier to understand and to administer and thereby protect the welfare of those most in need. One of its core aims is to encourage people to move into sustainable work. As a result, we intend that Universal Credit will be paid monthly, the frequency with which most people are paid earnings. In a similar vein, Personal Independence Payment aims to ensure that support is targeted to those who face the greatest barriers to leading full, active and independent lives.

None of this can be achieved if the process for claiming and administering these benefits and changing decisions and managing appeals, doesn't itself change. Accordingly for Universal Credit the proposed regulations include provisions which, inter alia, support a predominantly online, self-service process with real time adjustments and allowing for rapid re-awards where claimants move in and out of work. For Personal Independence Payment the regulations, by simplifying the initial claims process, support the overall objective and specifically the face-to-face assessment consultation being introduced.

For all benefits, whilst there are changes, as described, the proposed regulations continue to protect the rights of claimants and recognise vulnerability for example in relation to the date of claim, reporting changes and appeal rights.

As explained, these regulations do to a large extent mirror the existing ones, but we have taken the opportunity to re-structure and streamline the presentation of the regulations where possible – the current provisions having become cluttered and unwieldy down the years.

The Annexes below set out:

1. Those provisions which are common to Universal Credit, Personal Independence Payment, Jobseekers Allowance and Employment and Support Allowance, and

2. The details of the key changes which we propose to introduce for Claims and Payments.

Annex 1: Common Provisions

Claims and Payments

There are a number of provisions that apply across all the benefits referred to in these regulations. The Committee may wish to be aware of policy areas that are common to these benefits and have broadly been carried forward from existing Claims and Payments Regulations. These are:

Making a claim

Regulations governing the methods of making a claim in writing and by telephone are the same for all benefits, aside from Universal Credit where the claim must be made electronically unless the Secretary of State accepts a telephone claim [CP 9, 11, 12, 13, 18]. The word “writing” now includes writing produced by means of electronic communications [CP2, CP6] which encompasses the online claim channels to be used immediately for Universal Credit (UC) and later for Personal Independence Payment (PIP) and other benefits.

Defective claims

The idea of defective claims remains common for all benefits. We expect the number of defective claims to reduce under UC because unless information is entered as required online (as a mandatory field), the claim cannot proceed [CP 9, 11, 12, 13, 17, 18]

Amendment and withdrawal of claims

Provision for the amendment or withdrawal of claims is carried forward and common to all benefits [CP28, 29]

Evidence and information

The policy intent that a person shall provide the necessary information and evidence in order to determine their claim is unchanged, as is the requirement to notify the Department of changes of circumstances. This is carried forward to the proposed new regulations [CP 36, 37].

Time of payment

We have carried forward the policy that benefit must be paid in accordance with an award as soon as reasonably practical after the award has been made. [CP42].

Direct credit transfer

Provisions regarding payment of money directly into a bank account are common to all benefits and have been carried forward [CP 43], including payment to persons under 18 [CP 51]. The regulation also covers the new Simple Money Transmission Service (SMoTS). This is a new service operated for DWP by Citibank in cases where a claimant is unable or unwilling to open a conventional bank account and is a replacement service for cheques which, as of 31 March 2012, DWP no longer issues.

Fractional payments

The policy intent for disregarding payments of amounts less than a half a penny and otherwise rounding up is unchanged and carried forward [CP50].

Extinguishment

The extinguishment of right to payment of any sum if not claimed within 12 months is common to all benefits and is carried forward [CP 52]. The replacement of cheques with SMoTS should however make this less frequent.

Payments on death

The policy intent in cases where a person who has made a claim has died and another person continues with the claim (because they were previously claiming as a couple) is the same and is carried forward [CP 53].

It is our policy intent that posthumous claims will not be permitted for Universal Credit, JSA, ESA and Personal Independence Payment. The Committee should note that this is a change from the existing Claims and Payments provision that applies to Disability Living Allowance under which a claim may be made on behalf of a person after they have died.

Electronic communications

Policy intent on the use of electronic communications is common to all benefits and is carried forward [Schedule 2].

Annex 2: Key Changes Claims and Payments

Universal Credit

Introduction

The Universal Credit claims process will be as simple as possible for both claimants and administrators and has been designed to meet the following high-level principles:

- Providing a predominantly online, self-service benefit where the claimant is able to manage their claim and award online;
- Ensuring that claims and payments policy supports the strategic intent that Universal Credit should be a dynamic benefit which prepares the claimant for work wherever possible;
- Ensuring that Universal Credit is a benefit which is simple to understand and to administer, which protects the welfare of those most in need, and which protects the public purse.

Eligibility for Universal Credit

Universal Credit will only be paid for people who are living in Great Britain. It is likely that the Northern Ireland Assembly will introduce a similar scheme in Northern Ireland. It is not our intention that Universal Credit should be available to people in other countries or to prisoners, although people who are only temporarily absent from this country should still, in certain circumstances, be able to qualify.

Making a claim to Universal Credit

We want to make the process of claiming Universal Credit as smooth as possible. Universal Credit is being designed so that each claimant can make a claim and then manage their claim and award directly through an online account accessed via the Internet. This approach will provide a dynamic service that is more responsive to a claimant's circumstances and will promote behaviours that in themselves help to prepare the claimant for work. A claim can be made anywhere there is a computer with access to the Internet and can be made online 24 hours a day, providing a clear, accessible and straightforward application process that minimises fraud and error.

Online claims

[CP9]

All claimants will be initially signposted to the self-service online channel, and other channels will be used as an exception rather than the rule. There will be no clerical claim form for Universal Credit so even if a claim is made via another route, such as telephone, an agent will complete an online claim form on the claimant's behalf, checking for accuracy as they go (there may be further verification of accuracy, and this is to be designed). In exceptional cases, we will offer face to face mediation of a claim for people who are unable to use either the online or telephony channels. This is likely to involve the claimant visiting a local office or receiving a home visit from the delivery organisation, where a digital form would be completed (this can be done off line and then up loaded on return to an appropriate office). This would replicate the process above.

Online authentication

Before an online claim can be made, we will seek to authenticate the identity of the claimant by using secure identification procedures. Only where the claimant's identity is verified will the claim be treated as authenticated for the purpose of the Universal Credit. Where a person's identity can't be verified online, we will contact the claimant and request they bring in documentation to verify their identity.

Claims by joint claimants

[CP10]

Where two people claim Universal Credit as a couple, we propose that they will make a claim jointly and will both be responsible for administering their award and meeting the conditions of entitlement. If one member of a couple is unable to make a joint claim, the other member of the couple may claim jointly for both of them. It is our intention that both members of the couple will however (unless one partner is acting as the other's appointee) have to agree the final claim form before an award can be made. In order for both members of a couple making a claim to Universal Credit to be entitled to the benefit we intend that they must <u>each</u> accept their claimant commitment. If one member of the couple does not do this, then neither will be eligible if they continue to apply as a couple. A cooling off period will be allowed for claimants to re-consider signing their claimant commitment before any decision is taken.

When two people claim Universal Credit as a couple but only one of the couple fulfils certain other basic conditions of entitlement, we propose treating the claim as being a single claim from the claimant who fulfils the conditions of entitlement. However, any income and capital belonging to the ineligible claimant will also be treated as belonging to the claimant who is eligible. Where two people claim Universal Credit as single claimants and it is determined that they are a couple the separate claims will be treated as a joint claim. If it is determined that the couple have contrived to present themselves as single people in order to maximise their overall Universal Credit award their separate claims will be disallowed. If a couple who are joint claimants cease to be entitled to Universal Credit because they have ceased to be a couple, one member of the couple will maintain their entitlement, following a new award as a single claimant, provided that the conditions of entitlement are met. If the other member of the couple wishes to continue claiming Universal Credit as a single person, he/she will be required to make a new claim. Similarly, where a single claimant becomes a member of a couple, we will be able to make an award (without having to make a new claim) to both members of the couple jointly, provided that each member of the couple meets the conditions of entitlement.

Polygamous marriage

We will not be recognising polygamous marriage in Universal Credit. Any claim made by a member of a polygamous marriage who was not a party to the earliest marriage in the polygamous marriage, will be treated as a single person claimant.

Date of claim and entitlement

[CP30]

'Date of claim' describes the date from which a claimant's entitlement to Universal Credit will usually begin. In some cases the date of entitlement may begin a few days later for example if the claimant was receiving education at the date of claim. The date of claim for a Universal Credit claimant will be the date that a claim is submitted via the online service or the date on which a claim made by telephone is properly completed, on the condition that the Claimant Commitment is agreed (as a basic condition of entitlement, all claimants must agree a Claimant Commitment). Some claimants will be interviewed for the purposes of agreeing a Claimant Commitment. To ensure all claimants are treated equally, whether they are interviewed or not, once a claimant has accepted their Claimant Commitment, the acceptance will be treated as if it occurred on the date of the claim.

For those claims not made online by the claimant personally – where for instance a claimant requires a home visit, or a face-to-face appointment, or where a telephone claim cannot be taken on the date that the person wishes – we plan that the date of that first contact should be treated as the effective date of claim. This measure will help ensure that claimants with particular needs will not have a later date of claim.

Allowing an earlier date of claim

[CP22]

There will be four circumstances where a request for a date of claim earlier than the date the claim is submitted (or date of first contact where appropriate) will be allowed. These are:

- If the claimant was previously in receipt of another benefit, and notification of expiry of entitlement to that benefit was not sent to the claimant <u>before</u> the date on which entitlement expired.
- If, because of a language, or learning, mental or physical disability, the claimant had not been able to make a claim via telephone, in person or via the home visit support.
- If the claimant experienced a health condition that prevented them making a claim on the day they wished and supporting medical evidence for the relevant period is provided.

- If the claimant was unable to make a claim online due to system failure or planned system maintenance.

The above will only apply when a single claimant or both members of a couple meet the criteria and the maximum backdating period in these cases will be one month.

Making a claim in advance of when it is required

[CP32]

We only intend to use advance claims in very limited circumstances within Universal Credit. In the vast majority of cases advance claims should not be required because we intend the online system will retain for a certain period of time a partially completed claim, enabling claimants to complete their claim in advance and then submit it through the gateway.

At present the only Universal Credit claims that we plan to accept in advance will be claims from prisoners. Prisoners will be allowed to submit a claim up to one month in advance of the date of release. This allowance will be set out in guidance. This will continue the current policy within JSA which is intended to assist prisoners re-integrate into society, enter the work programme and reduce re-offending from day one of their release.

Amending, failing to complete or withdrawing a claim to Universal Credit

[CP28], [CP29]

The legislation enables a claimant to amend a claim to Universal Credit at any time before a decision has been made. We expect that defective claims will be very unlikely for those claiming online because it will not be possible to submit an online claim if there is missing or incomplete mandatory information, but nevertheless we have included provision for defective claims. A claimant can withdraw a claim to Universal Credit at any point before a determination has been made.

Situations when a claimant leaves Universal Credit due to increased earnings and later their earnings reduce

[CP7]

We want to minimise the administrative burden on claimants and Government where possible. Claimants should be able to move easily on and off Universal Credit each time they have a short break in entitlement. To achieve this, we want to allow re-awards of Universal Credit. Where a decrease in earnings within **six** months of a claim being closed is reported so that it appears the claimant would be entitled to Universal Credit, we intend to offer a re-award of Universal Credit. In this scenario a new claim would not need to be made. Re-awards should be made available to those whose earnings are reported through the real time interface engine and those whose earnings are self-reported. Where a claimant has an initial nil award of Universal Credit due to the level of their earnings they would still be eligible to be included in a re-award process.

Eligible claimants receiving a re-award will return to their previous assessment period and therefore receive their UC award on the same date each month. Over time we will review the impact of re-awards of Universal Credit and consider piloting short breaks longer than six months.

Some returning claimants will not be eligible for a re-award, and their date of entitlement will run from the day they submit a new claim. As a result these claimants would have to wait for a whole assessment period to receive their Universal Credit payment, though we would look to make a rapid reclaim process available where possible. These would include:

- Claimants whose award ended because of a non-earnings related change of circumstance
- Previous claimants who become re-eligible because of a non-earnings related change of circumstance
- Claimants whose initial application had been refused for a reason other than a high level of earnings Claimants where their previous award has been closed for longer than the short break period

Maintaining an award and notification of chances of circumstances by claimants

[CP5]

Once an award is in payment, the online account will be the primary channel used to interact with the claimant (though claimants may be required to attend in person at certain times for the purposes of fulfilling conditionality requirements). Wherever possible, we want claimants to notify us of any relevant information and changes of circumstance electronically via their online account. This ‘digital first’ approach will provide claimants with a more responsive and transparent service. For claimants unable to maintain their awards online, other channels of communication will be available.

Information and evidence requirements

[CP36], [CP37]

Information or evidence required in support of a claim to Universal Credit or a change of circumstance during an award must be received within one month of it being requested or one month of the change occurring, or such longer time as the Secretary of State thinks is reasonable. In the case of a joint claim, both partners will be jointly required to provide evidence in connection with a claim and to report changes of circumstances by the relevant channel before we will accept any changes. If a change of circumstance, change in earnings, change in costs, sanction, or fraud action affects the award, then both parties to a claim may be notified of this.

Changes

We intend that claimants will be required to submit information about changes of circumstance which may affect their entitlement or award as soon as possible after the change occurs and at the latest within one month of it occurring. We intend that the primary channel for notifying changes of circumstance should be through the online claimant account, but would also want to take into account any changes reported in writing, via telephone or at a face-to-face meeting with an adviser.

Assessment and Payment of Universal Credit

[CP44]

Universal Credit will be a calendar monthly assessed benefit that will be paid monthly in arrears. Claimants will receive a single household payment to go towards their household needs. This approach reflects the world of work, where 75% of all employees receive wages monthly. Paying in this manner will help smooth the transition into monthly paid work, encourage claimants to take personal responsibility for their finances and to budget on a monthly basis which could save households money. For example, monthly direct debits for household bills are often cheaper than more frequent billing options. Assessing Universal Credit on a monthly basis means we should receive at least one update of earnings information for each working member of a household, meaning that the benefit calculated accurately reflects the needs of the household.

Couples

Under Universal Credit, couples living in the same household may make a joint claim for benefit. Evidence suggests that only 7% of cohabiting couples and only 2% of married couples keep their finances completely separate. In line with this, Universal Credit will be paid as a single monthly payment, and it will be for the family to decide whose account Universal Credit is paid into or whether it should be paid into a joint account. It is for them to decide how to manage their finances in a way that best meets the needs of the family. However if a joint claim couple do not nominate an account into which their Universal Credit should be paid the Secretary of State may nominate one.

Assessment periods

The assessment period for Universal Credit will run from the effective date of claim and each subsequent assessment period will begin on the same date of the month (if the start date for a particular month 'doesn't exist', e.g. 31st June, the assessment period will begin on the previous day). Payment will not be varied to reflect the number of days in the month. Taking such an approach reflects monthly salaries, where employee pay for February will cover fewer days than January. Maintaining a consistent assessment period supports our simplicity agenda and also enables us to make consistent payments to claimants.

Universal Credit will not normally be paid for a period of less than a month and assessment periods will always be one month in length. We have provisions however to be able to allow an assessment period of less than a month and to make a payment for a period shorter than a month in exceptional circumstances (see below). Earnings received during an assessment period (whatever its length) will be taken into account in the award calculation.

Exception to whole month changes of circumstance rule

Details of our whole month approach to changes of circumstance are set out in the Decisions and Appeals regulations, but there will be one circumstance, when we do intend to allow for pro-rated change of circumstances to be taken into account when calculating an award of Universal Credit:

- When claimants reach the qualifying age for Pension Credit part way through their assessment period we will make a payment that reflects the number of days they were eligible for Universal Credit.

Payment methods

[CP43], [CP44]

The vast majority of payments will be paid into a nominated bank account using the BACS system. Joint claimants will nominate a bank account into which UC is paid. If joint claimants do not nominate an account, the Secretary of State will have the ability to nominate an account on the claimants' behalf or, in certain circumstance, split the payment between the couple.

When claimants are paid

[CP42], [CP44]

We want claimants to understand when they will receive their benefit to enable them to budget accordingly (such as being able to set up direct debits and standing orders). A claimant's initial UC pay date will be 7 calendar days after the end of their initial assessment period and subsequent pay days will be on the same date each month thereafter. If a claimant's pay day falls on weekends or bank holidays, the pay day will be advanced to the nearest working day (much like in work). We are still considering how to treat cases where assessment periods end around double bank holidays and weekends which may mean we cannot always ensure a claimant receives their UC payment on or before their UC pay day.

Payment exceptions

[CP44], [CP55]

The move to single monthly household payment is a significant change to the ay most benefits are currently paid and we understand that support will be required for some claimants to help them manage that change. We envisage that this personal budgeting support will include a mix of budgeting advice services (delivered across all channels) and financial products that offer automated payment facilities such as direct debit. Detailed proposals for how this support will be developed and delivered are currently being developed.

For a minority of claimants however, an alternative payment arrangement may be required in addition to the above support. This includes making more frequent than monthly payments of Universal Credit to households, splitting payment between both joint claimants, paying Universal Credit to only one of the joint claimants or paying housing costs directly to the landlord. These exceptional payment arrangements would be time-limited and implemented in conjunction with the appropriate support to ensure claimants successfully transition to monthly budgeting.

In order to provide greater flexibility, the detailed circumstances about when payment exceptions will be appropriate will be set out in guidance, rather than in regulations. This approach will enable cases to be assessed on their individual merits.

Eligibility criteria

We envisage that a combination of financial and vulnerability risk factors linked to a screening process and decision maker discretion will determine eligibility to payment exceptions. The process of identifying and making exceptional payment arrangements is likely to follow a number of steps:

Referral: may include self referral, referrals by advisors and third parties or referral through migration preparation activity using current data held.

Screening: it is likely that applications for payment exceptions will be screened so that only those claimants who have reasonable grounds for exceptional payment arrangements reach a human decision maker. To ensure exceptional payments are targeted towards those claimants who would benefit most from such an approach, we are considering using a criteria-based screening process. This process will help to identify those claimants most likely to be able to manage their money but that do require some suitable budgeting support and those with additional needs that may require more frequent than monthly payments or payments directly to their landlords. This is a similar approach to identifying those who should have access to exceptions services in the Housing Benefit Demonstration Projects. We will ensure that any early lessons learnt from these tests are taken on board as Universal Credit proposals are developed.

Decision: final decisions on eligibility for payment exceptions will be taken by a member of staff. Applications will be considered on a case by case basis, with a range of vulnerability and financial risk criteria taken into account. We are currently working with stakeholders such as local authorities, housing associations and relevant third sector organisations to identify appropriate criteria and are considering using a scoring methodology based on the learning gathered from the Housing Benefit Demonstration Projects. We have established an external advisory group, the Support & Exceptions Working Group to help us with this work.

Review: we do not want to label any claimant as financially incapable and for that reason payment exceptions will be on a time limited basis. We will look to put in place the appropriate support to ensure claimants' circumstances can be reviewed, moving them over time to a point where they can manage the default Universal Credit payment arrangements.

Deductions

We want to introduce a simpler, joined up approach to deducting items under Universal Credit. As with existing benefits, we propose that Universal Credit will allow deductions to be made from claimants' benefit entitlement for items such as Third Party Deductions for essential services (e.g. arrears of rent or water and heating bills), Social Fund loans and benefit overpayments. There are also additional items that we propose to deduct for, such as Civil Penalties, Recoverable Hardship Payments, and Tax Credit and Housing Benefit overpayments.

Our deductions policy is designed to achieve three primary objectives –

- to protect the most vulnerable claimants by providing a last resort repayment method for arrears of essential services;
- to enable social obligations to be enforced where other repayment methods have failed; and
- to ensure that benefit debt is recovered in a cost-effective manner.

We have designed an approach to deductions which, for the first time, brings together a number of deduction schemes into a single set of rules. This should deliver a more transparent, straightforward scheme that is easier both for claimants to understand and to administer.

To safeguard claimant welfare, the proposal is that deductions (other than for conditionality sanctions, payments on account and fraud penalties) will not amount to more than 40% of a benefit unit's Universal Credit Standard Allowance unless, in exceptional circumstances, deductions for last resort items (such as rent or utility arrears) will continue to be made in order that people can remain in their homes and receive fuel and water. The 40% maximum will be specified in decision-makers' guidance and supported by a single priority order set out in the Regulations. We believe that this approach will provide much improved clarity for claimants and decision-makers and strikes the right balance between protecting claimants and taxpayers and ensuring administrative simplicity.

Priorities between deductions

If the total deductions required from a household would otherwise exceed 40% of the relevant Standard Allowance, the Regulations set out a priority order (detailed below) to determine the order in which items should be deducted. While the structure of the order places so called 'last resort items' at the top of the list – ensuring that claimant welfare is prioritised – the maximum deductible amounts for these items means that in most cases we will be able to deduct a number of items at any one time if required. Before the priority order is applied, deductions will be made for any conditionality sanctions, fraud penalties and recoveries of advances (payments on account) of benefit.

The priority order includes third party deductions and items such as statutory child maintenance, repayment of loans from the Social Fund and benefit overpayment recoveries. When determining deductions, items at the top of the order will be deducted up to their individual maximum amount before we look to deduct for items lower down the list. The priority order is as follows (items marked with * indicate a third party deduction):

- i. Mortgage and rent arrears *;
- ii. Utility (electricity, gas and water) arrears *;
- iii. Court imposed debt – Council Tax & Community Charge arrears *;
- iv. Court fines and compensation orders (minimum deduction rate) *;
- v. 'Old scheme' child maintenance (cases opened prior to March 2003);
- vi. Flat-rate child maintenance (cases opened during or after March 2003);
- vii. Social Fund loans;
- viii. Recoverable hardship payments;
- ix. Housing Benefit and DWP administrative penalties;
- x. Housing Benefit, Tax Credit and DWP fraud overpayments;
- xi. Civil Penalties;
- xii. Housing Benefit, Tax Credit and DWP non-fraud overpayments;
- xiii. Integration Loans *;
- xiv. Eligible loans *;
- xv. Court fines and compensation orders (up to the maximum deduction rate) *.

Maximum deductions for individual items

We propose that each item for which deductions can be made will be subject to a maximum deduction amount that reflects the particular purpose of the deduction and, with the exception of recovery of Social Fund loans, which will be specified in the relevant regulations. The Claims and Payments Regulations themselves specify the maximum deduction amounts for third party deductions.

Third party deductions

For most third party deduction items, the proposed deduction rate will be 5% of the benefit unit's Universal Credit Standard Allowance. The Regulations also specify that a maximum of three third party deductions may be applied to a benefit unit's Universal Credit award at any one time. This rate and rule ensure claimants are able to make payments for current consumption alongside reducing their debt. There will, however, be two exceptions to the 5% rate:

- The recovery of Court fines and compensation, which will be subject to a maximum deduction rate of £108.35 per month, equivalent to £25 per week. The minimum deduction rate will be 5% of the benefit unit's Universal Credit Standard Allowance and, to safeguard other deductions that are needed, the maximum deduction rate will be reduced £ for £ if other higher-priority deductions are in place.
- An amount for the current consumption of mains gas, electricity and water, which can be added to the recovery of arrears for those items. Unless the claimant consents to a higher deduction rate, the Regulations ensure that the maximum deduction rate for these utilities together (including arrears and current consumption) will be 25% of the benefit unit's Universal Credit Standard Allowance and any child elements.

Child Maintenance

Child Support Maintenance will be deducted from Universal Credit at a monthly equivalent of the weekly rates set out in the applicable child support legislation, which will ensure claimants are making an appropriate contribution towards the maintenance of their children in other households.

Social Fund debt

We propose to continue allowing the repayment of loans from the Social Fund at the rate last agreed with the claimant when they were in receipt of the legacy benefit. These rates will not therefore be specified anywhere in regulations. Following Social Fund Reforms, loans from the Social Fund will no longer be available after 2017.

Recoverable Hardship Payments/Penalties/Overpayments

The maximum deduction rates for recoverable hardship payments, administrative and civil penalties for Housing Benefit or DWP benefits, and overpayments of Housing Benefit, DWP benefits and Tax Credits will be set out in separate regulations dealing with the recovery of overpayments. However we propose that those deductions will be subject to the overall maximum deduction rate and the priority order set out in the Claims and Payments regulations.

Maximum total deductions

In order to protect claimants, we propose that decision-makers' guidance will set out that the total maximum amount that can be deducted from a benefit unit's Universal Credit award, other than for sanctions, payments on account and fraud penalties, will be 40% of the relevant Universal Credit Standard Allowance. However, there will be two exceptions to help protect vulnerable claimants from facing eviction or having utility supplies cut off. Those exceptions are:

- If deductions are being made for conditionality or fraud sanctions or for the recovery of payments on account (Short-term Advances and Budgeting Advances), then deductions for arrears of housing costs, rent/service charges for fuel, and arrears for gas, electricity and water supplies will continue to be made as long as a sufficient amount of Universal Credit is in payment.
- Deductions for current consumption of utilities (mains gas, electricity and water) can be made at the utility company's request (subject to a maximum total amount,

see under *Third party deductions*, above). In these cases, the deduction for current consumption will not count towards the 40% maximum.

Mortgage Interest Direct

The Regulations will provide for the Mortgage Interest Direct Scheme for owner occupiers in Universal Credit. The Mortgage Interest Direct scheme requires Universal Credit paid in respect of mortgage interest and its equivalent under alternative financial arrangements to be paid direct by the Department to the claimant's mortgage lender on a monthly basis, provided the mortgage lender is a member of the Mortgage Interest Direct Scheme.

In return for receiving direct payments of mortgage interest, the lending industry will pay a charge for each transaction known as the transaction charge. The level of the transaction charge will be reviewed with the Council of Mortgage Lenders on an annual basis and enables the Department to recover its costs for administering the scheme.

The mortgage interest direct scheme is intended to reduce the threat of repossession for owner occupiers receiving help with their mortgage interest payments through the benefits system. The MID scheme ensures that payments of standard mortgage interest are made direct to the claimant's mortgage lender where that lender has opted to be part of the scheme.

Personal independence payment

CP11 – Making a claim to PIP Claims to PIP will be primarily made via an online channel or by telephone. People who are not able to make claims through these primary channels will be able to claim via a paper claim, however they will need to contact the department to arrange this as we do not intend to continue the current practice under DLA of distributing blank copies of claim forms to, for example, welfare rights offices.

We believe that this is a reasonable and proportionate approach to claims for PIP given that the initial evidence required to make a claim for PIP will be brief, basic information covering:

- The claimant's personal and contact details
- Residence and presence conditions
- Relevant periods spent in hospital, residential care etc
- Claims under provisions for terminally ill people and
- Payment details

Online and telephone channels will provide a quick and efficient way for claimants to submit their claims however the availability of the paper channel, by exception, recognises the diverse nature of the claimants for PIP and will ensure that there is always a method open for someone to claim PIP no matter how their illness and disability affects them.

This claim stage will allow for consideration of the age and residence conditions for PIP before the claimant is asked to describe how their health condition or disability affects them. Unlike for DLA, providing this information will not form part of making a claim for PIP and will be part of a second evidence gathering step not bound by the initial timescales regarding date of claim (see Regulation 31 below).

CP 21 (7)(8)(9) – Where someone makes a claim to PIP and is under the age of 16 or over 65 then their claim would normally be disallowed because of the age rules that will apply to PIP (in the Welfare Reform Act 2012, and to be set out in secondary legislation). Rather than issuing a disallowance on that basis, this provision allows for the claim to be treated as a claim to DLA or AA, as appropriate. This means that the claimant should not lose out on a period of entitlement available to them if they had claimed the correct benefit for their age-group in the first instance.

CP23 – This regulation provides that a claim to PIP cannot exist prior to the date of claim.

CP31 – Date of claim

The information required to submit a claim to PIP is basic, factual and relatively brief and we envisage that it will be possible to make a claim for PIP in one, short session. Communication products available in the public domain will explain what information someone will need to make a claim to PIP and "don't know" will be a valid answer for some questions where we recognise that the claimant may genuinely not know the answer or where obtaining the answer may unnecessarily delay their claim (although the claimant will have to provide this information at a later date).

Because of this we consider it reasonable to set the date of claim for PIP as the date that a claim is completed via the online and telephony channels, however we recognise that where the claimant cannot make the claim by the telephone or online channels and a paper claim is necessary, that a different approach is required. In these circumstances PIP will set the date of claim as the date an intention to claim is received, providing that the intention is followed by a properly made claim within one month or such longer period as is reasonable. This follows the provisions in place for paper claims in Employment Support Allowance.

We believe that this is a fairer and more understandable process than the one currently in place for DLA, whilst maintaining the overall effect of protecting the date of claim where there are inbuilt delays to the process.

CP33(1) – Advanced awards

This allows a decision awarding PIP where conditions aren't met at the date the decision is made but will be met within a period of three months if there is no further change of circumstances. This is a change from the current position for DLA where legislation provides for a similar period of three months running from date of claim. This change allows greater flexibility for the decision maker to make an award where the claimant does not meet the conditions for benefit at the date of claim, but subsequently deteriorates during the assessment process.

CP33(2) – Advanced claims
This provision allows for an advance claim to be made and decided before the expiry of a current award. This will minimise the risk of breaks in payment where an award is made for a fixed period and the claimant's needs have continued for a longer period than was apparent at the time of the initial decision.

CP41- Duration of awards
The award duration for PIP is covered in WRA2012 and regulation 18(4)(d) of the new Decision and Appeals regulations.

CP45 - Payments of Personal Independence Payment
After careful consideration, PIP will not adopt the calendar monthly payment frequency that is intended for Universal Credit. PIP will be a benefit paid at intervals of 4 weeks. PIP will not adopt the "assessment period" model for entitlement and changes can affect entitlement to or payment of benefit from the date of change. The number and type of changes of circumstance that are expected for some PIP claimants would make payment calculations complex where, for example, claimants enter or leave hospital or residential care. In these situations payments of PIP are calculated weekly but will be able to adjust and pay at a daily rate for the days spent out of hospital or residential care and a calendar monthly approach to payment calculation would make this more complex..

Additionally it makes it clear that awards made under terminal illness provisions will continue to be paid weekly in advance.

CP46 - Days for payment of Personal Independence Payment
This sets the payday for PIP as the date the decision was made in order to spread banking activity out across the working week, where the decision is made on a non-banking day another payday will be assigned randomly by the PIP computer system

The S of S will have discretion to set a different pay day where circumstances dictate.

CP46(3) additionally provides that if part week payments are appropriate then this will be calculated at the daily rate of 1/7th of the weekly amount

We have not carried forward the previous Claim and Payment Regulation 16 which restricted any award of benefit or change in payment rate to only have effect from the start of the next pay week. Omitting this regulation will allow changes of circumstances affecting PIP awards to take effect from the date of change.

Jobseeker’s Allowance and Employment and Support Allowance

1. The Committee should note that for JSA and ESA whilst there are no policy changes the opportunity is being taken to simplify and tidy up the existing provisions.

2. A key change the Committee will note is that the structure now adopts a benefit-specific approach. This we believe will make the regulations more accessible.

3. In considering these regulations against the introduction of UC, two points are worth making:

   i. Although Universal Credit will be assessed on a monthly basis, JSA and ESA will continue to be assessed weekly and, for the most part, paid fortnightly; and

   ii. As the regulations will apply only to Jobseekers Allowance and ESA as contributory benefits joint claims will not exist.

The following explanations pick out the main provisions of the Regulations as they apply to Jobseekers Allowance and ESA.

Claims

Regulations 7, 11, 12, 17 & 18

4. As now, a claim will always be required for JSA and ESA. We have however, brought forward the existing provision that allows ESA to be awarded without a claim when an appeal is made against a disallowance on the ground that a claimant does not have limited capability for work.

5. For both JSA and ESA, claims will continue to be made by telephone with provision for postal claim forms to be used where necessary. Jobseekers Allowance claims can also be made online as now - there is provision through the Direct Gov portal - although the reality is that these claims are printed and then signed by the claimant so effectively become a written claim.

   However, and looking to the future, the provisions will allow claims to be made fully electronically so that, in time, claims for these benefits will align with the UC processes. This will become a reality when the processing moves to the UC platform. That said, we would not envisage ESA becoming an electronic claim-only benefit but final decisions about this and how best to make use of the UC platform have yet to be made.

6. The Committee should note that the existing provision which provides that a JSA claim is only effective once all the evidence and information required to determine the claim is provided - referred to as the ‘evidence requirement’ – has been dropped.

7. The defective claims rules are being brought forward and the rules for both ESA and JSA will be the same.

Advance Claims and Time for Claiming

Regulations 24 and 30

8. As now, claims may be made up to three months in advance. The time for claiming ESA will continue to be three months and for JSA, one day. JSA claims can currently be backdated for up to 3 months and this will continue. (This policy will however be reviewed at such time as JSA is administered in the same way as UC. This is because many of the conditions for allowing an award to be backdated will not exist when claims are made online.)

Claims in the alternative

Regulation 20

9. The regulation that allows a claim for ESA to be treated as a claim for MA and *vice versa* is to be brought forward.

Awards and payment

Regulation 37, 44 and 45.

10. JSA and ESA claims will continue to be made for an indefinite period although the awards will continue to be subject to the respective time limits of 26 weeks and 365 days. Both JSA and ESA will continue, in the main, to be paid fortnightly into bank accounts. The payday will continue to be decided by reference to the national Insurance number.

Deductions from JSA and ESA

11. Under current policy, third party deductions are taken from income-related benefits in preference to contributory benefits whenever possible. Most of the deductions in the current Schedule 9 of the Claims and Payments Regulations may only be taken from contributory benefits where they are classed as a “specified benefit”. Broadly, ESA or JSA is a specified benefit when there is an income-related element in payment, or where there is underlying entitlement to an income-related component of JSA or ESA at the same rate as the contributory element.

12. Following the introduction of Universal Credit (UC), we no longer intend to class JSA or ESA as specified benefits. This means that most of the deductions covered by the Claims and Payments Regulations will only be taken from UC.

This is mainly for operational and practical reasons. UC will initially be paid on a different IT platform from JSA and ESA, and monthly rather than fortnightly. This makes the operational task of apportioning, prioritising and managing deductions highly complex, especially for deductions such as fuel and housing which fluctuate in level and which are generally combined with deductions for continuing consumption

13. This is only a temporary restriction affecting new claimants to UC until such time as we move to a shared IT platform for UC, ESA and JSA. Once this can be achieved, we intend to revise our policy and regulations to provide greater alignment between the benefits, including policy on deductions.

14. During the interim period, a number of other factors will minimise the effect of this change, most importantly the fact that UC, unlike income-related JSA and ESA, will include amounts for housing costs and children. It is therefore more likely that there will be enough UC in payment to make any required deductions.

15. There are some exceptions in the current Claims and Payments Regulations, where deductions are allowed from ESA and JSA even if no other benefit is in payment. These are: flat rate child maintenance deductions (Schedule 9B) and eligible loans (Schedule 9 Para 7C). We intend to maintain existing policy in these areas (subject to a likely increase in the flat rate deduction amount which will be presented to SSAC separately). We intend however to revoke the provision on arrears of Child Maintenance in Paragraph 7D of Schedule 9, as this has now been superseded by the flat rate maintenance arrears provisions.

16. We also intend to continue to allow deductions from JSA and ESA for other social and financial liabilities, such as fines and council tax arrears, which are covered in separate legislation. Any necessary amendments to these regulations will be presented to SSAC in due course. Our broad intention is to align the maximum rates of these deductions with UC, and to apply similar limits and priorities.