Equality Analysis for the introduction of the treatment of surplus earnings in Universal Credit

1. Introduction

1.1 This document records the analysis undertaken by the Department for Work and Pensions ("the Department") to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. The PSED requires the Minister to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

1.2 In undertaking the analysis that underpins this document, where applicable, the Department has also taken into account the United Nations Convention on the Rights of Persons with Disabilities, and in particular the three parts of Article 19 which recognise the equal right of all disabled people to live in the community, with choices equal to others, and that the Department should take effective and appropriate measures to facilitate full enjoyment by disabled people of this right and their full inclusion and participation in the community.

2. Brief outline of policy or service

Current treatment

2. 1 Currently, where earnings are received by a Universal Credit (UC) claimant that reduce a UC award to nil, in an assessment period, these earnings are applied to the UC award within that assessment period. This means entitlement to UC will cease for that one assessment period. The Department now proposes to refine this approach in order to:

- ensure employers and paid workers cannot manipulate their payment patterns to maximise Universal Credit entitlement
- ensure paid workers with fluctuating earnings patterns are neither penalised nor unfairly rewarded by receiving less/ more UC than they would if they earned the same amount but were paid monthly.

2.2 The Department therefore wishes to change the current approach so that large payments of earnings can be taken into account for more than one assessment period. This will apply where a claimant regains entitlement to UC within six assessment periods of the last day of their previous entitlement.

2.3 The surplus earnings policy seeks to address both the issues outlined above in a way that supports the use of Real Time Information (RTI) and avoids the case by case insight required by the current benefit system to average and attribute earnings. It also seeks to avoid the process of annual reconciliation, which potentially results in overpayments or future awards not reflecting a claimant's needs.

Future treatment

Introduction

2.4 The following Equality Analysis covers the impact of the policy once fully rolled out nationally. This policy will be introduced from 2016 when Universal Credit commences transition from legacy benefit systems to the enhanced Universal Credit service[1] for more complex claimant types across the country. This will ensure there is time for households to prepare and adjust; and enable the Department to test the right processes and communications to guide households, and employers, through this change.

Surplus earnings

Calculating surplus earnings

2.6 Where a UC claimant has an award that ends and then re-claims UC within six assessment periods of their previous UC award ceasing, the Department will look at earnings information obtained via Real Time Information (RTI). If they were self-employed or they had opted not to have RTI collected they will be asked to provide information on the earnings that they have received over that period.

2.7 This earnings information will then be used to calculate whether any surplus earnings should be applied to the claimant's new UC award. To work this out we will add the original surplus from the assessment period in which the previous award ceased to the earnings in the next assessment period (or to be more precise, the month that would have been an assessment period if they had stayed on UC). If that exceeds the relevant earnings threshold, any excess will be carried forward and treated as earnings in the next assessment period.

2.8 If the person claims UC in an assessment period where their earnings plus any surplus are greater than the relevant earnings threshold they will not be entitled to UC. If their earnings plus any surplus do not exceed the 'nil UC threshold' they may be entitled to a reduced amount of UC. If a person reclaims more than six assessment periods after the last day of their previous entitlement to UC, surpluses are ignored. The 'nil UC threshold' is the amount that a person can earn without losing entitlement to UC and this will vary according to an individual's circumstances.

[1] Also known as the 'Digital Service'.

2.9 The Department has introduced the ‘de-minimis’ into the surplus earnings calculation so that small fluctuations in earnings, for example, due to small bonus payments or slight increases in earnings that are above the ‘nil UC threshold’, can be ignored.

2.10 The Department feels that this design gives a generous and fair way to ensure that claimants can benefit from slight increases in earnings while balancing the need to address potential manipulation of the current UC system.

2.11 The Department’s view is that if someone’s UC award has been nilled for six months then they are highly unlikely to be seeking to manipulate the system, and it is reasonable to disapply the surplus earnings policy for people who return to UC after that point. This supports our aim of promoting sustainable employment and also helps to keep the administration and data collection requirements of the policy proportionate to its aim.

Self-employed losses

2.12 Currently, the earnings for each assessment period are calculated by taking the ‘profits’ of each trade profession or vocation carried on by the claimant (that is the actual receipts less permitted expenditure in the assessment period) and then making deductions for tax, national insurance and pension contributions. If a person is carrying on two businesses, the expenditure from one cannot be offset against the other.

2.13 However, with the introduction of the surplus earnings policy the Department believes that in the case of a self-employed claimant it would be unfair to carry forward a large amount received in one assessment period without also recognising the expenditure that the claimant has had to incur in previous assessment periods. There for the Department will allow losses from previous assessment periods to be taken into account.

2.14 In order to allow for previous losses to be taken into account, some changes are need to the way self-employed earnings are calculated from each assessment period. First, the profit or loss of each separate trade profession or vocation (or, if it is a partnership, the claimant’s share) is calculated for the assessment period by deducting actual expenses from actual receipts. These are then combined to give an overall profit or loss from which any tax or national insurance payments in the same period are deducted:

- If this produces a negative amount then the self-employed earnings are nil and there is a loss that can be carried forward and set off against future receipts.
- If this produces a positive amount then any pension contribution paid in the assessment period and previous unused losses (within the previous 11 assessment periods) are also deducted. If this produces a positive amount then that will be the self-employed earnings for the assessment period.

It is not the intention to allow losses to reduce employed earnings or the earnings of a joint claimant.

3. Evidence and Analysis

3.1 Our analysis suggests that, once UC is fully rolled out, between 100,000 and 200,000 households in a given assessment period are estimated to have a fluctuation in earnings that gives them surplus earnings. This is approximately 5% of the UC working caseload.

3.2 We have produced estimates of the characteristics of these households in order to consider the potential equality impacts of the surplus earnings policy. We did this by looking at the likelihood of households in different earnings bands receiving fluctuations that give them surplus earnings (earnings above their 'nil UC threshold' plus £100). We then combined this with the likelihood of households containing people in the protected groups receiving net earnings within those earnings bands.

3.3 This therefore assumes that all households within each earnings band are equally likely to receive a fluctuation of the same size, regardless of any other characteristic. As such the estimates should be treated as an indication of the potential equality impacts of this policy.

3.4 For the analysis below, the term 'households with surplus earnings' is used to mean households who receive a fluctuation in earnings in a given month that gives them surplus earnings. Proportions have been rounded to the nearest five percentage points.

- **Age**

3.5 The analysis in **table 1** suggests that around 35% of households with surplus earnings contain an individual under age 30, which is the same proportion as in all working households receiving UC.

3.6 Around 70% of households with surplus earnings are estimated to contain an individual between age 30 and age 50, compared to 60% of all working UC households. This is because our analysis shows that households containing individuals aged 30 to 50 are more likely to be earning within the higher earnings bands and that "higher earners" are more likely to experience fluctuations in earnings that give them surplus earnings.

3.7 Around 10% of households with surplus earnings are estimated to contain an individual over age 50, compared to 10% of all working UC households.

Table 1:

	Working households receiving UC	**Households with surplus earnings**
Contains an individual under age 30	35%	35%
Contains an individual between age 30 and	60%	70%

age 50		
Contains an individual over age 50	10%	10%

Note: Figures do not sum to 100% because a household can contain an individual in more than one of the age groups.

- **Disability**

3.8 We estimate that around 30% of households with surplus earnings will contain an individual who has a Disability Discrimination Act (DDA) defined disability. This is compared to around 30% of working households receiving UC. Therefore people with a DDA defined disability are not expected to be over- or under-represented in those affected by this policy.

- **Gender reassignment**

3.9 We have no reason to believe that this policy would result in particular disadvantage to claimants on grounds of gender reassignment.

- **Marriage and civil partnership**

3.10 The information held by the Department on its administrative systems does not distinguish between different types of partnership. However, UC provisions do not treat those who are married differently from those in civil partnerships so we have no reason to believe that this policy would result in particular advantage or disadvantage to claimants in different types of partnership.

- **Pregnancy and maternity**

3.11 We have no reason to believe the policy will result in a particular advantage or disadvantage to claimants on grounds of pregnancy or maternity.

- **Race**

3.12 We estimate that around 20% of households with surplus earnings will contain an individual from an ethnic minority group. This is compared to around 20% of working households receiving UC. Therefore people from ethnic minority groups are not expected to be over- or under-represented in those affected by this policy.

- **Religion or belief**

3.13 We have no reason to believe the policy will result in a particular advantage or disadvantage to claimants on grounds of religion or belief.

- **Sex**

3.14 **Table 2** suggests that around 70% of households with surplus earnings contain a male, compared to around 60% of working households receiving UC. This is because our analysis shows that households containing males are more likely to be earning within the higher earnings bands, and that higher earners are more likely to experience fluctuations in earnings that give them surplus earnings.

Table 2:

	Working households receiving UC	**Households with surplus earnings**
Contains a male	60%	70%
Contains a female	90%	90%

3.15 Our analysis also suggests that around 90% of households with surplus earnings contain a female,[2] compared to the same proportion in working households receiving UC.

- **Sexual Orientation**

3.16 The Department does not hold information on its administrative systems on the sexual orientation of claimants. However, as UC rules treat claimants the same regardless of sexual orientation we have no reason to believe the policy will cause particular advantage or disadvantage to claimants on grounds of sexual orientation.

4. Conclusion on the introduction of surplus earnings

4.1 The analysis suggests that higher earners are more likely to experience fluctuations that give them surplus earnings. We found that households containing males, and households containing an individual aged between 30 and 50, are each more likely to be earning within the higher earnings bands and so are more likely to be affected by the surplus earnings policy.

4.2 Although this is the case, the Department feels that this design still gives a generous and fair way to ensure that all claimants can benefit from slight increases in earnings while balancing the need to address potential manipulation of the current UC system.

4.3 For those UC claimants that fall into other protected groups i.e. those UC claimants who:

- are aged below 30 or above 50;
- have a DDA defined disability;
- have undergone gender reassignment;
- are married or are in a civil partnership;

[2] A higher proportion of working UC households contains a female than a male because working UC households mainly comprise couples and lone parents, and lone parents tend to be female.

- are pregnant or are on maternity;
- have a particular race, religion, belief or sexual orientation;
- are female.

the Department feels that the introduction of the surplus earnings policy would not result in any particular advantage or disadvantage for these claimant groups.

Impact of a 'dual running approach'

4.4 When considering the introduction of surplus earnings and the associated changes to how self-employed losses are treated the Department has taken into account the impact on DWP operations and claimants. On this basis, the Department has decided the policy should only be implemented from 2016 when Universal Credit commences transition from legacy benefit systems to the enhanced Universal Credit service for more complex claimant types across the country.

4.5 As a result, claimants who receive UC prior to 2016 will continue to be dealt with under the existing provisions. Claimants with higher incomes and the self-employed, who are most likely to be affected by this policy, will not have made the transition from legacy benefit systems to the enhanced Universal Credit service and therefore the Department believes that any adverse impacts that might temporarily be experienced will be a proportionate means of meeting this legitimate aim.

5. Monitoring and evaluation

5.1 The UC Evaluation Framework, published in December 2012, sets out the Department's broad intentions for evaluation, including impact measurement[3]. This provides an overview of plans for evaluating the introduction, implementation, delivery and impact of UC. Changes to UC policy and or regulations will be reviewed in line with the framework as we continue to roll UC out nationally.

6. When will the potential impacts be reviewed?

6.1 The UC "Test and Learn" framework is a key element of the broader Departmental approach to evaluating UC policy. The impacts of changes of policy will be reviewed on an on-going basis as part of this process.

Sign off

7.1 Lord Freud 26th September 2014.

[3] https://www.gov.uk/government/publications/universal-credit-impact-assessment