

The Rt Hon Iain Duncan Smith MP
Secretary of State
Department for Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

4 March 2015

Dear Secretary of State,

The Universal Credit (EEA Jobseekers) Amendment Regulations 2015

At its meeting today, the Committee undertook its scrutiny of these draft proposals. I would like to thank the Department for its support and co-operation leading up to, and during, today's discussion.

The Committee notes that, in relation to these proposals, the view has been taken that Universal Credit can be classified as "social assistance" for the purposes of compliance with EU legislation. We assume the Department has satisfied itself on the robustness of that interpretation.

The Committee welcomes the proposal to revoke regulation 92 of the Universal Credit Regulations 2013. The rationale for subjecting EEA nationals entitled to Universal Credit to full conditionality whatever their personal circumstances did not strike us as compelling. Therefore we consider the revocation of this particular measure to be timely and appropriate.

The Committee does, however, have a number of concerns about the proposals to amend regulation 9 of the Universal Credit Regulations to exclude jobseekers and their family members from Universal Credit if they are a national of an EEA member state.

The Committee has given careful consideration to whether or not it should take formal reference of these regulations under the statutory procedures. However the Committee's recent report on the Housing Benefit (Habitual Residence) Amendment Regulations 2014, published in November 2014, dealt with similar and related issues. We judge it unlikely that there is a significant amount of additional evidence to be gleaned from further public consultation at this stage. We have therefore taken the view that an early exchange of correspondence with you was likely to be more appropriate on this occasion.

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The Explanatory Memorandum makes clear that the proposed further restriction of EEA nationals' access to benefits is to support Government policy that EEA migrants should not be able to access means-tested support before they have contributed to the UK through work. The proposed changes will, however, affect not only potential migrants considering whether to come to GB in search of work, but also EEA nationals and their dependants who have already settled and worked in the UK.

The Committee acknowledges that some of this latter group who subsequently fall out of work may continue to have access to benefit because they have a qualifying right of residence. But the Committee is concerned that there will be a significant number of families that could suffer hardship. Indeed a number of respondents to our earlier consultation were clear that, in the case of family or relationship breakdown, some people would be wholly reliant upon friends, charities and local authorities for help. This would particularly be the case for a number of people who have been in the country and contributed for some time. For them, in practical terms, 'home' is here.

The Equality Analysis provided to the Committee ahead of the meeting about these and other groups contained little by way of meaningful data. The Committee was also disappointed that the supporting papers did not explain what consideration has been given to the application of the 'Family Test' to this policy. However we were pleased to hear from officials at today's meeting that some additional relevant information and analysis, for example the estimated number of lone parents at risk of losing entitlement, has become available in the past few days. We were also advised that the Department was currently assessing the impact on families. We consider that it would support the process of Parliamentary scrutiny if this additional material could be made available to Parliament at the same time as the regulations are laid.

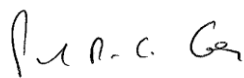
The Committee also understands that measures are now being put in place to provide more comprehensive on-going data with regard to EEA migrants. This is a welcome step, but we think the Department should go further. For example, we recommend that more pro-active research should be undertaken and published, for example by undertaking surveys and consulting stakeholders. There is a considerable lead-in period before Universal Credit will be fully rolled-out in relation to EEA migrants, and this presents a timely and unusual opportunity for relevant information to be gathered in advance of implementation.

In particular, we would encourage the Government to use the results of this further analysis robustly to review the impact of this policy, and then to consider whether there are any particular circumstances which would justify amending regulations to provide exemptions or easements in tightly defined circumstances. For example, it may prove to be appropriate that some groups, for example victims of domestic violence, could be given a right to reside for a limited period of time with benefit paid for a temporary bridging period.

The Committee has previously expressed concern about the obligations placed upon local authorities to provide a final safety-net for those dependent children and vulnerable adults unable to return to their country of origin. We have also previously highlighted the importance of appropriate funding being provided for local authorities to enable them to meet this statutory obligation. It is essential that local authorities are consulted on the potential impact of these proposals and that the developing analysis of impact should be shared with them. This will be especially important for local authority 'hotspots' where the number of affected migrants and the associated impact is likely to be higher.

Finally it will be important to ensure that revised and comprehensive guidance is made available to decision-makers and other members of staff responsible for determining claims or administering advice to EEA migrants entitled to benefit or seeking to claim benefit. Consistent and effective operation of the system will be essential. For example, it will be important for some in this situation, seeking to establish a permanent right of residence, to be able to show that they are jobseekers in circumstances where they are denied Universal Credit because of these new rules.

Yours sincerely,



Paul Gray
Chair