

Equality Analysis for The State Pension Credit (Temporary Absence from Great Britain) Regulations 2016

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The State Pension Credit (Temporary Absence from Great Britain) Regulations 2016

Introduction

This document records the analysis undertaken by 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.

The duty is a continuing one and doesn't stop once policy decisions are made.

This document considers issues of equality and provides an equality impact assessment of the changes to the temporary absence provisions in State Pension Credit.

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](#) (CRPD), and in particular Article 19 under which the parties to the Convention recognise the equal right of all disabled people to live in the community, with choices equal to others, and the need to take effective and appropriate measures to facilitate full enjoyment by disabled people of this right and their full inclusion and participation in the community. The Department has also had regard to its obligations under the Convention for the Elimination of Discrimination Against Women and the United Nations Convention on the Elimination of all forms of Racial Discrimination.

Brief outline of policy or service

The changes apply to Pension Credit claimants from April 2016. Claimants who are temporarily absent from Great Britain for up to 4 weeks will be treated as being in Great Britain and continue to receive Pension Credit providing they fulfill the other conditions of entitlement. Prior to this change, the rule was 13 weeks. The 13 week rule itself was an amendment introduced in 2008 which aligned Pension Credit with Housing Benefit. The original rule when Pension Credit was introduced in 2003 was 4 weeks.

There will be exceptions to the 4 week rule:

- Where the claimant or their partner is receiving medical treatment, or accompanying a child or young person receiving such treatment, they can continue to be treated as being in Great Britain for up to 26 weeks;
- Where the absence is in connection with the death of a partner, or a child or qualifying young person who normally lives with the claimant, or the death of a close relative of one of these, they can be treated as being in Great Britain for up to 8 weeks;

For those claimants outside Great Britain when the amendments take effect the current intention is for there to be some transitional protection to allow the old rules to apply.

In addition, the rules on who can be treated as being a member of the claimant's household are also amended to be consistent with the new temporary absence from Great Britain rules. The membership of the household test is important and can affect the make-up of the claimant's award of benefit.

The amendments to the temporary absence from Great Britain rule will bring Pension Credit into line with Universal Credit. Similar changes are also being made to the Housing Benefit rules. This will have the effect of generally aligning the rules on temporary absence from Great Britain across Universal Credit, Housing Benefit and Pension Credit.

Evidence and analysis

Information about the number of people receiving Pension Credit is available on the DWP tabulation tool:

http://tabulation-tool.dwp.gov.uk/100pc/pc/tabtool_pc.html

However, the Department does not retain statistics on the number of Pension Credit claimants who make use of the temporary absence from Great Britain rules nor on the destinations that claimants visit nor on the reason for their absence.

Characteristic 1 – Disability

The amendments apply to all Pension Credit claimants, regardless of whether they are disabled or whether an amount for severe disability is included in their award.

In February 2015 the Department published information on the breakdown of the number of Pension Credit claimants who qualify for the severe disability additional amount. The information can be accessed here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/401536/pension-credit-additional-amounts-and_aips-may-2014.pdf

Based on data relating to May 2014 we know that a total of 581,000 people (26% of a caseload of 2,270,000) qualified for the severe disability additional amount, although

this does not include all disabled claimants, for example those in receipt of the care component of disability living allowance at the lower rate.

The following is based on the assumption that a person with a disability may be more likely to need medical treatment and that, in some cases, treatment may be outside Great Britain.

In recognition of the need to protect the benefit entitlement of those who need medical treatment abroad, regulation 4 of the State Pension Credit Regulations 2002 currently provides for a person who is receiving medical treatment outside Great Britain to continue to be treated as being in Great Britain. This allows entitlement to Pension Credit to continue during the absence abroad and also means that the absence of a partner for this reason will not affect the claimant's award of Pension Credit. There is no time limit to this unlike other instances of temporary absence from Great Britain.

This rule is affected by the changes made to the temporary absence from Great Britain rule and will now only allow for an absence of up to 26 weeks for medical treatment.

The change to a 26 week limit will mean that those receiving medical treatment abroad for more than 26 weeks will lose their award of Pension Credit. Those whose partners are receiving treatment for more than 26 weeks are likely to see their awards reduced.

However, we believe this change is justified as Pension Credit is a means-tested benefit intended to support people living in Great Britain – it is not intended to provide indefinite financial assistance to those who are abroad. Reducing the permitted leave to 26 weeks will still provide protection for those receiving medical treatment abroad and the changes to the definition of medical treatment will enable more people to take advantage of this protection than under the old rules. The new provision also extends the scope of the protection by allowing claimants and their partners to be absent in connection with the medical treatment of a child or qualifying young person who normally lives with them. In addition this change will simplify the benefits system by harmonising Pension Credit with Universal Credit, ensuring that claimants are not subject to different rules when transferring between the two benefits.

We have no information on the numbers of Pension Credit claimants who travel abroad to receive medical treatment nor for how long they are absent for. However, it is our view, that a limit of up to 26 weeks should be sufficient to protect the benefit entitlement of those claimants who do require medical treatment outside Great Britain. Figures from Eurostat showing the average length of hospital stays in European countries in 2011 show a period of time far below 26 weeks (source: [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Average_length_of_stay_for_hospital_in-patients,_by_age_group,_2011_\(days\)_Health2015.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Average_length_of_stay_for_hospital_in-patients,_by_age_group,_2011_(days)_Health2015.png)).

For the reasons set out above, to the extent that the provisions in these regulations will have a disproportionate impact on people with disabilities we believe this impact is justified.

Characteristic 2 – Race / Ethnicity

The amendments will apply to all Pension Credit claimants, regardless of their race or ethnicity.

Our analysis suggests that 15% of trips abroad made by people in Great Britain aged 65 and over for periods of 28-90 days are made to Asian countries (source: the International Passenger Survey 2007-2012). The 2011 census shows that 3% of individuals aged 65+ indicated their ethnicity as “Asian / Asian British”.

It is possible that that Asian / Asian British claimants may be disproportionately affected by this change although we do not have any actual figures to confirm or refute this. Anyone affected by this change who was previously allowed 13 weeks absence will now only be entitled to Pension Credit for 4 weeks, although there is the potential for this to be increased to 8 weeks in certain circumstances involving the death of a partner, child or qualifying young person normally living with the claimant, or of a close relative of one of these groups.

While there may be a disproportionate impact on this group, Pension Credit is an income-related benefit and it is intended to provide claimants with financial assistance to enable a minimum guaranteed amount to meet living costs in Great Britain.

It is the Department’s view that the allowance of a 4 week absence is reasonable and justified and allows time, for example, for holidays and visiting families without claimants having to reclaim Pension Credit on their return to Great Britain. This change also aligns Pension Credit and Housing Benefit with Universal Credit and is therefore a move towards simplification in the benefits system. The fact that the 4 week period can be extended up to 8 weeks in connection with the death of a partner, child or close relative means that additional protection is granted to take account of difficult circumstances.

Although there may be some evidence to indicate claimants who are identified as being of Asian ethnicity may be affected more by this amendment than other race / ethnicity groups, the Department believes that reducing the period of a general allowable absence where benefit can still be paid from 13 weeks to 4 weeks is reasonable and returns to the original 4 week rule that applied when Pension Credit was introduced. The period of 4 weeks can be extended in certain circumstances (up to 8 weeks where the absence is in connection with a death of a partner or close relative, up to 26 weeks for medical treatment abroad) and it strikes a fair balance between the objectives of a means tested benefit intended to meet living costs in Great Britain with the family lives of claimants.

Characteristic 3 – Religion / Belief

The analysis above indicates that claimants who are identified as being of Asian ethnicity may be more affected by this amendment than any other race / ethnicity group. This could also mean that this is reflected in a disproportionate impact on certain religious groups, for example Muslims, Sikhs and Hindus.

Much of the reasoning set out above in relation to race and ethnicity is applicable to religion and belief. In addition, it is the Department's view that the allowance of a 4 week absence is reasonable and should allow sufficient time, for example, for pilgrimages or sharing religious festivals with family members abroad, without claimants having to reclaim Pension Credit on their return to Great Britain.

Characteristic 4 – Sex

As of May 2015, the Pension Credit claimant caseload was a total of 2,096,820. The claimant breakdown by gender is:

Female:	1,297,150
Male:	799,670

(source: DWP Tabulation Tool available www.gov.uk)

The new legislation will apply to all claimants equally, regardless of their sex. However, because of the greater number of female, as opposed to male, Pension Credit claimants, it is likely that more women than men will be affected by these changes.

However, that impact is due to the composition of the claimant caseload. As female claimants are disproportionately older than men, there may be a differential impact on women as older Pension Credit claimants may be more likely to need medical treatment abroad. However, for the reasons set out in the section on disability, we believe that to the extent there was such an impact it would be justified.

Characteristic 5 – Age

Age is a condition of entitlement for Pension Credit claimants. By virtue of that, this change will affect people of Pension Credit qualifying age (this is linked to women's pensionable age). The change applies to all Pension Credit claimants, regardless of their specific age. The change aligns Pension Credit with Universal Credit and Housing Benefit and the effect is that the same general rules apply to claimants of both working age benefits (like Universal Credit) and pensionable age benefits.

However, it may be the case that older benefit claimants may be more likely to require medical treatment abroad (although we have no data on how many Pension Credit claimants leave Great Britain for medical treatment). For those claimants who do, the changes mean that an absence abroad for up to 26 weeks will allow their entitlement to continue.

In the absence of any data on this, the Department's view is that, to the extent that there is a disproportionate impact on older claimants linked to their needing medical treatment abroad, this would be justified for the reasons set out in the section on disability above.

Remaining groups

DWP has considered equality in respect of the introduction of this change on the remaining “protected characteristic” groups below, but there is no data or analysis available in order to assess the impact of the policy on these groups:-

- Gender reassignment
- Pregnancy and maternity
- Sexual orientation

Decision making

The Department undertook analysis aimed at determining Pension Credit claimants, with reference to Gender, Disability, Race and Age. The analysis showed that the potentially affected group would be more likely to be women claimants. The analysis also showed that more Asian / Asian Britons could be affected. Analysis of the proportion of 28 – 90 day visits to Asian countries suggests that this ethnicity may be more likely to take temporary absence over the affected period of time and so due to the policy change may be more likely to be impacted

However, the impacts on these affected groups are due to the profiles of the current Pension Credit claimants, rather than changes in the policy. From 1st April 2016, the reduction in the length of time a claimant can be temporarily absent outside GB will apply to all Pension Credit claimants regardless of their protected characteristics.

Monitoring and evaluation

DWP is committed to monitoring the effects of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.

We will use administrative datasets to monitor trends in the benefit caseloads for some of the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups.

We will use feedback from stakeholder groups to assess whether there are unintended consequences for the protected groups, and whether the policy itself results in adverse consequences for particular groups.

As part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address further gaps in data provision wherever reasonable.

When will the potential impacts be reviewed?

DWP decision makers have access to processes and guidance to ensure they can report problems should they occur.

Sign off

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