

Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018 (SI 2018/65) - Transition to UC Housing Payment

**Report by the Social Security Advisory Committee
under Section 174(1) of the Social Security
Administration Act 1992 and statement by the
Secretary of State for Work and Pensions in
accordance with Section 174(2) of that Act**

***Presented to Parliament pursuant to Section 174(2) of the Social
Security Administration Act 1992***

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Transition to UC Housing Payment – response to SSAC

The Department welcomes the Social Security Advisory Committee's (SSAC) report on the Universal Credit (Miscellaneous Amendments, Saving and Transitional Provision) Regulations 2018 (SI 2018/65) which it has carefully considered and reviewed.

Under the new Universal Credit system, benefit entitlement is determined according to a monthly payment cycle. This mirrors the way the vast majority of people receive their wages and so helps ease the transition from benefits to work. In the current (legacy) system, benefit entitlement is usually determined on a weekly basis.

The Department has been lobbied extensively by stakeholders who have argued that claimants obliged to move to the new system will suffer hardship because of the gap between the last payment of legacy benefit and the first payment of Universal Credit. In particular, landlords and groups representing claimants have expressed concerns about the issue of arrears of rent accruing due to this change in payment frequency, which may put vulnerable people at risk of losing their accommodation.

In order to ameliorate this risk it was announced at Autumn Budget 2017 that, "from April 2018, those on Housing Benefit would continue to receive their award for the first two weeks following their UC claim." The measure will reduce the potential for rent arrears to accrue as claimants move to the new monthly payment cycle. It is anticipated that around 2.3 million claimants will benefit from this measure over the period when all working age claimants will move to the new system (2018/19 to 2022/23). The average household gain would be £233.

This proposal is part of a suite of measures, including the removal of waiting days and the doubling of the amount of advance payments, designed to ease the transition to the new benefit. In developing this measure the Government sought to balance its desire to target the measure at those people facing particular difficulties with the need to make a positive difference quickly. It believes this measure, as part of that wider package, strikes the right balance.

This announcement was widely welcomed. Polly Neate, the Chief Executive of the homelessness charity Shelter, said: "For those at the lower end of the income scale, we were pleased to hear changes to Universal Credit – including abolishing the seven-day waiting period and allowing some people to claim housing benefit for the first two weeks of their new claim, so they can continue to pay their rent." Keith Exford, Group Chief Executive, Clarion Housing Group (the largest social housing provider in the United Kingdom) said "We were pleased to hear the reforms announced to Universal Credit which will mean a fairer system with an easier transition and less risk of financial hardship for our tenants claiming the benefit – including allowing claimants on housing benefit to continue claiming for two weeks."

The measure represents a cost-effective way of responding quickly to stakeholder concerns without adding complexity to administration. Alternative approaches would

take much longer to implement, so those making the transition in the meantime would not have access to any additional support. It is also the only option that will ensure that support is available to individuals immediately on transition to the new benefit, the point at which it is needed. In the Department's view the provision is the most practical option available and is one that ensures that no one loses out.

The Department welcomes SSAC's recognition that these payments will ease the transition to Universal Credit and that it is a "welcome and positive step forward". However, the Committee's Report raises some concerns related to the detail of this measure which are addressed below.

The Committee state that they recognise the attractions of the proposed solution but they were not persuaded that it necessarily provides the most effective mechanism for defining and delivering the underlying aims and objectives of the policy. They state that it is unclear whether the proposed approach would maximise the benefit of this substantial investment to those most at risk of incurring rent arrears or becoming homeless. In other words, they argue that the support should be better targeted.

For this measure to be of any value in addressing the issue of transition to Universal Credit payment has to be immediate. There is no point in developing a solution that would result in the additional payments being received some weeks down the road when, in many cases, Universal Credit would already be in payment. Any attempt at targeting will require information to be gathered with relation to the criteria that would determine eligibility. This will take time and will inevitably lead to some claimants not taking up their entitlement. By providing a payment to all HB claimants we avoid the need for the individual to make a claim, the Local Authority (who will administer the payment) will not have to conduct a further means tests and there will be no requirement to gather further information to determine who is entitled and who is not. All of which means that the payment will be simple to administer and will be received by the claimant at the point of need.

It is also the case that it would take time to develop and deliver a system which had more detailed entitlement criteria. This could certainly not be achieved by April 2018 and it would likely take many more months before it could be implemented. This means that claimants making the transition prior to implementation would not receive this additional help.

The Committee's key concern centred on claimants who were not in rent arrears and whose payments were sent direct to their landlords under both the Housing Benefit and Universal Credit systems. Our plan is that the additional payment should be paid in the same way as the claimant's Housing Benefit is paid and this, the Committee argue, would amount to an unwarranted 'bonus' for the landlord in these cases.

The Department believe the Committee's concerns here are unfounded. First, it should be noted that the additional payment is not a payment 'for' the landlord but a

payment 'to' the landlord. The payment will be credited to the tenants rent account and, in cases where the rent is up to date, future payments can be adjusted as necessary. Hence it will not be a 'bonus' for the landlord. Secondly, it is our intention that as many Universal Credit recipients as possible manage their own rent payments. Acceptance of this responsibility is an important element of the design of the new system which seeks to replicate the position people will face when in work. It is unlikely, therefore, that a person with no rent arrears would have their housing costs paid direct to their landlord when they move to Universal Credit.

It is unlikely, therefore, that a person with no rent arrears would have their housing costs paid direct to their landlord when they move to Universal Credit. There is a very slim possibility that a claimant could potentially have an HB run on paid for 2 weeks to their landlord and also receive an Alternative Payment Arrangement (a managed payment to landlord) in UC, meaning their landlord is paid directly at the end of the first assessment period. A claimant will most often receive an Alternative Payment Arrangement (APA) because they are in at least two months payment arrears. For claimants renting in the social rented sector we expect the landlords to offset the additional payments against the arrears. We expect this scenario to be even less likely in the private rented sector as the claimant would have had to request the APA.

In these examples, any additional rent paid to the landlord would be offset against rent areas or credited to the claimants account. If the claimant is worried that their landlord won't do either of these, the APA could be put in place in the second assessment period, this ensures the claimant is paid the money, not the landlord. The claimant should discuss any concerns they have with their case manager or work coach, who can then help the claimant make an informed decision on when the APA is put in place.

Even if this were an issue for a significant number of people, removal of eligibility in such cases would be impossible for two reasons, (a) neither the DWP nor Local Authorities routinely collect information regarding rent arrears; and (b) a decision on whether housing costs will be paid to the landlord or the claimant will not have been made at the point the additional support is needed. So it would not be possible to identify this group.

In theory this problem could be avoided if the additional payment went to the claimant in all cases (we will do this in any case where the move to Universal Credit is triggered by a change of address). The problem with such an approach is that it recreates the problems that managed payments to landlords are designed to prevent: some vulnerable claimants will not use the funds to contribute towards the rent when that would be in their best interests and the issue of escalating rent arrears will not be addressed. In addition, Local Authorities will not hold payment details for many of the claimants whose housing benefit payments are currently sent

direct to their landlords. Gathering this information will lead to delays in payments being processed.

We accept the Committee's point that, in law, these payments are the claimant's benefit, even where sent direct to the landlord. We have committed to look at communications related to these payments so that those without rent arrears understand that they have the right to approach their landlords to discuss refund of any credit on their rent accounts.

We believe the Committee is mistaken in stating that larger landlords do not receive sufficient information to allow these payments to be reconciled with individual rent accounts. This is a basic requirement for all payments of housing support, not just for these additional payments. All payments of Housing Benefit and Universal Credit housing costs are accompanied by a detailed schedule showing who the payment is for, how much it is, and the period it covers.

The Committee point out that the lack of targeting is exacerbated by the fact that people in work, whose Housing Benefit entitlement would normally be partially offset by their earnings, would receive full reimbursement of eligible rent. This is correct and is designed to remove the need to the Local Authority to conduct an additional means test. The Local Authority are informed that someone has claimed Universal Credit when they receive a Housing Benefit 'stop notice'. This will trigger the additional payment. But the LA will not know in what way the claimant's circumstances have changed and so cannot assume that the current Housing Benefit assessment remains correct. To avoid having to conduct another means test for just two weeks, the payment will simply reflect the claimant's full eligible rent. For those whose move to Universal Credit was prompted by the taking up of employment, this provision is synonymous with an existing rule which allows Housing Benefit to run on at the full rate for four weeks after a claimant returns to work.

Finally, the Committee were concerned about the extent to which the proposals have been explored with relevant stakeholders, for example housing associations and welfare organisations with an understanding of the perspective of specific claimant groups. This measure was designed in response to feedback from stakeholders who have raised the transition phase between the end of an HB claim and the first payment in a new UC claim as a problem for claimants. The proposal addresses this issue in a way that will benefit all claimants making the transition from Housing Benefit to Universal Credit and has been widely welcomed. We will continue to work closely with stakeholders as part of our "test and learn" approach to the introduction of Universal Credit to ensure a smooth transition to the regime.

SOCIAL SECURITY
ADVISORY COMMITTEE

The Rt Hon David Gauke MP
Secretary of State for Work and Pensions
Department for Work and Pensions
Caxton House
Tothill Street
London, SW1H 9NA

20 December 2017

Dear David,

At its meeting on 13 December, the Social Security Advisory Committee considered the following three proposals that the Department intends to bring forward as part of *The Universal Credit and Miscellaneous Amendment Regulations 2018* which are scheduled to be laid early next year:

- (i) removal of the need to serve seven waiting days in new Universal Credit claims;
- (ii) transition to Universal Credit Housing Payments; and
- (iii) a change in the calculation of surplus earnings and self-employed losses for Universal Credit claimants.

Although all three sets of proposals remain subject to the Parliamentary Business and Legislation (PBL) Committee's triage process, the first two of these were announced in the Chancellor's Budget Statement on 22 November and are therefore in the public domain. We therefore agreed in advance with the Department that they should be subject to our normal statutory scrutiny process in accordance with section 172(1) of the Social Security Administration Act 1992. **However the third proposal – relating to surplus earnings and self-employed losses – was shared with the Committee informally and in confidence. We will therefore complete our statutory role – and communicate our decision on whether or not to take this proposal on formal reference – once we have been formally notified that PBL clearance has been achieved.**

Removal of Universal Credit Waiting Days

Turning to the substance of the two specific measures above which were announced during the Chancellor's Budget Statement, I should emphasise at the outset that the Committee welcomes the Government's move to ease some of the financial pressure faced by many Universal Credit claimants while they await their first payment. In particular we are very pleased that Universal Credit waiting days are now being abolished in line with our advice to the then Secretary of State in 2014.

The response to our original advice stated that the introduction of waiting days in Universal Credit, once fully rolled out, would deliver savings of £150m per year which would be used to "fund measures to get people off benefit and into work and will

particularly help those who are likely to be long-term benefit recipients". Officials attending our meeting reassured us that the removal of waiting days will be funded by 'new' money and that the additional support for the longer term unemployed, given following the introduction of waiting days in 2015, would not be diluted.

The Department has agreed to provide the following information relating to these proposals which was not available to us at our meeting:

- (i) more up to date information that is available on the current proportion of Universal Credit claimants who are required to serve waiting days;¹ and
- (ii) the proportion of claimants paid on time for those serving waiting days, and how this compares to those who are exempt from waiting days.

Subject to our receiving that additional material before the regulations are laid, the Committee is content that these proposals should proceed.

Transition to Universal Credit Housing Payments

The Committee welcomes the Government's recognition that, following a claimant's transition from legacy benefit to Universal Credit, a five week wait for the first payment is likely to be a contributory factor to an increase in rent arrears. In our consultation on Universal Credit Waiting Days in 2014,² organisations representing landlords and tenants made this point very forcibly, and our report at that time echoed their concerns. The Government's allocation of £540 million over the next five years to address this issue, at least in respect of two of the five weeks' payment gap, is therefore a welcome and positive step forward.³

Whilst we readily understand the problem faced by the Department and recognise the attractions of the proposed solution, on closer inspection we were not persuaded that it necessarily provides the most effective mechanism for defining and delivering the underlying aims and objectives of the policy. In particular, it was not clear from the information presented how the proposed approach would maximise the benefit of this substantial investment to those most at risk of incurring rent arrears or becoming homeless. **Accordingly the Committee has decided to take this particular proposal on formal reference.**⁴

Given the nature of our concerns and substance of our recommendation, we have taken the view that there would be limited value in our undertaking a public consultation before presenting advice to you and, mindful also of your proposed timescale for laying the regulations, we are therefore in a position to put it to you immediately. We have focused on setting out our high-level concerns in this report, however a more detailed record of our concerns can be found in our formal minutes of the discussion which we attach as an annex.

¹ The latest data, published in September 2017 and covering the period May 2016 to June 2017, indicates that 64 per cent of claimants are required to serve waiting days.

² The Universal Credit (Waiting Days) (Amendment) Regulations 2015: SSAC report

³ Autumn Budget 2017 allocation: 2018-19 £130m; 2019-20 £125m; 2020-21 £135m; 2021-2022 £110m; and 2022-23 £40m

⁴ Section 174(1) of the Social Security Administration Act 1992.

Limited information was presented to us about the extent to which the proposals have been explored with relevant stakeholders, for example housing associations and welfare organisations who have a good understanding of the perspective of specific claimant groups. Their insight on how best this additional resource might be targeted and deployed should be sought.

For example, we were advised that, where payment of Housing Benefit was being made direct to the landlord and where there was no change of address involved, the same arrangements would in a significant number of cases continue on migration to Universal Credit. That would mean that some landlords would receive the additional two weeks of Housing Benefit run-on. In law it is the claimant's benefit, and whilst it would be reasonable for landlords to offset the additional amount against any existing rent liability, not all claimants on direct payments are in rent arrears. Officials were not able to quantify how much of the £540 million allocation would go to landlords in cases where no rent arrears existed, therefore the scale of the potential issue is unclear.

In order to get a better sense of the degree to which landlords might receive an unintended bonus, during our recent meeting we explored with officials how easy it would be for landlords to identify payments of Housing Benefit that they received in such circumstances and where no rent arrears existed. This followed our being advised by some social landlords that they may not receive sufficiently detailed information relating to individual tenants. We have subsequently been advised by the Department that landlords do receive a detailed schedule setting out the precise payment to be credited against the name of individual claimants. Even so, there remains a degree of ambiguity about whether a sufficiently robust process is in place to ensure the claimant – rather than the landlord – will in practice get the benefit of the additional payment.

We cannot believe that it is the Government's intention that landlords in such cases should be the ones who benefit from this additional payment, and urge you to look at ways of addressing what we assume to be an unintended consequence as a matter of priority.

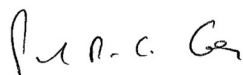
The Government's additional spending in addressing some of the well-documented issues affecting claimants waiting for their first Universal Credit payment is, as noted above, very welcome. However, it is essential to ensure that the mechanisms put in place to deliver this additional support is well targeted at those who most need it. As indicated above, we remain unconvinced that the proposed approach is sufficiently well targeted. This will be exacerbated by the likelihood that people in work, whose Housing Benefit payment would normally be partially offset by their earnings, would actually receive a higher than normal Housing Benefit payment, as the mechanism for achieving the two week payment will be for the local authority to treat them as entitled to Income Support or Jobseeker's Allowance, and therefore entitled to full Housing Benefit.

The Committee was not presented with any data that could break down who would be benefiting from this additional spending. The needs of, and risks to, different segments of the claimant population are likely to vary significantly, and it was not apparent to us that this had been sufficiently researched and considered in the design process. The

Department should take urgent steps to furnish itself with this information to inform its policy-making in this area.

There could also be a related communications challenge. Advising claimants that they would be entitled to an extra fortnight of Housing Benefit but that it would in some cases be paid directly to the landlord could lead to contention and potentially damage the landlord/tenant relationship in a situation where the additional payment was not fully absorbed by an existing rental debt.

In conclusion, while the Committee welcomes the Government's decision to provide support on this important issue, we recommend that you review the details of the policy, in consultation with relevant stakeholders, to establish how the proposed arrangements for delivering support can be improved to address the concerns we have identified.

A handwritten signature in black ink, appearing to read 'Paul Gray'.

Paul Gray
Chair

**Extract from the minutes of the
Social Security Advisory Committee meeting held on
13 December 2017**

Housing Benefit Run-on

- (a) **Could the Department explain the statement in paragraph 11 of the Explanatory Memorandum that “claimants who move on from specified or temporary accommodation will not be entitled to receive these additional payments”?**

The Department had changed the rules for claimants in specified or temporary accommodation because the system of monthly assessment periods in UC did not fit well with short term spells in such accommodation where the landlord was often unreimbursed. Rather than paying housing costs in UC, claimants would retain an entitlement to Housing Benefit. That meant that the problem of funding rented accommodation when moving to UC did not arise for these claimants. The key point was that although housing costs in these cases were met by Housing Benefit, the claimant would have already transitioned into UC.

- (b) **What would happen if a person currently on Jobseeker’s Allowance and Housing Benefit moved into temporary accommodation in an area where they had to claim UC?**

They would receive the additional payment.

- (c) **In that case paragraph 11 could be clearer.**

Noted.

- (d) **What would happen when a claimant on Housing Benefit whose rent was paid direct to the landlord moved to UC?**

The policy was that everyone would receive a two week run on of Housing Benefit. There was no need for claimants to make a separate claim for it – it would be paid automatically. Whatever payment arrangements were in place already would apply for the additional payment unless it was a change of address, in which case the payment would go to the claimant rather than the landlord.

- (e) **How many landlords would benefit?**

It was difficult to know because the Department did not have details on the proportion of claimants who were in arrears with their rent. However, for the landlord to “benefit”, the claimant would have to be on direct payment in both

the Housing Benefit system and the UC system and also up to date with their rent.

- (f) **Where new claims for UC would be made in these circumstances, what would be the proportion where the payment would go to the landlord?**

The exact proportion was not known but would be very low. The Department would endeavour to get the figures and pass them to the Committee.

- (g) **This policy could give an incentive for landlords to request direct payments in advance of their tenants being migrated to UC. There was also a more fundamental issue of taxpayers' money intended to benefit claimants going to landlords.**

These points had been considered by Ministers, but the proposals now being presented had found favour. The underlying philosophy of UC that claimants should take responsibility for their own financial affairs meant that very few UC claimants in the private sector would have their housing costs paid directly to the landlord. As far as landlords anticipating the process of migration to UC was concerned, it was unlikely that they would know when the transition would take place and who would be affected.

- (h) **If the claimant had arrears of rent and the Housing Benefit payment was made direct to the landlord, would the tenant's account be credited with the bonus? This question was asked in the context of an understanding that where a landlord had a property in which several tenants reside, payments of Housing Benefit or housing costs in UC were made in the form of an aggregated sum accompanied by a list of the tenants but without specifying the individual sum attributable to each tenant.**

The Department was not aware that that was happening. There were difficulties in finding out the precise practice in each individual local authority, but attempts would be made to discover more and get back to the Committee. It would however be surprising if such a practice was widespread as, ultimately, there needed to be a reconciliation between the payments and the individual rent account. On the question about the landlord crediting the tenant's account with the additional Housing Benefit, certainly that was what the Department expected to happen. If the claimant had rent arrears then the sum should be used to reduce them.

- (i) **Some claimants on rent direct would not know that an additional payment had been made to the landlord and would not appreciate that it was for them to ask for it back. Regardless of whether the landlord offsets rent arrears with the additional Housing Benefit or credits the tenant's account with the sum, the legal position was that the money belonged to the tenant and not the landlord.**

That was correct. The Department would ensure that this message was communicated effectively.

(j) What was the estimated overall cost of making this double payment?

The Department had calculated that there were 2.3 million people affected who would each receive an average payment of £233. This equated to an estimated total of around £540 million.

(k) If the migration to UC was planned, was it not possible to plan a way out of this difficulty?

No amount of planning could navigate the essential problem that arose when a claimant moved to a benefit which was paid in arrears at longer intervals than that to which the claimant was accustomed.

(l) Was any consideration given to clawing back this sum over a period?

Yes, but Ministers had decided that help with rent should be given to people at the point at which they needed it. It should be remembered that this was not an ongoing issue. Once people had been migrated from Housing Benefit to UC, the problem was over.

(m) The purpose of the measure was clear, but how did Ministers arrive at a decision that a two week payment would be sufficient to close the gap?

That decision was reached more on the basis of providing a significant level of help, together with other measures being put in place, whilst recognising the need to contain costs, rather than on the basis of any evaluation which concluded that a two week payment would resolve the problem in all cases.

(n) Would it be possible for a claimant to receive a two week Housing Benefit run-on payment and still get 100 per cent advance of their housing costs?

There would be little incentive for a claimant to apply for an advance of their housing costs when the need for it had been addressed. In practice making an advance in these circumstances would be unlikely.

(o) Could the Department not consider providing a five week Housing Benefit run-on, but legislate so that entitlement to UC in the first assessment period in these circumstances did not include housing costs?

The Department would consider that suggestion and come back to the Committee, although an initial reaction was that this would simply defer rather than solve the problem.

(p) Why did the run-on apply even where a claim for UC had not been determined, and could presumably be disallowed?

This provision was needed to ensure that help was available even when the claim for UC was in the process of being determined. In practice the circumstances set out in the draft regulations envisage situations where a claim for UC is required because the claimant has fallen out of work, or where the Department is moving them to UC as part of the planned migration. In such circumstances the prospects of the claimant not being entitled to UC would be remote.

2.6 The Chair advised the officials that the Committee had decided to take this particular proposal on formal reference, but would do so without conducting a public consultation. The Committee would therefore draft a report for the Secretary of State which would, in due course, be laid in Parliament with the regulations and together with the Secretary of State's response to the recommendations of the Committee.

ANNEX B

Members of the Social Security Advisory Committee

Paul Gray (Chair)
Rachael Badger
Bruce Calderwood
Carl Emmerson
Colin Godbold
Chris Goulden
Jim McCormick
Gráinne McKeever
Dominic Morris
Seyi Obakin
Judith Paterson
Charlotte Pickles
Liz Sayce
Victoria Todd





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