

**Social Security Advisory Committee
Minutes of the meeting held on 23 September 2020
Caxton House, Tothill Street, London, SW1H 9NA**

Chair: Dr Stephen Brien

Members: Carl Emmerson
Chris Goulden
Kayley Hignell
Grainne McKeeever
Charlotte Pickles
Liz Sayce

Apologies: Bruce Calderwood
Phil Jones
Dominic Morris
Jim McCormick
Seyi Obakin

1. Private session

[RESERVED IN PART]

Postal Regulations

1.4 The Chair of the Postal Regulations sub-group recommended that the following regulations be cleared by correspondence. In reaching that view, the sub-group had sought further clarification and/or information from the Department on some aspects of the proposals. The responses received from the Department, are published as an annex to the minutes for transparency.¹

- *The Tax Credits (Coronavirus, Miscellaneous Amendments) (No. 2) Regulations 2020*
- *The Statutory Sick Pay (Coronavirus) (No.5) Regulations 2020*
- *The Statutory Sick Pay (General) (Coronavirus Amendment) (No.6) Regulations 2020*

¹ The questions posed by the Committee, and responses received from DWP and HMRC can be found at annex B.

- *The Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) (Amendment) Regulations 2020*

1.5 The Committee agreed that the regulations could be cleared 'postally' without the need for officials to present them at the meeting.

2. The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations 2020

2.1 The Chair welcomed Kerstin Parker, (Deputy Director, Universal Credit Policy), Zoe Garrett, (G6, Universal Credit Policy cross-cutting strategy), Mark Vidic, (HEO, Universal Credit cross-cutting strategy) to the meeting.

2.2 Introducing the regulations, Kerstin Parker informed members that the Department had to legislate and lay under the urgency provision and needed to amend the regulations to clarify the existing regulations in line with the policy intent. The regulations made clear that to have entitlement to Universal Credit, a disabled student must already have a determination for Limited Capability for Work (LCW) and that disabled students who do not receive UC are supported through the student finance system. There were exemptions for people on benefits, and this was not to discourage people who were in education, but to support those to better their prospects of employment.

2.3 Officials provided an overview of the conditions of entitlement to Universal Credit, if a person was in full time education. For most students, who were in full time education, there was no entitlement to UC, however there were exemptions for those:

- who were in receipt of attendance allowance, disability living allowance or personal independence payment and had a determination for LCW during an award to UC or Employment Support Allowance (ESA);
- living with a partner, who was in receipt of UC;
- was responsible for a child or qualifying young person;
- was undertaking a full-time course of studying or training which is not a course of advanced education and is under the age of 21 and reached that age whilst undertaking the course

2.4 The following main questions were raised by Committee members in discussion:

- (a) **Why were the regulations being laid under the urgency provision? The Committee understood that DWP was under pressure, but the regulations were not as obvious as the others that were laid under the urgency provision.**

The regulations needed clarity that the amending regulations provide. The urgency of the regulations was driven by a recent Judicial Review. The details of the review could not be disclosed due to the confidentiality of the Judicial Review. The Consent order might be made public by the court in the next few days. The court date was set for 31 July, to challenge or concede to the Judicial Review. The legislation was laid on the 4 August with a coming into force date of 5 August. As the consent order could have potentially been settled in a few days after the 31 July, the Department's concern was that they would not have the legislation to maintain policy to ensure operational policy flows. Had the amending regulations not been in place, this could have caused a burden on the Department.

- (b) This links into the previous question, was the Judicial Review driving the urgency?**

Yes.

- (c) How would this change or improve the claimant journey? For those:**
- on UC
 - not on UC
 - in education

The regulations were drafted with extra clarity. They would give disabled people clarity, looking at different categories, e.g. those on UC who have had their Work Capability Assessment (WCA) and are in the LCW group, would continue on that path as long as they went into education, and this would not affect that. The regulations made sure that disabled students could follow the same route as any other UC claimant in education, DWP would not knock you out of UC if you had a LCW.

- (d) What would it change? How would the claim process work? Having an assessment, for LCW, therefore having eligibility to UC. How does this improve the confusion?**

From a policy perspective, the original regulations were confusing. DWP had amended and clarified the regulations, making clear that those who had already had an assessment for WCA and had a determination for LCW, were making an exception for those in education. Student Finance was separate and provided certain support for students who are disabled. The exception was for claimants on existing benefits, claimants who were on UC, or who had moved from ESA to UC, after having a WCA assessment, and determined to

have LCW. The exception was to enable them to go into education and increase their chances to get back into work.

(e) There were lots of different scenarios to be considered, for example whether or not someone was:

- **disabled**
- **a student**
- **on Universal Credit**

Could the Department provide a flow chart to understand the different situations to help to clarify the policy intent?

The Department could do that but, to clarify, someone on UC with a determination for LCW would remain on UC. If you were in full time education and had not already been determined to have LCW, then you would not be eligible to UC. There was already the student support system for students that did not fall within the DWP domain, e.g. grants.

(f) Returning to the point on how the student support system was not enough for those with disabilities with LCW, what about those who were already in education, they were not helped to stay in education?

If you were in education, then you were not eligible to UC, unless you met one of the exceptions, such as have children, in which case you could come onto UC while you were in education. Or if you had a determination for LCW on ESA, then you could move onto UC. For disabled students, UC only stepped in if they had a disability benefit, such as Personal Independence Payment. The policy intent was to protect, and prevent disruption to, someone already on UC who moved into education. To clarify the position, the Department would provide a table of the exceptions for students to get UC if they had a disability.

(g) The policy intent was not clear, for example what about students who just had student finance. Student finance was not all given as a grant, and if you were already deemed to have LCW, a disabled student could receive UC, but for a disabled student not on UC without LCW, you would only get student support. Why was it that one group could remain in education and be eligible for UC?

In cases where UC paid more than student finance, DWP would continue to pay UC, not causing disruption. For students not on UC, they would need to go onto student finance. DWP was trying to keep the customer journey

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straightforward, and financial consideration was taken into account. Someone in receipt of UC, and who had LCW, DWP wanted to support existing claimants into work and get them off benefits. Universal Credit would better their work prospects and to get into work. For someone who was disabled and on UC, student finance reduced the amount of UC received.

- (h) **The Explanatory Memorandum (EM) stated that the new regulations made clear that the policy was not to refer someone already in education for a WCA to determine LCW for the purposes of establishing entitlement to UC. Had a lot of people been trying to use to that route? The policy intent stated it would “enable disable people to better prospects of work”. What discussion had taken place with BEIS about the different groups for different situations? How much is known about the degree to which this policy enables disabled people to better their prospects of work?**

The Work and Health Directorate would be better placed to respond as they would have that conversation with BEIS/DHSC.

- (i) **What are the numbers of people trying to claim UC before the new legislation clarified the position?**

There was not a huge number. Even if there was a small number, we needed to make the legislation clearer. The number of disabled students attempting to claim up to the point the new regulations came into force was low. Disability Rights UK and Child Poverty Action Group guidance make clear that students needed to have LCW, and had advised that disabled students had no entitlement if they had not already been determined to have LCW. Vast numbers of disability students would have this guidance prior to making a claim. Some did claim. The Department was concerned about avoiding any gap between the settling of the Judicial Review claim, and the amending regulations coming into force. We were concerned there would be an influx of claims if there was a gap between the coming into force date of the regulations. The number of disabled people claiming under the old regulations was limited.

- (j) **The financial difference was not considerable and was not an issue, but what financial support would you get on UC?**

A basic maintenance loan was around £8,000 a year. On UC, for those under 25, the standard allowance would be around £300 per month, plus any housing costs, depending on the age group you were in. The £8,000 maintenance loan for disabled students who might not have housing costs, could take them off UC as it might exceed their UC personal allowance

amount (after applying relevant disregards) and leave them on student loan income only.

(k) If someone was on UC, had a LCW, they could go onto UC, and not get student finance due to being on UC?

They could get both UC and student finance. The student income disregard in UC comes into play here. If someone who was disabled, had a determination for LCW and receiving UC go into education, they would remain in UC. But if someone went into education, and was single and disabled, we would not be surprised if their student finance amount knocked them off UC because it exceeded their personal allowance amount. It would depend on their circumstances.

(l) To understand this better, could we have a few scenarios on the financial situation. For example, over 25, have children, disabled and in education, could you provide some numbers?

There were different types of financial support, but what matters is the timing, which depends on the circumstances. It's not about whether or not someone was on UC when they entered education, it's about the support they deserved as a disabled student and providing them with the extra support they might need by enabling them to go into education to better their prospects of obtaining work. For others, they would need to go through student finance, although the Department was not sure of the amount they would receive. Those in the LCW group in DWP's system would remain, some might have student income which exceeds their UC standard allowance and some not. It also depended on universities, as there is financial support through the student finance route. The Department was not saying that it would continue to support those on UC in all circumstances – even though a disabled student might continue to meet the exception, continued entitlement also depended upon individual financial circumstances. Scenarios would be helpful to set out the different circumstances. The Department would provide a flowchart outside of the meeting.

(m) Student loans would have to be paid back, would you know what's available nationally rather than locally? A flowchart on the scenario planning would be good if one could be provided. We have previously mentioned that the quality of the Equality Analysis needed to improve. There needed to be improved quality of data, and the data on characteristics was sparse. Does the Department have any data to support your statement that you are not envisaging adverse impacts of the policy?

The Department did not hold that data, and was not sure what steps were being taken to support the characteristic. There was limitation on what data was held, and a best assessment had to be made on the data available. Huge number of students would be young and, when data is not held, the Department makes judgements based on a general understanding. The data limitations cause frustrations.

(n) Would DWP start collecting data?

On the policy side, DWP was very keen to obtain data. On the operational side, the Department needs to focus its resources on making sure the service runs well and that payments are made.

(o) In terms of interaction with other departments, (BEIS/DHSC), could you share and shed light on the information available?

When making a judgement where DWP does not have data, there is a need to work with operational counterparts in UC in order to try and get an informal view. The Department makes judgements based on those discussions.

(p) Could you share that information with us?

The EA should be more explicit about data and, where that data is not held, the Department makes a judgement.

(q) What happens to people in a household where they stay longer in higher education because of their disability? What are the impacts on the different kinds of courses, for example someone taking on a life skills course? The Committee would like to understand their journey and the impact of them as a group? Additionally, the Equality Analysis references a consultation with wider groups, are you still considering taking such action, as the change would not be happening because of the Judicial Review?

The Judicial Review played a large part in timing in maintaining and clarifying the existing policy. There is a wider question, how do we monitor and keep an eye on what we are doing, and not sure if we would have consulted as we are not changing the policy.

2.5 The Chair thanked DWP officials for answering the Committee's questions and noted that a number of questions had been raised in discussion to which members would like a response before reaching a decision on whether the

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regulations need to be on taken on formal reference or not.² He asked for an early response in order that a decision could be made asap.

3. *Date of next meeting*

3.1 The Committee's next meeting was scheduled to take place on 7 October.

² Further information from the Department can be found at annex C.

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Annex A

Attendees

Guests and Officials

Item 2: Kerstin Parker, (Deputy Director, Universal Credit Policy)
Zoe Garrett (G6, Universal Credit Policy cross-cutting strategy)
Mark Vidic (HEO, Universal Credit cross-cutting strategy)

Secretariat: Denise Whitehead (Committee Secretary)
Jaishree Patel (Assistant Secretary)

**The Tax Credits (Coronavirus, Miscellaneous Amendments) (No. 2)
Regulations 2020**



Michelle Mathieson
Tax Credits and Child Benefit Policy
HM Revenue and Customs
10 South Colonnade
Canary Wharf
E14 4PU

17 July 2020

Dear Michelle

The Tax Credits (Coronavirus, Miscellaneous Amendments) Regulations 2020

Many thanks for taking the time to attend the Committee's meeting on 10 June to discuss *The Tax Credits (Coronavirus, Miscellaneous Amendments) Regulations 2020*.

As you know the Committee does not intend to take any further action. It has though, asked me to feedback some observations on the way in which communications will be cascaded to claimants in the recovery of overpayments in Tax Credits, and around reporting change of circumstances. The following observations were of concern to the Committee.

The Committee understands that HMRC are taking a measured and reasonable approach to overpayments, and this depends on what and how the claimant informs HMRC of the change. You explained to the Committee that changes to Tax Credits were posted on Gov.uk; staff guidance was in place to inform claimants of these changes; with intelligent messages on HMRC phone lines; and links to further information on the coronavirus support pages on the internet. However, the Committee is of the clear view that, during this unprecedented crisis, it may be difficult for claimants to understand the complexity of the changes and may fail to report or update HMRC on any changes in their working hours which could have an impact on their Tax Credits. This, could ultimately lead to overpayments.

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Having further reflected on this issue after the meeting, the Committee has asked for some clarity around the communication of overpayments to claimants, and the steps being taken by HMRC to notify claimants of overpayments. The Committee feels that it would be appropriate to deal with such overpayments sympathetically and that claimants should not be penalised.

The Committee is also keen to know what approach HMRC will take in communicating with claimants who are coming to the end of their furlough to make them aware of the next steps they need to take. The Committee is of the view that, as HMRC would have knowledge of people who are on furlough through Real Time Information, rather than rely on claimants to inform changes to HMRC, it would be more appropriate to contact them to ensure they do not lose out on Working Tax Credit payments to which they may be eligible.

Employers could provide another potential channel for communications for employees who are furloughed.

The Committee also had some more detailed questions in relation to the regulations. These are appended to this note. Would you be able to provide responses to these, and the points above by 24 July please?

Thank you again for attending the meeting.

Yours Sincerely,

Jaishree Patel
SSAC Secretariat

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Appendix 1

1. How will HMRC communicate the run-ons to claimants? How will claimants know to contact them at the end of the scheme and then again at the end of the 8 weeks?
2. Regulation 2(4) inserts a provision which attempts to stop the usual four-week run-on of working tax credit applying to furloughed employees and 'coronavirus impacted workers'. However, if someone has a permanent change to their hours, the four-week run-on should apply, but it seems possible that someone in that position could meet the definition of 'coronavirus' impacted worker' because there is no reference in that definition to it only involving a temporary change.
3. The regulations that govern the in-year finalisation process refer to the trading income rules in the Tax Credits Definition and Calculation of Income Regulations 2002. These regulations amend those trading income rules, will HMRC be amending the in-year finalisation regulations? Those in-year finalisation regulations make no sense now, because they refer to parts of the trading income regulations that have been amended by these regulations.
4. Why are the grants added to the claimant's taxable profits when the intention in the tax system is for the grants to already be part of the claimant's taxable profit?
5. Why are Coronavirus Job Retention Scheme payments excluded as trading income? The Universal Credit (Coronavirus) (Self-employed Claimant and Reclaims) (Amendment) Regulations 2020 exclude Coronavirus Job Retention Scheme payments but also disallow a deduction for the related wages as an expense.
6. The Universal Credit (Coronavirus) (Self-employed Claimant and Reclaims) (Amendment) Regulations 2020 include the Self-employment Income Support Scheme grant as income which means other grants are not included as income. These regulations include other grants, such as the small business grant, as income for Tax Credits. What is the rationale for the difference in treatment between Universal Credit and Tax Credits, as the difference is quite significant for a low income self-employed Universal Credit claimant against a tax credit claimant.



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27 July 2020

Dear Jaishree

The Tax Credits (Coronavirus, Miscellaneous Amendments) Regulations 2020

Thank you for your letter of 17 July seeking further clarification on a number of measures included in the regulations. I provide a response below that addresses the points raised in turn.

Committee members have asked for details on how HMRC intend to handle overpayments and what approach will be taken with regards to recovery. HMRC's approach to recovery differs from that taken by DWP. HMRC has adopted a customer-led approach to overpayment and debt repayment flexibilities: where claimants contact us with concerns about repaying overpayments or debt, we will discuss the range of flexibilities available including opportunities to pause recovery. Recognising that the Coronavirus context may mean customers require additional flexibilities, HMRC temporarily extended its existing hardship arrangements to ensure anyone requesting a pause to overpayment / debt recovery could access a 12-week pause to recovery, even if they did not meet previous hardship criteria. Claimants have been able to request such a pause since late April, and access to this temporary easement will end on 31 July (when longstanding hardship arrangements will resume).

Committee members have also requested information on how HMRC intends to inform claimants of the steps they need to take once furloughing has ended. Regarding the use of Real Time information (RTI) information to contact furloughed employees, HMRC will not be using RTI to contact furloughed employees as RTI reporting was not used for the purposes of accessing the Coronavirus Job Retention Scheme (CJRS) or reporting when someone was placed on furlough and received their wages through the CJRS grant. We will however be considering how we contact claimants who have been furloughed as part of our overarching communication strategy.

For ease of reference I have provided replies to the series of questions posed by Committee members in the appendix to this letter. I hope this response clarifies the situation but do let me know if I can be of further help.

Michelle Mathieson

Policy Advisor, Tax Credits and Child Benefit Policy

- 1. How will HMRC communicate the run-ons to claimants? How will claimants know to contact them at the end of the scheme and then again at the end of the 8 weeks?**

We are reviewing our overarching Covid-19 communication strategy to ensure targeted communications for claimants receiving Covid-19 support. We aim to provide claimants with relevant information in a timely manner and will be working across the business to develop and implement changes to our communications over the coming months as each easement is phased out.

For tax credits claimants impacted by the 8-week run-on, we will review our normal business practice of updating guidance for HMRC staff in line with updates to external communications and claimant guidance. HMRC will also inform the Tax Credits Consultation Forum of the planned changes with the expectation that the representative bodies who attend will disseminate further.

- 2. Regulation 2(4) inserts a provision which attempts to stop the usual four-week run-on of working tax credit applying to furloughed employees and 'coronavirus impacted workers'. However, if someone has a permanent change to their hours, the four-week run-on should apply, but it seems possible that someone in that position could meet the definition of 'coronavirus' impacted worker' because there is no reference in that definition to it only involving a temporary change.**

Paragraph (3) of regulation 2 of the Tax Credits (Coronavirus, Miscellaneous Amendments) Regulations 2020 inserts a new subparagraph (da) into regulation 4(1A) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 ("the Entitlement Regs"). This provision defines the circumstances in which regulation 7E of the Entitlement Regs is to be applied and requires any reduction in hours to be i) as a consequence of coronavirus and ii) temporary in nature.

- 3. The regulations that govern the in-year finalisation process refer to the trading income rules in the Tax Credits Definition and Calculation of Income Regulations 2002. These regulations amend those trading income rules, will HMRC be amending the in-year finalisation regulations? Those in-year finalisation regulations make no sense now, because they refer to parts of the trading income regulations that have been amended by these regulations.**
- 4. Why are the grants added to the claimant's taxable profits when the intention in the tax system is for the grants to already be part of the claimant's taxable profit?**

- 5. Why are Coronavirus Job Retention Scheme payments excluded as trading income? The Universal Credit (Coronavirus) (Self-employed Claimant and Reclaims) (Amendment) Regulations 2020 exclude Coronavirus Job Retention Scheme payments but also disallow a deduction for the related wages as an expense.**

- 6. The Universal Credit (Coronavirus) (Self-employed Claimant and Reclaims) (Amendment) Regulations 2020 include the Self-employment Income Support Scheme grant as income which means other grants are not included as income. These regulations include other grants, such as the small business grant, as income for Tax Credits. What is the rationale for the difference in treatment between Universal Credit and Tax Credits, as the difference is quite significant for a low income self-employed Universal Credit claimant against a tax credit claimant.**

We needed to legislate at pace to take account of the support schemes introduced in response to the Covid-19 pandemic. With hindsight we've identified areas that may need to be refined to give effect to the policy intent following the Finance Act which has subsequently provided for the taxable status of the schemes. If changes to our regulations are necessary, we will again consult with SSAC to seek members' views.

The Statutory Sick Pay (Coronavirus) (No.5) Regulations 2020

A summary of the Committee's questions, and responses received from DWP:

- 1. The Department of Health statement is that the self-isolation payment will not reduce any other benefits that the person receives – could DWP confirm that this applies to UC claimants who are receiving SSP, now for 10 days rather than 7, due to Covid 19?**

The policy intent is that NHS Self-Isolation Payments should not affect Universal Credit payments.

Also for extra information regarding the announcement on Sunday:

From 28th September a new £500 Test and Trace Support payment will be introduced for working people who are on low incomes and cannot work from home who are required by NHS Test and Trace to remain at home to help stop the spread of the virus.

To be eligible for the Test and Trace Support Payment, an individual must:

- have been asked to self-isolate by NHS Test and Trace either because they've tested positive for coronavirus or have recently been in close contact with someone who has tested positive;*
- be employed or self-employed;*
- be unable to work from home and will lose income as a result; and*
- be currently receiving Universal Credit, Working Tax Credit, income-based Employment and Support Allowance, income-based Jobseeker's Allowance, Income Support, Housing Benefit and/or Pension Credit.*

The Statutory Sick Pay (General) (Coronavirus Amendment) (No.6) Regulations 2020

A summary of the Committee's questions, and responses received from DWP:

- 1. Someone who is isolating and is nearing the end of their 14 day isolation period, is given a new date as the surgery is postponed, can SSP be extended/repeated so that they are covered? Would you also need to provide another letter to self-isolate if the operation is postponed?**

Yes. If someone who was self - isolating prior to being admitted to hospital for a planned procedure (eg surgery), and the procedure is postponed, that person may still be eligible for SSP (if they meet other SSP eligibility criteria) if they are required to self-isolate again when the procedure is re -scheduled.

Yes, they would need to have a new pre-surgery notification and would need to have been advised to isolate again prior to the new procedure date.

The Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) (Amendment) Regulations 2020

Could we have reassurance from DWP (and DfC) that no-one has lost out because of the technical 'error' that is now being corrected?

DWP can confirm that no person lost out, DWP have received confirmation from DfC that this was the case for them as well.

The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations 2020

1. A flowchart illustrating scenario planning for different circumstances providing further clarity on the financial support available to claimants in different circumstances eg:
 - a. A disabled person on UC;
 - b. A disabled student in receipt of a grant (loan)
 - c. The over or under 25s
 - d. A disabled person with children and in education.

The Committee would like a flow chart setting out the different scenarios and financial implications. There is also a variation in the terms of offering grants and bursaries to support disabled people. They would also like to see a national framework of grants/bursaries available to disabled people.

Please see Appendix 1, which sets out how the timing of a disabled person's move into education interacts with eligibility for UC under The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations 2020, which were laid to give legal clarity to existing policy - there has been no change in policy. I think that the initial request at the meeting was for a table to be provided, rather than a flow chart, and I hope that the Committee is content to receive the information in tabular form as the short time frame and detail of the data to be illustrated made it difficult to do so in the form of a flow chart.

Please see Appendix 2, which sets out the various scenarios which you had asked be included, and Appendix 3 which sets out the various grants/support that is available across the UK which recognise a student's disability. We explained during the session how UC entitlement would be affected and as the scenarios show UC entitlement can go down for someone who enters full time education (ie in scenario 1 the person would be getting their full standard allowance, but in scenario 5 the person would have all of their standard allowance tapered away because of the additional student finance they would be getting). Of course the total amount that someone would be getting when taking UC and student finance together in most cases would be either the same or larger for someone already on UC. Moreover student finance is a loan whereas UC is not. However, we are clear that student finance should be the main income for students and the exception we are making is for those who were already on UC with LCW because the policy intent is to ensure that we do not discourage people who are on UC from moving into full-time education.

- 2. The Committee is keen to understand whether there will be a change/improvement in the claimant journey due to the amending regulations. The Department has identified that there will be a small set of group of people with will be affected by this change, and the Committee would like to receive further information on this please.**

For both existing claimants, i.e. those already receiving UC, and those making a claim in the future there is/will be no change to the claimant's journey because there's been no change in policy. However, the amended regulations will provide clarity going forward around the conditions of entitlement to UC for a disabled student. The regulations were amended because the (then) regulations arguably did not provide the clarity which disabled students would ideally have had and this had resulted in a small number of students making claims to UC which were refused. The clarity which the new regulations provide should prevent this going forward.

- 3. As the policy intent is for disabled people to better their prospects of employment, the Committee is keen to understand what engagement there has been with BEIS and DHSC to look at the different groups/different scenarios? What evidence is there that this policy better supports disabled people into work?**

As mentioned above and during the meeting, there has been no policy change therefore there was no consultation done ahead of laying the regulations. There is a general, long standing, policy intent to help UC claimants, including those with a disability, to better their future prospects for work where appropriate, including those who wish to do this as a Student who have a pre-established LCW but not for those who have not yet claimed UC. These individuals instead must avail themselves of financial help through student finance, which falls under the remit of DfE and the relevant devolved administrations. There is currently no readily available data for DWP analysts to evidence the efficacy of the existing policy, though we are exploring what data is available on students who are on UC. However, it is safe to say that it can only be of help rather than a hindrance to those disabled UC claimants who have chosen to benefit from the current policy of being able to enter full-time education.

APPENDIX 1: Entering education – impact on UC eligibility

Level of education	Circumstances	Eligible for UC?	Other available support (in addition to disability benefits)
Advance (i.e. above A Level equivalent)	Disabled* person already in FT advanced education and has not already been determined to have LCW (i.e. during an award of ESA)	No	Student Finance (SF), i.e. tuition fees and maintenance loans + grants which recognise disability. New Style ESA if paid sufficient contributions.
	Disabled person already in FT advanced education and has already been determined to have LCW (i.e. during an award of ESA and moving to UC)	Yes	SF, as above, which will be supplemented by continued entitlement to UC unless the maintenance loan is more than the award of UC (depends upon individual circumstances), in which case UC entitlement ends.
	Disabled person not currently in FT advanced education but moves into it after making a claim to UC and after having been determined to have LCW.	Yes – can continue if starts in FT education**	SF, as above, which will be supplemented by continued entitlement to UC unless the maintenance loan is more than the award of UC (depends upon individual circumstances), in which case UC entitlement ends.
Non-advance (i.e. up to A Level equivalent)	In each of the three circumstances above, if the person were in FT <u>non-advance</u> education (e.g. a young adult in their 20s with learning difficulties) it would be the same UC eligibility outcome if the person is receiving a grant or bursary which is intended to cover the person's maintenance. If the person does not receive such a grant or bursary they are not treated as receiving education if the course is determined by a Work Coach to be compatible with the person's work related requirements and they would then be eligible for UC. The level of support for non-advance courses from SF is different – no tuition fee or maintenance loans, which are replaced by grants.		
	<p>Qualifying Young Persons (QYPs) – In UC a QYP is a person aged over 16 but yet to reach 1st September following their 19th birthday and who is enrolled on or accepted for a course on non-advanced education which exceeds 12hrs per week on average during term time. A QYP remains the responsibility of their parents who, in addition to PIP, can get child benefit and, if the parent receives UC, the Child Element of UC.</p> <p>A QYP could receive UC in their own right as a disabled student in limited circumstances (which remain unchanged by the amended regulations) if they had already been determined to have LCW. E.g. (1) move across from ESA with LCW, (2) were already receiving UC as a 16/17-year-old providing medical evidence that they are not fit for work as they had left FT non-advance education, but chose to go back into non-advanced education once they had been determined to have LCW.</p>		

* i.e. entitled to PIP/DLA/AA

**This is the policy in operation. Namely to enable a disabled UC claimant who's already been determined to have LCW (either during an award of UC or whilst claiming ESA and moving to UC) to be able to move into education and better their prospects of obtaining employment.

NB: The above is based upon the person having to satisfy the exception under reg 14(1)(b) of The Universal Credit (Exceptions to the Requirement not to be receiving Education) (Amendment) Regulations 2020. However, a disabled student who is not eligible to UC under the circumstances set out above would otherwise be eligible if they satisfy one of the other exceptions under regulation 14(1), namely if they are;

- living with their partner and the partner is eligible for UC
- responsible for a child, either as a single person or as a couple
- in 'non-advanced education', are 21 or under and don't have parental support

Appendix 2: Scenarios

Scenario	Under age 25	Over age 25
1. Receiving UC. Disabled person* with LCW not in FT advanced education. Living with parents.	£4112.64 UC (Standard Allowance) + £3104.40 PIP. Total = £7217.04 Social Security benefits.	£4918.68 UC (Standard Allowance) + £3104.40 PIP. Total = £8023.08 Social Security benefits.
2. Receiving UC. Disabled person with LCW not in FT advanced education. Own accommodation, pays £500pcm rent.	£10112.64 UC (£4112.64 Standard Allowance + £6000 Housing Element) + £3104.40 PIP. Total = £13217.04 Social Security benefits.	£10918.68 UC (£4918.68 Standard Allowance + £6000 Housing Element) + £3104.40 PIP. Total = £14023.08 Social Security benefits.
3. Not receiving UC. Disabled student in FT advanced education, living with parents.	£9140 maintenance loan (same whether under or over 25), + £1954 Disabled Student Allowance (DSA), £3104.40 PIP. Total = £14198.40 mix of Social Security benefits and Student Finance.	
4. Not receiving UC. Disabled student in FT advanced education, own accommodation, pays £500pcm rent.	£10490 maintenance loan (same whether under or over 25), + £1954 Disabled Student Allowance, £3104.40 PIP. Total = £15548.40 mix of Social Security benefits and Student Finance.	
5. Disabled person already claiming UC with LCW goes into FT advanced education during an award of UC. Living with parents.	No longer entitled to UC. The £4112.64 UC Standard Allowance is exceeded by the amount of maintenance loan taken into account (£4147) after relevant disregards (£4993) are applied to the original £9140 loan. The person will lose entitlement to UC and receive £9140 loan + £3104.40 PIP + £1954 DSA. Total = £14198.40 mix of Social Security benefits and Student Finance.	Retains entitlement to UC. The £4918.68 UC Standard Allowance is more than the maintenance loan taken into account (£4147) after relevant disregards (£4993) are applied to the original £9140 loan. The person will retain entitlement to £771.68 UC which will supplement the £9140 maintenance loan + £1954 DSA + £3104.40 PIP. Total = £14970.08 mix of Social Security benefits and Student Finance.
6. Disabled person already claiming UC with LCW goes into FT advanced education during an award of UC. Own accommodation, pays £500pcm rent.	Retains entitlement to UC. The £4112.64 Standard Allowance + £6000 Housing Element totals £10012.64 UC. This is more than the maintenance loan taken into account (£5497) after relevant disregards (£4993) are applied to the original £10490 loan. The person will retain entitlement to £4515.64 UC which will supplement the £10490 maintenance loan + £1954 DSA + £3104.40 PIP. Total = £20064.04 mix of Social Security benefits and Student Finance.	Retains entitlement to UC. The £4918.68 Standard Allowance + £6000 Housing Element totals £10918.68 UC. This is more than the maintenance loan taken into account (£5497) after relevant disregards (£4993) are applied to the original £10490 loan. The person will retain entitlement to £5421.68 UC which will supplement the £10490 maintenance loan + £1954 DSA + £3104.40 PIP. Total = £20970.08 mix of Social Security benefits and Student Finance.
7. Receiving UC. Disabled student with a child in FT education. Own accommodation, pays £500pcm rent. Has entitlement to UC by way of a different	£12942.60 UC (£4112.64 Standard Allowance + £6000 Housing Element + £2829.96 Child Element). This is more than the maintenance loan taken into account (£5497) after relevant disregards (£4993)	£13748.64 UC (£4918.68 Standard Allowance + £6000 Housing Element + £2829.96 Child Element). This is more than the maintenance loan taken into account (£5497) after relevant disregards (£4993)

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<p>exception, i.e. under UC reg 14(1)(c) – responsible for a child or Qualifying Young Person.</p>	<p>are applied to the original £10490 loan. The person will retain entitlement to £7445.60 UC which will supplement the £10490 maintenance loan + £1954 DSA + £1766 Parent Learning Allowance + £1094.60 Child Benefit + £3104.40 PIP. Total = £25,854 mix of Social Security benefits and Student Finance.</p>	<p>are applied to the original £10490 loan. The person will retain entitlement to £8251.64 UC which will supplement the £10490 maintenance loan + £1954 DSA + £1766 Parent Learning Allowance + £1094.60 Child Benefit + £3104.40 PIP. Total = £26660.64 mix of Social Security benefits and Student Finance</p>
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*All scenarios are single people (receiving PIP) because if in a couple and the other person is not in education (or meets an exception from the requirement not to be) they are eligible for UC as a couple.

The figures are a representation of what a person might get and not intended to be exactly what they would get.

Scenarios do not cover non-advance education as the amount of grant payable is discretionary.

Whilst there are various rates of PIP and DSA, the lowest amounts have been assumed for illustrative purposes only. The maintenance loan figure is that provided by Student Finance England for academic year 2020/2021.

Appendix 3: Disability grants and support

Higher (advanced) education

Disabled Students Allowance (available across the UK)

England & Wales

General Allowance: up to £1954 per year

Special Equipment Allowance: up to £5489 per year

Non-medical Helpers Allowance: up to £23,258 per year

<https://www.gov.uk/disabled-students-allowances-dsas>

<https://www.studentfinancewales.co.uk/undergraduate-students/new-students/what-financial-support-is-available/disabled-students-allowances.aspx>

Scotland

General Allowance: up to £1725 per year

Special Equipment Allowance: up to £5160 per year

Non-medical Helpers Allowance: up to £20,520 per year

<https://www.saas.gov.uk/files/402/saas-dsa-notes.pdf>

Northern Ireland

Maximum total allowance is £10,469 per year

<https://www.studentfinancenir.co.uk/types-of-finance/postgraduate/northern-ireland-student/extra-help/disabled-students-allowances/what-are-they/>

Further (non-advanced) education

Discretionary grants (UK wide)

Discretionary Support Funds provide discretionary grants to disadvantaged students, such as those with a disability, to help with the costs of further education.

<https://www.disabilityrightsuk.org/funding-further-education-disabled-studen>

Educational Health Care Plans

Available for children and young students in England who need more support than is available through special educational needs support. Financial help is delivered through the relevant Local Authority. Similar help is available in the rest of the UK.

England

<https://www.gov.uk/children-with-special-educational-needs/extra-SEN-help>

Wales

<https://contact.org.uk/advice-and-support/education-learning/education-in-northern-ireland-scotland-wales/all-about-the-statement-of-special-educational-needs/>

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Scotland

https://eacea.ec.europa.eu/national-policies/eurydice/content/special-education-needs-provision-within-mainstream-education-79_en

Northern Ireland

<https://www.eani.org.uk/parents/special-educational-needs-sen/special-educational-needs-general-information>