



12 November 2024

Dear Stephen

The Social Fund Winter Fuel Payments Regulations 2024

Thank you for your letter of 20 September 2024 and for the Committee's recommendations relating to the Winter Fuel Payments Regulations 2024. I welcome the Committee's scrutiny and am grateful for its understanding of the reasons for making these Regulations under the urgency procedure. I agree that this route should be taken only exceptionally. The exception in this case arises from the imperative to make Exchequer savings in the current financial year (whilst retaining Winter Fuel Payments for those on the lowest incomes), given the broader position on public finances which the Government has inherited.

My responses to the Committee's recommendations are as follows.

[1] We recommend that the DWP publishes the value of the direct savings from the reduction in eligibility of Winter Fuel Payments and separately the offsetting cost of different levels of additional Pension Credit take-up. This would provide a better explanation of how the costs and savings balance out and enable a clearer assessment of whether the stated policy intent is likely to be achieved.

The savings outlined in *Fixing the foundations: public spending audit 2024-25* included estimated changes to Pension Credit take-up. Final costings have been certified and published by the Office for Budget Responsibility at the Autumn Budget, taking account of any behavioural response and the estimated numbers of people who will receive Pension Credit in the upcoming years.

[2] We would welcome urgent reassurance that sufficient resources are being put in place to ensure that the average processing time for successful claims will not increase this autumn.

My Department is significantly increasing the resource on Pension Credit to ensure it processes claims as quickly as possible, including deploying over 500 additional staff to support the increase in applications generated from the successful Pension Credit take-up campaign. The Department has a strong desire to meet its published timeliness standard of processing claims but that will depend on the complexity of claims and overall level of claims intake. There are escalation arrangements for cases where individuals are identified as being vulnerable or in immediate hardship. People will not miss out on Winter Fuel Payments even if the Pension Credit claim takes longer to process than usual. If a claim is made by 21 December, Pension Credit can be backdated for three months if the entitlement conditions have been met throughout that period which extends back to the qualifying week for this year's Winter Fuel Payment or its Scottish Government replacement.

[3] If it is not possible to expediate the migration of the 5,000 pensioners in receipt of Child Tax Credits across to Pension Credit, we recommend that you consider ameliorating this concern by introducing an urgent amendment to these regulations providing protection for any pensioners who inadvertently find themselves disadvantaged by responding to the current take-up campaign.

We consider that for most of the pension-age tax credit customer groups (including those being migrated to either Pension Credit or Universal Credit) the risk of missing out on transitional protection due to claiming in advance of managed-migration is low. Indeed, the risk is likely to be limited to mixed-age couples that chose to apply for Universal Credit before receiving their migration notice.

To prevent this, we have focused on ensuring that our communications set out that Working Tax Credit and Child Tax Credit are qualifying benefits for the Winter Fuel Payment and ensuring agents in HMRC and DWP have appropriate lines to respond to enquiries from claimants. Our external messaging also re-emphasised that tax credit customers must wait until they are invited before applying for Universal Credit or Pension Credit.

The Committee may wish to know that the majority of pensioners being “migrated” to Pension Credit are already in receipt of Pension Credit and some element of tax credits. This cohort also receive a tax credit closure notice (the Pension Credit equivalent of the Universal Credit migration notice) and are considered for transitional protection at the point their tax credit award is closed. This means that any other pension-age tax credit claimant who was eligible to apply for Pension Credit and successfully did so before being sent a tax credit closure notice (or migration notice) would flow into this cohort. They would subsequently be issued with a tax credit closure notice as an existing Pension Credit claimant, which would enable transitional protection to be awarded, if applicable.

[4] We consider it essential that the Department urgently reviews its current Pension Credit take-up campaign to ensure these receiving Attendance Allowance, Disability Living Allowance and Personal Independence Payment are sufficiently engaged and aware of the options available to them.

The Government’s Pension Credit awareness campaign is aimed at encouraging everyone who could be entitled, to claim. The latest figures show that my Department received around 74,400 Pension Credit claims in the eight weeks following the Chancellor’s public finances statement on 29 July, compared to around 29,500 in the eight weeks preceding the announcement, an increase of 152%.

The Department expects an increase in Attendance Allowance claims since Attendance Allowance can give rise to a disability amount in Pension Credit, this means that Pension Credit is available to households higher up the income distribution if they include a disabled person.

[5] We recommend that you consider bringing forward an urgent amendment to these regulations which would – for this year only – passport those in receipt of the full rate of pensioner Housing Benefit onto Winter Fuel Payment. In doing so, the Department can emphasise the need to claim Pension Credit to qualify for next year’s payment and encourage them to do so.

We would encourage the government to assess the equity of excluding housing benefit as a qualifying benefit on the basis of incomes after housing costs, rather than on the basis of gross incomes.

We are determined to do everything we can to maximise take-up of Pension Credit. That is why the Department is directly contacting approximately 120,000 pensioner households who are in receipt of Housing Benefit and who may be eligible for, but not currently claiming, Pension Credit

to encourage them to make a claim. It will continue to work with external partners, local authorities and the Devolved Governments to maximise the take-up of Pension Credit. In the longer term the Department will also bring together the administration of Pension Credit and Housing Benefit so that pensioners claiming Housing Benefit also receive any Pension Credit they are entitled to.

The Department is also writing to all pensioner households in Great Britain to advise them of the changes to Winter Fuel Payments, including (for those in Scotland) the replacement of these Payments by devolved provision, and to encourage people to check their eligibility for Pension Credit.

[6] The Committee seeks a clear understanding of those pensioners who may fall into poverty, and what percentage of these are in older households – in particular those who reached state pension age prior to 2016 and therefore are unable to receive the new state pension. It also seeks confirmation on the extent to which evidence is already held in this respect, including the degree to which there is an understanding of: whether there is a disparity across any data held on protected characteristics - beyond the greater financial impact for older pensioners – of the forthcoming change. One example of where this might arise is where there is differential take-up of Pension Credit among those who are eligible for it; and, how many pensioners already in poverty would find themselves in deeper poverty – especially among the entitled but not in receipt of Pension Credit. For example, we understand that the ethnicity profile has not been considered. If specific administrative data does not exist, a first principles consideration of the issue would be welcome.

The equality analysis included consideration of the Pension Credit take-up official statistics [Income-related benefits: estimates of take-up: financial year ending 2022 - GOV.UK](https://www.gov.uk/government/statistics/income-related-benefits-estimates-of-take-up-financial-year-ending-2022) (www.gov.uk). These include breakdowns by age and family status.

For other protected characteristics, there is general uncertainty in the estimates of those who are eligible for Pension Credit but not in receipt of it, given the complexity of estimation. The Family Resources Survey (FRS), used in the estimation of the difference between the potentially eligible population and those in receipt of Pension Credit, is not designed specifically to measure entitlement criteria to the same extent as an application for benefit. It is a multi-purpose household survey. The estimates are also based on Policy Simulation Model data, which is modelled from FRS data, and are therefore subject to sampling variation and other forms of error associated with a sample survey.

I am assured that my Department will, as part of our ongoing duties, continue to review the information available to understand those with protected characteristics that are entitled but not receiving Pension Credit.

[7] We also consider it important that the Public Sector Equality Duty analysis is followed through. Having identified any disparities in impact across protected groups, we would like to have a greater understanding of how this evidence has influenced, and been reflected in, the regulations. For example, what anticipatory actions have been taken; and what types of disparity are considered a necessary consequence of the policy intent?

The principal mitigations to ensure that Winter Fuel Payments are received by those on the lowest incomes are the initiatives outlined above to maximise the take-up of Pension Credit, and the inclusion of most other means-tested benefits and tax credits as qualifying benefits. This is particularly important in the cases of couples in receipt of Universal Credit where one partner is above State Pension age, for single pensioners who are transferring from Working Tax Credit to Universal Credit, and for pensioners with responsibility for children who are transferring from Child Tax Credit to Pension Credit or Universal Credit. I can also confirm that all pensioners entitled to a Winter Fuel Payment in England and Wales this year will receive it automatically by virtue of receipt of a qualifying benefit or tax credit, to ensure the smoothest service possible. I have agreed with the Scottish Government that this will also be the case for the devolved replacement for Winter Fuel Payments there.

I trust you will find this information helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Liz Kendall'. The signature is written in a cursive, flowing style.

RT HON LIZ KENDALL MP