

## Consultation on Universal Credit (Transitional provisions) (Managed Migration) Amendment Regulations 2018

Gingerbread written submission to the Social Security Advisory Committee

### About Gingerbread

Gingerbread is the leading charity working with single parent families. We campaign against poverty, disadvantage and stigma to promote fair and equal treatment and opportunity for single parents and their families. Over 800,000 single parents visited our website last year, many of them seeking the expert information and advice we provide online and through our helpline.

### 1. The overall migration timetable

- 1.1 The government must learn from the failings of previous large-scale migration to tax credits and reflect lessons in moving claimants onto Universal Credit.
- 1.2 The government should confirm as part of the pilot phase that intended improvements and safeguards (eg to identify claimants who should be classed as vulnerable or with complex needs, and therefore require additional time and support to move onto UC) are in place and robust before extending roll-out.
- 1.3 At the very least, a slower roll out must be planned:
  - Many of the problems [in current transitions to UC](#) have emerged as the roll-out has gathered pace, when Jobcentre Plus staff have not had the same resource to dedicate to new claims as the early stages of roll-out.
  - The estimated pace of managed migration is considerable. The [current timetable suggests](#) that 95,000 individuals / 69,000 households a month are expected to move to UC between January 2019 and 2023. Between July 2017 and December 2017, the average number of new claims was around 56,000 per month. Many single parents moving onto UC have experienced numerous problems and delays with the transition itself. The government recognised some of these problems in transition, making [some concessions](#) in the 2017 Budget, most notably scrapping the seven-day waiting period to receive payments, and improving the advance payments system which means claimants don't have periods between receiving benefits without financial support.
  - To avoid similar mistakes and genuinely follow the 'test and learn' process, the government must not rush managed migration.

### 2. Arrangements for contacting claimants and inviting claims from them

- 2.1 It is vital to ensure the notification processes have robust safeguards. The consequences of someone not making a claim for UC by the specified time cannot be overstated – not only a loss of benefits, but extremely limited access to backdating and a loss of transitional protection.

2.2 The DWP should make activity and communication during the 'comprehensive preparation period' clearer and prioritise this stage as a vital part of awareness raising and preparation. In particular:

- The DWP should ensure they are engaging with third parties who work with claimants to raise awareness about managed migration to ensure consistent messaging, signposting to the additional support available, and guidance on how to flag support needs with the DWP.
- The DWP should also learn from tax credits to review the combination of channels for raising awareness of the process for managed migration, and understand where claimants receive information such as TV, radio and targeted social media.

2.3 Better safeguards at the notification stage are needed. Given DWP's claimant survey showed over two-fifths (43%) said they needed more support to register their UC claim, it's clear that many claimants will not find the process of making a claim straightforward, which may result in delays to a correct claim. As a result, we have concerns about the potentially narrow definition of those classed as 'vulnerable' or with 'complex needs' who may need additional time beyond the standard one month (see paragraph 42 of the explanatory memorandum), or those who may fall foul of DWP discretion in assessing who has good reason to extend the deadline day.

- Clear information should be included in the notification letter on what transitional protection is, and the risk of losing transitional protection if a UC claim is not made in time.
- The notification and any subsequent communication must make clear the circumstances which may be treated as 'good reason' for extending the deadline (regulation 45(1)), and the process and timescales for requesting an extension.
- Better safeguards are needed against losing transitional protection as a result of just missing the deadline day to make a claim or request an extension. Regulations should be amended to allow backdating according to the 'good reason' principle set out for requesting a deadline day extension, rather than the very limited grounds for backdating under existing UC regulations (see paragraph 43 of the explanatory memorandum). In particular, amendments should include 'good reason' circumstances such as a domestic emergency or caring responsibilities as reasons for backdating. This would ensure consistency with the DWP's approach to assessing whether a claimant is vulnerable or has complex needs which would require additional time and/or support to make a claim.
- More clarity for separating couples to ensure those who are separating at the point at which they receive their notification letter know they can claim UC straight away rather than wait for 6 months. Amend Annex 1(p35) to adding the wording in **bold** below:
  - If they are part of a couple, **or if they are temporarily living apart for less than six months**, both members will need to apply to make a joint claim
  - If they are **or were** part of a couple and have lived apart or are likely to live apart **for six months or more**, they will each have to make a separate claim for UC **straight away**.

### 3. Issues associated with making a claim, and ending legacy benefit claims

- 3.1 There is a strong argument to allow legacy payment run-on for two weeks similar to housing benefit. This is particularly the case with working tax credit support for childcare costs. If this support is lost in the interim period, single parents run the risk of not being able to pay their childcare costs, placing jobs at risk. This protection is warranted, given the existing experience of UC childcare support – where DWP, Gingerbread and Oxfam research has consistently shown parents finding it difficult to access the childcare element and lost jobs as a result.
- 3.2 There is ample evidence illustrating the difficulties in registering a UC claim on line. The DWP's [own commissioned research](#) has found a significant proportion of UC claimants saying that they needed help in registering their claim online with 43 per cent of claimants saying they needed more support to register their UC claim; and just under a third (31 per cent) saying they would need ongoing support with their online account.
- 3.3 Given the difficulties existing UC claimants have had in registering a claim, there is a strong case for better safeguards when making a claim and ending legacy claims to ensure transitional protection is not lost due to administrative complications:
  - As above, allow backdating within one month of the deadline day using the same rules for allowing a deadline extension, ie the 'good reason' principle as per paras 34 and 36 of explanatory memorandum.
  - Amend Regulation 48 to allow transitional protection if another UC claim is submitted by or before the original deadline day specified in the migration notice.

### 4. The calculation of transitional protection

- 4.1 *Capital disregard*: While welcome, the change in capital rules has a potentially significant impact for separated families. People will have made decisions in separation proceedings based on tax credits rules, where there is no capital threshold. The change after 12 months will be a significant shift which has not been planned for. For women in particular, who may be awarded capital settlements (eg main residence for the children in a separated family), may be adversely affected.
- 4.2 *Application to a subsequent award*: 3-month rule for temporary spikes could be a major disincentive to taking on additional work or temporary contracts for more than 3 months where earnings reduce UC to nil, as transitional protection will cease to be applied to a further UC claim. Claimants who had a transitional element in their UC claim before it ended due to the increase in earnings will therefore be worse off when they reclaim UC once their earnings fall again if it is more than 3 months later. If this clause is to be pursued, there is a case to allow a longer period of at least 12 months between UC awards in this situation before terminating transitional protection. This will help to maximise work incentives and also to ensure that those with no choice (e.g. involuntary overtime) are not adversely affected.
- 4.3 *Childcare costs element disregard* is welcome, particularly given propensity for single parents to enter temporary work.
- 4.4 *Circumstances when transitional protection ceases*: While this allows a three-month grace period for a drop in earnings below the relevant earning threshold, before

protection is withdrawn, this is still significantly limited. This provision adversely affects those who have no choice/control over a loss of earnings for more than 3 months. We would like to see this provision scrapped; or at the very least a 12 month grace period. This would ensure that the following groups are not unduly penalised:

- Single parents on maternity leave who are not entitled to statutory maternity pay, including those who get maternity allowance instead
- Those who may need to stop working or reduce their hours of work for a few months due to problems with childcare, or due to illness or disability or to care for a child (or other dependent) – particularly single parents, who have no other partner to make up lost earnings in the household
- Those with no control over the amount of work they are offered or when they are made redundant/stop work, for example those in temporary work, on zero-hours contracts or who are agency workers. [Research](#) shows single parents have been particularly affected by this type of insecure work in recent years, and face greater barriers to find work that fits their caring responsibilities and/or suitable childcare within the three month grace period
- Self-employed people who are not subject to the minimum income floor (ie they are not subject to all work-related requirements, such as single parents with a child under three) would lose their transitional protection if their earnings drop below this level for more than 3 months.

4.5 This is particularly concerning, given the impact on single parents, as there is potential for (indirect) discrimination – particularly on the grounds of sex and disability, which affect caring responsibilities and the ability to find work within the three month grace period.

## 5. The impact of proposed transitional protection

- 5.1 Transitional protection rules are complicated; furthermore, the lack of safeguards when making a new claim and perverse incentives in the rules for ending transitional protection mean that many claimants are likely to face unpredictability of income.
- 5.2 Recent [research](#) has shown how damaging and chaotic fluctuating income under poorly administered UC claims has been to date; this is an opportunity to ensure the process is as fair and smooth as possible to minimise these effects. The amendments outlined above would go some way to ensuring unnecessary losses are more limited than current proposals imply.

## 6. The impact on workers, including the self-employed

- 6.1 As we have [argued elsewhere](#), Gingerbread would like to see a full start-up period of 12 months for claimants before applying the Minimum Income Floor (MIF), regardless of when they started self-employment (ie even if they have been self-employed for a year). This is important for single parents, giving them a more reasonable chance to build up their business in line with their children's childcare and school hours. In relation to managed migration, this would mean a 12-month grace period, rather than six months, to ensure sufficient protection from potentially significant losses in line with the aims of transitional protection.

- 6.2 Extended protection is particularly important for single parents of children aged four and under who would not have been required to be available for work under legacy benefits and may have planned to build their business slowly while they have children of pre-school age. We recommend protection should go beyond a 12-month grace period for these parents, with an exemption from the MIF until their youngest child turns five rather than disrupt business and employment plans.
- 6.3 Those who become subject to work-related requirements during the grace period, should they not be exempt from the MIF as suggested above, must have sufficient warning of the rules.
- As [previously suggested](#), as a minimum, the DWP must confirm they will notify any claimant in advance of MIF rules coming into effect as a result of full work-related requirements, especially those who have very little if any of the grace period remaining at the point they become subject to all work-related requirements and are assessed as being in gainful self-employment.
  - Even with this warning, this is unlikely to give parents with preschool children sufficient notice to meet MIF rules; as argued above, we recommend the MIF should apply from the date their youngest child turns five.

## 7. Equality impact

- 7.1 The limited rules allowing the backdating of UC can potentially disadvantage those with legitimate reasons for a delayed UC claim – eg late stages of pregnancy or having recently given birth. As outlined under question 2, this makes a case for widening backdating rules in line with ‘good reason’ guidance for extending the deadline day.
- 7.2 As raised under question 4, there is a risk of a disproportionate impact of the withdrawal of transitional protection when work ceases or earnings fall, on those with disproportionate barriers to work, including single parents (nine in ten of whom are women), carers and those with a disability.
- 7.3 There is potentially a similarly disproportionate impact on single parents (nine in ten of whom are women) as a result of the limits in applying transitional protection to subsequent awards, as single parents are particularly likely to seek flexible employment with fluctuating earnings (eg self-employment) to balance work and care.
- 7.4 In line with the previous point, rules to apply the MIF will particularly affect single parents – and particularly those with younger children (on average, younger women), who face significant changes through new job-seeking expectations and related MIF rules.
- 7.5 The process of managed migration will highlight the significant changes to work-related condition for parents of under-fives – particularly parents of three and four year olds, who will be subject to full job-seeking conditions.
- These changes particularly affect single parents (and therefore largely women) and younger parents (who are more likely to have pre-school age children).
  - The legislation provides little protection or support for cohorts who may not expect such shifts, or may have made decisions based on the rules of legacy benefits – for example, focusing on training while their children are of pre-school age.

- We recommend mirroring protection given during Lone Parent Obligations reforms, when those starting further/vocational education or training under Income Support could remain on their benefit until that course finished. A single parent in a similar position should retain transitional protection and work-related requirements of legacy benefits until their education/training course is complete.

## 8. Monitoring and evaluation

- 8.1 As highlighted in Question 1, previous migration to tax credits was not a success. In addition to Gingerbread's research, evidence from the [NAO](#), [CPAG](#) and [JRF](#) suggest UC is besieged by challenges in supporting claimants. To date, it has been difficult to get up-to-date data on single parents receiving UC, making it problematic to assess the impact of reform.
- 8.2 Therefore, we request published modelling of impact and timescales for transitional protection, to understand how different groups may be affected – with the understanding that there will be inevitable caveats in terms of the accuracy/limits of such modelling.