



House of Commons  
Work and Pensions Committee

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# Universal Credit: natural migration

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**Twenty-Seventh Report of Session  
2017–19**

*Report, together with formal minutes relating  
to the report*

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## Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

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## Summary

The Government has said repeatedly that once the roll-out of Universal Credit (UC) is complete, it will be more generous than the system it replaces. But it is not more generous for everyone. While some people are entitled to more money under UC than they would have received in the previous benefits system, many will be entitled to less.

Some of the Department's plans for moving people to UC recognise that some claimants will be worse off. For instance, the Department for Work and Pensions (DWP/the Department) plans to take a cautious approach to what it calls "managed migration"—the process of moving claimants on existing benefits to UC. It plans to provide claimants who move to UC in this way with transitional protection—payments to ensure they do not lose income overnight—and other support to minimise any stress or adverse effects of the move. This is, of course, welcome.

But the majority of claimants on existing benefits will move, or have already moved, to UC through a process known as "natural migration", which usually happens when their circumstances change. For these claimants, there is no transitional protection. People naturally migrate to UC when they have a change in their lives which would require a new claim for a legacy benefit. There are a vast number of changes which can lead to natural migration. By contrast, there are very few which can end transitional protection under managed migration. This is because the Department deliberately selected the few circumstances in which to end transitional protection, whereas the natural migration process, by its own admission, was based on its own administrative needs. The Department has moved staff away from legacy benefits to Universal Credit and other roles, and says that the only way it can administer a change of circumstances is through the claimant making a new claim to Universal Credit.

The Department argues that it is fair that claimants who experience a "significant" change in their circumstances should not receive transitional protection, on the grounds that it has always been the case that new claims for legacy benefits would be assessed on a claimant's new circumstances. It is difficult to reconcile this explanation, however, with the fact that the design of UC—which, unlike the legacy system, now represents all, or the majority, of a claimant's income—means that any change in a claimant's circumstances exposes them to all aspects of UC, which may be less generous than the legacy system and which may not be related to their specific change. For example, a disabled claimant who moves home could lose their disability premiums, even though their disability remains the same. What is more, the disparity between the changes that can lead to natural migration and those that can end transitional protection mean that some claimants will lose out simply because of when their circumstances change. Therefore, when managed migration begins, households with the same circumstances will be receiving different amounts of Universal Credit—not because their needs are different, but because of the route by which they moved to Universal Credit. This cannot be fair.

For claimants, some of the changes that can trigger this move will not seem significant. For example, moving house within the same local authority area does not trigger migration to Universal Credit—but moving to a different local authority does. That means in practice that someone who moves to a different local authority area loses their

entitlement to transitional protection. The DWP justifies this purely by reference to its own administrative processes, with no mention of a claimant's needs. The Government should commit to providing ongoing payments to meet the shortfall in income for all claimants who move or have moved to UC simply because they moved home outside of their local authority.

The Department has, belatedly, taken steps to protect some disabled claimants from losing out when they move to UC by putting in place the "SDP gateway", which is actually a barrier, and aims to prevent claimants in receipt of the Severe Disability Premium (SDP) from naturally migrating. It has also promised to compensate claimants previously in receipt of the SDP who moved to UC before the gateway existed. However, around 10,000 claimants are being made to wait for the vital support which enables them to live their lives independently. This is because the legal changes needed to make these payments are included in a statutory instrument which also provides for a pilot of managed migration to UC, which needs to be approved by Parliament before it comes into force. The Department has argued that the provisions for the compensation cannot be separated from the managed migration regulations, but it has provided no evidence as to why this is the case. The High Court has now ruled that the compensation the Government plans to pay claimants is not enough. Managed migration was due to start in July this year, but with Parliament's recess fast approaching, and no indication of the Government's plans to put the managed migration regulations before Parliament, the Department must take urgent action. We recommend that the Government separates the provisions for backpayments to claimants previously entitled to the SDP from the provisions for the pilot of managed migration. The Department should ensure that the provisions for claimants previously entitled to the SDP take into account the High Court's recent ruling and it should lay the regulations as soon as possible.

Despite the introduction of the SDP gateway, cuts to disability entitlements mean that some disabled adults and children are among the groups most likely to see their income fall when they move to UC via natural migration. Many disabled people and those with long-term health conditions in receipt of disability premiums other than the SDP stand to lose out, as do some disabled children. Disabled people are often more vulnerable financially and face a greater risk of hardship than non-disabled claimants. The Government should provide payments to meet the shortfall in income for all disabled claimants who move to UC through natural migration.

A particularly cruel consequence of the Department's approach to natural migration is the effect it has on the bereaved. Losing a partner is classed as a change in circumstance—which means that claimants who have just lost their partner must immediately claim UC at a time of considerable grief and distress. We urge the Department instead to allow people who have lost their partner to remain on legacy benefits for a grace period of one year. In addition, protections for housing costs for the bereaved have been reduced from 12 months in the legacy system to 3 months under UC—and claimants who move to UC via natural migration as a result of a bereavement will not receive this protection at all. It is unacceptable that recently bereaved claimants, who may no longer be exempt from housing restrictions such as the 'bedroom tax' after the death of their partner, could therefore be expected immediately to change their living arrangements at the peak of their grief to avoid plunging themselves into debt. We therefore recommend

that, when bereaved claimants move to UC, the Department should provide them with payments to meet any shortfall in their housing costs for 12 months—in line with the legacy system.

The Department has made some effort to mitigate the impact of the initial five-week wait for a Universal Credit payment. Additional payments of two weeks of Housing Benefit, known as a “run-on”, are already available to claimants who migrate naturally. The Department has also announced run-ons of income-related Jobseeker’s Allowance, Employment Support Allowance and Income Support—but these will not be available until 2020. The Department’s explanation for the delay is that it cannot make the necessary changes to its IT systems until then. This is not good enough. We urge the Department to look again at the options to remove the five-week wait. Until then it must find a way to make the run-ons available by Autumn 2019.

The Department has repeatedly pledged that claimants whose circumstances remain unchanged will not lose out financially when they move to UC via managed migration. It has introduced the Severe Disability Premium Gateway in order to prevent claimants in receipt of the premium from moving to UC via natural migration. But there are no safeguards in place to stop other claimants from moving across prematurely, and potentially losing out by doing so. In addition, understanding whether someone needs to move to UC and the impact it will have on their income is far from straightforward—but the Department has not provided clear or comprehensive information on this to its staff or others. Claimants whose circumstances have not changed are therefore at risk of moving to UC either inadvertently, not realising that they will lose out, or because they are given the wrong advice by DWP staff or other organisations. We recommend that the Department does more to inform claimants that they risk losing out financially when they move to UC. This information should also be added to the UC claim homepage, and claimants should be signposted to accurate independent advice. It could for example, include this in the Citizens Advice “Help to Claim” offer, which provides help to claimants with aspects of making a claim through to first payment. However, it must ensure that this is adequately funded.

It is clearly not the Department’s intention that claimants whose circumstances remain unchanged and whose entitlement is less under UC move over before they need to. However, given the lack of safeguards to prevent this from happening, the lack of information about the process and its inherent complexities, it is little surprise that some claimants are slipping through the net into the Department’s chillingly-named “lobster pot”. Once on UC, there can be no return to legacy benefits—leaving claimants trapped with substantially less income. If someone complains, and the Department finds that it has misadvised them, they receive compensation. But this is not enough: claimants should be protected whether they move to UC prematurely by their own mistake or by following incorrect advice from the Department’s own staff or other organisations. We recommend that the Department provides full compensation to all claimants who have lost out financially because they have moved to UC prematurely.

Claimants waiting for appeal decisions on their legacy benefits are being asked to gamble with their financial future. If they claim UC while waiting for an appeal decision, they cannot return to legacy benefits—which could mean considerable financial losses. But if they choose to stay on legacy benefits in the hope that their appeal is successful, they

will not be entitled to the financial support they would get under UC while they wait for the outcome of their appeal. Moreover, the Department refuses to offer compensation to claimants whose appeal is successful, effectively penalising them because of its own incorrect decisions. We recommend that the Department allows claimants to stay on legacy benefits and receive the money they would be entitled to if they were looking for work, while they await the outcome of their appeal. If this is not possible, it should pay claimants who win their appeal transitional payments, which should equate to the difference between their entitlement under UC and the amount they would have received in legacy benefits had the Department not made the wrong decision in the first place.

We recognise the Department's responsibility to ensure that all claimants are eligible for the benefits they receive. This includes ensuring they have the right to reside in the UK. However, an increasing number of EEA nationals are failing right to reside tests when they move from legacy benefits to UC. We heard evidence that incorrect decisions on a claimant's right to reside are leaving claimants without income and at risk of rent arrears, destitution or losing their homes. Where claimants have transferred from legacy benefits, the Department has, in most cases, already made a past decision that they have the right to reside. We were surprised to hear that the evidence required may not be available simply because the Department is not keeping claimants' records for long enough. We recommend that the Department review whether all changes in circumstances should trigger EEA nationals to re-take a right to reside test. Where claimants have failed a right to reside test, it should clearly explain why. We also recommend that the Department reviews the impact that its data retention policies are having on EEA nationals' access to benefits.

Failure to correctly transfer decisions on a claimant's capability for work can have drastic consequences for disabled claimants. Not only can they find themselves with less money to live on, but they may be subject to harsher conditionality rules, with the expectation that they seek work or face sanctions. This is particularly dangerous for this group of claimants, given that in many cases the Department has assessed that engaging with Jobcentres can put them at risk of self-harm or even suicide. While we welcome the Department's efforts to address this issue, we cannot simply accept on trust its assurances that this is not a "systemic" issue. Given the potential impact on claimants, it cannot afford to let one case slip through the net. We recommend that the Department should explore ways to make the carry-over of WCA decisions from legacy benefits to UC a more automated process. If it cannot do this, it should report regularly to the Committee on the number of cases where this is not happening on time.

# 1 Introduction

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1. Universal Credit (UC) is a radical change to the existing welfare system. Its design aims to simplify the existing system by rolling six benefits into one, with the objective of encouraging more people into work. Claimants receive a basic amount (“the standard allowance”) alongside additional payments if, for example, they are disabled, are entitled to support with rent or have children. Claimants are paid monthly in arrears and are expected to manage all of their household living costs and expenses. This includes housing costs, which were usually paid direct to the landlord for social housing or for vulnerable tenants under the system UC replaces (the “legacy system”). The process of transferring people claiming legacy benefits onto Universal Credit is called “migration”.

2. Migration can happen in two ways:

- Through ‘natural migration’. This is when existing claimants have a change in their circumstances (e.g. a partner moves in/out) and they try to make a new claim for a legacy benefit. They discover that they can only claim UC instead; or
- Through ‘managed migration’, where claimants of legacy benefits will be moved by the Department from legacy benefits to UC without a change in circumstances. The Department plans to begin testing managed migration in 2019, with a view to migrating larger numbers of claimants from 2020 onwards.

## Why does it matter how existing claimants move to UC?

3. The way in which existing claimants move onto UC can affect the amount of benefits they receive. This is because, for many people, the amount of money they are entitled to under UC is not the same as it was in the legacy system. Some people will be entitled to more, while others will see their entitlement fall. Claimants who transfer to UC via managed migration will be entitled to transitional protection if their UC entitlement is lower than the legacy benefits they are receiving. This should ensure that their income will not fall when they first move over to UC. However, claimants who move to UC via natural migration will not be eligible for transitional protection.

## Impact of UC on benefit entitlements

4. The Government originally said that UC would provide most claimants with similar or more support than they received in the legacy system. In its 2010 White Paper, it said:

In most cases Universal Credit will provide a similar or higher level of support than the current system. In particular, benefit rates for people not in work will generally be the same as under the current system.<sup>1</sup>

It also expressed its intention that no one on existing benefits would lose out as a direct result of UC’s introduction. It added:

The Government is committed to ensuring that no-one loses as a direct result of these reforms. If the amount of Universal Credit a person is

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<sup>1</sup> Department for Work and Pensions, [Universal Credit: Welfare that Works](#), November 2010

entitled to is less than the amount they were getting under the old system, an additional amount will be paid to ensure that they will be no worse off in cash terms.<sup>2</sup>

5. However, subsequent decisions the Government has made about the design of UC mean that a substantial proportion of claimants are now entitled to less money under UC than they were in the legacy system. For example, the Government has made several changes to work allowances—the set amount of money claimants can earn before their UC award is reduced by 63p (the taper rate) for each additional pound they earn. The largest cuts to work allowances were made in the 2015 Budget. While the Government announced additional investment in work allowances in the 2018 Budget, which largely reversed the cuts for some claimant groups (including people with children or with a disability), for others—including single people and couples without children—the cuts remained. The Resolution Foundation estimates that, compared to the legacy system, 3 million of the 5.4 working families entitled to legacy benefits stand to lose out under UC, while 2.4 million will gain.<sup>3</sup>

6. It is not only working families who can see their entitlements fall under UC. In designing the benefit, the Government also made cuts to out-of-work benefit rates for certain claimant groups, including some disabled people, families with disabled children, and young parents. In addition, different rules on the way a claimant's income and savings are treated under UC compared to the legacy system can affect their entitlement. Policy in Practice, a policy-led software and analytics organisation, estimates that—including both working and non-working households—40% of households lose out under UC compared with the legacy system, 30% gain, and 30% are entitled to around the same amount.<sup>4</sup> Zoe Charlesworth, Policy and Product Manager at Policy in Practice, told the Committee that those who see a drop in entitlement lose on average £59 a week, while those who gain receive on average an additional £44 a week.<sup>5</sup>

### **Winners and losers**

7. More specifically, while working renters tend to gain, groups entitled to less money include working homeowners, some disabled people, young parents, the self-employed and people with savings or unearned income such as student loans or spousal maintenance. 'Mixed-age' couples—where one member of the couple is above pension age but the other is not—can also lose out substantially. More details of why certain groups see a drop in entitlement under UC are set out in Table 1, below.

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2 The Department for Work and Pensions, [Universal Credit: Welfare that Works](#), November 2010

3 Resolution Foundation, [Back in Credit? Universal Credit after Budget 2018](#), 12 November 2018

4 Policy in Practice, [Autumn 2018 Budget: What is the impact of the changes to Universal Credit on low-income households?](#), November 2018

5 [Q2](#)

**Table 1: Differences in UC vs legacy system which can lead to a loss of entitlement for certain groups.**

Type of Difference in UC vs legacy system	Groups who can see entitlements fall under UC	Reason for lower entitlement
Single 'taper rate' - rate at which benefits are withdrawn as a working claimant's income increases	Working home-owners	Under the legacy system, different benefits were withdrawn at different rates as a claimant increased their earnings. Under UC, claimants' entitlement is withdrawn at a single 'taper rate' of 63p for every pound they earn. The IFS explained that this difference tends to favour renters over home-owners, as compared with the legacy system UC effectively cuts the taper rate for renters and increases it for home-owners. <sup>6</sup> In the legacy system, renters would see their housing benefit and tax credits withdrawn at the same time as they increased their earnings—giving them a very high effective taper rate—while owner-occupiers would only see their tax credits reduced—giving them a considerably lower taper rate.
Rates	Young parents (under 25)	Young parents receive a lower rate of the standard allowance than couples in UC. In the corresponding legacy benefit, Income Support, they received the same rate.
Rates	Disabled adults	Some disabled people on ESA lose out because of the removal of disability premiums in UC. Some disabled claimants will gain because of an increase in the rate paid to those in the ESA support group under UC.
Rates	Disabled children	Child Poverty Action Group estimate that around 100,000 "moderately disabled" children will become nearly £30 a week worse off on UC due to the lower disabled child premium—like Tax Credits, Universal Credit includes two similar rates of child disability addition, but the new lower rate is 50 per cent lower than the current lower rate in Tax Credits. <sup>7</sup>
Income/ Savings rules	Claimants with unearned income	Claimants in receipt of unearned income such as student loans, spousal maintenance, maternity allowance and Industrial Injuries Disablement Disability (IIDB) can lose out as in the Tax Credit system this income was fully or partially disregarded but is taken into account in UC and so reduces awards more quickly than in the legacy system. For example, Policy in Practice found that a lone parent student could be almost £300 worse off under UC compared to Tax Credits because of the way their income is treated. <sup>8</sup>
Income/ Savings rules	Claimants with savings or capital above £6,000	A claimant's assets over £6,000 steadily reduce their UC award, if they have assets over £16,000, they are not entitled to any UC at all. This differs from the legacy system where only housing benefit and out-of-work benefits—but not tax credits—are subject to such 'asset tests'.

6 Institute for Fiscal Studies, [Universal Credit and its impact on household incomes: the long and short of it](#), 24 April 2019

7 Child Poverty Action Group ([UCN0059](#))

8 Policy in Practice ([UCN0079](#))

Type of Difference in UC vs legacy system	Groups who can see entitlements fall under UC	Reason for lower entitlement
Income/Savings rules	Self-employed	UC imposes a 'minimum income floor' (MIF) on self-employed claimants. This assumes that they earn the equivalent of the national minimum wage for a full-time working week. Claimants can lose up to £8,000 a year. <sup>9</sup>
Change in rules for pension credit	'Mixed age' couples	Under the legacy system, 'mixed age couples'—where one is above and another below the state pension age—are eligible for pension credit, which is more generous than working-age out-of-work benefits. However, mixed age couples who are new claimants to means-tested benefits will (from May 2019) have to claim UC, rather than pension credit. This can represent a large cut; a mixed age couple with no other income would stand to lose around £7,000 p.a. as a result of this change. <sup>10</sup>

8. The Government has repeatedly stated that UC will now be £2 billion 'more generous' than the legacy system once it is fully rolled out. This refers to the OBR's estimate of the additional money the Department will pay out to claimants once UC is fully rolled out. However, there are different ways to define generosity. As the IFS noted in its recent report, *Universal Credit and its impact on household incomes: the long and the short of it*, much of the additional expenditure results from the Government's assumption that UC will increase the number of people claiming their full benefit entitlement (known as take-up)—for example, in cases where claimants were not previously aware that they were entitled to certain benefits.<sup>11</sup> In a blog in December 2018, the Resolution Foundation stressed that the Government does not yet know if Universal Credit has increased benefit take-up as "in the years where legacy benefits and UC are operating in parallel, it will be extremely difficult to measure take-up rates for either system".<sup>12</sup> Moreover, this does not mean the actual levels of benefit a claimant is entitled to in UC are generally higher than they were in the legacy system. The IFS' analysis found that overall, compared with the legacy system, UC represents a £2 billion cut to the amount of money to which claimants are entitled.<sup>13</sup>

### **Number of claimants who will move to UC via natural migration**

9. The Department's recent estimates show that the majority of claimants on existing benefits will move to UC through natural migration. Of the total 4.3 million households it estimates will move from existing benefits to UC, 2.5 million (62%) will move via natural migration. This equates to around 40% of the total 6.5 million households the Department expects to be claiming UC in 2023. (See figure 1 below).<sup>14</sup>

9 Institute for Fiscal Studies, [Universal Credit and its impact on household incomes: the long and short of it](#), 24 April 2019

10 Ibid.

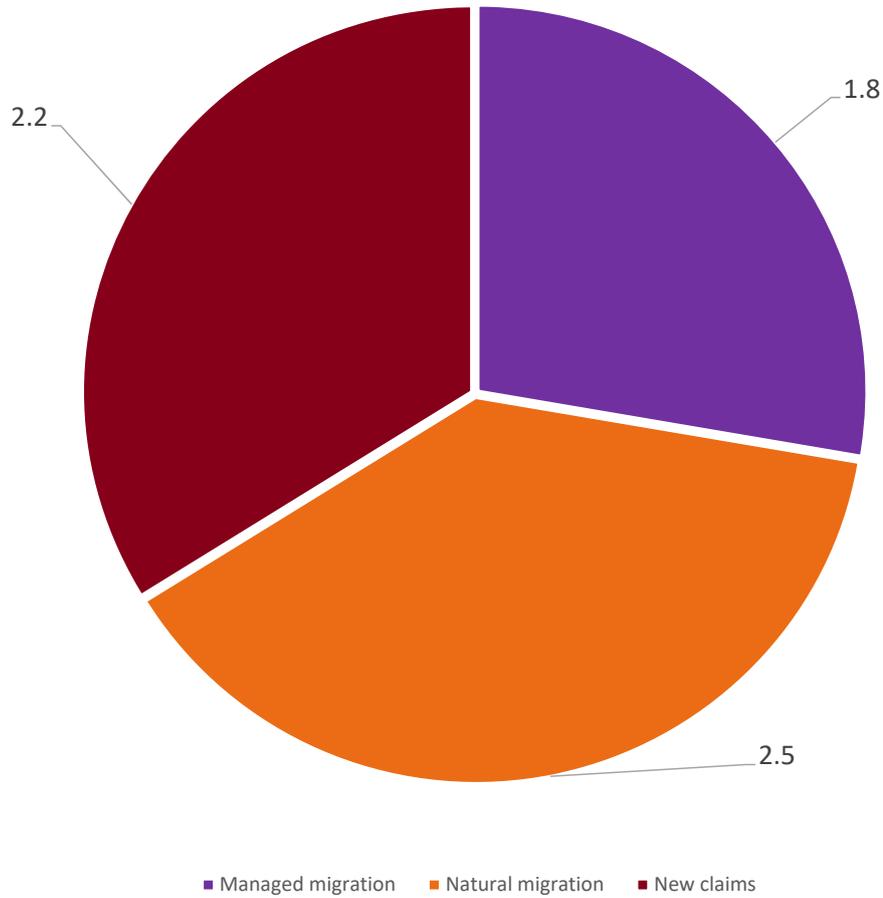
11 Ibid.

12 The Resolution Foundation, [Boosting benefit take-up is critical to the success of Universal Credit, but we might not be able to measure whether it's working](#), December 2018. Accessed 9 July 2019

13 Institute for Fiscal Studies, [Universal Credit and its impact on household incomes: the long and short of it](#), 24 April 2019

14 [Letter to the Chair from the Secretary of State](#), 24 April 2019

Figure 1: The Department’s estimate of how the total expected UC caseload in 2023 will move to UC (households, millions)



10. Managed migration is now due to start in earnest in 2020, instead of 2019 as originally planned. This means that some of the 2.5 million people the Department now expects to migrate ‘naturally’ would have moved to UC through managed migration if not for the delay and may now stand to lose out. The Department told the Committee that it has not estimated how many people the delay will affect in this way.<sup>15</sup> In its *Economic and fiscal outlook* report following the Spring 2019 statement, the OBR estimated that the delay to managed migration will save the Department £200 million in transitional protection that it would have paid out over the next five years.<sup>16</sup>

### Our inquiry

11. In our report on managed migration, published in November 2018, we asked the Department to assess the impact of natural migration on claimants and to look again at the changes in circumstances which can lead to existing claimants needing to claim UC. However, in its response to our report the Department rejected our recommendations. We therefore began our inquiry into natural migration to investigate evidence we had received about the negative impact that natural migration was having on claimants. We would like to thank everyone who gave evidence to the inquiry.

15 Ibid.

16 Office for Budget Responsibility, [Economic and fiscal outlook](#), March 2019

## 2 Natural vs managed migration

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### Approach to managed migration

12. The Department plans to provide claimants who move to UC via managed migration with transitional protection—a top-up payment to a claimant’s UC award to ensure that their UC award is equal to the amount they were receiving in the legacy system—to “safeguard their existing benefit entitlement until their circumstances change”.<sup>17</sup> However, this protection will not be in place indefinitely. In a letter to the Social Security Advisory Committee (SSAC), the former Secretary of State said that transitional protection was designed “to protect the level of a household’s award at the point of transfer”. She said:

The Government considers it appropriate to end transitional protection when the claimant’s circumstances underlying the award are no longer recognisable to those on which the benefit calculation was made.<sup>18</sup>

13. The three instances in which claimants can lose their entitlement to transitional protection are:

- a sustained (3 months) earnings drop below the administrative earnings threshold (AET), where the claimant has moved into a more intensive conditionality regime as a result. The AET is a static amount, currently set at £338 per month for individuals or £541 for couples. Claimants who have dropped below this amount will usually be required to undertake intensive searches for work or work for more hours;
- the formation or separation of a couple; and
- the ending of the Universal Credit award. If a claimant’s UC award ends because of an increase in earnings, and a new claim is made within 4 months of the Universal Credit award ending, the claimant will have their transitional protection re-awarded as part of their new award of Universal Credit.

### Approach to natural migration

14. The Department states that existing claimants only move to UC via natural migration when they experience a “significant change of circumstances”.<sup>19</sup> Citizens Advice explained that, with a few exceptions, any change of circumstance which required a new claim in the legacy system now requires a claimant to apply for UC. For example, if a claimant moves house to a new local authority, the only way for them to replace the money they received in Housing Benefit support is to submit a claim for UC; at this point all of their existing benefits are stopped.<sup>20</sup> Claimants who move to UC via natural migration are not eligible for transitional protection.

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17 [SSAC, The Draft Universal Credit \(Managed Migration\) Regulations 2018: Report by the Social Security Advisory Committee and statement by the Secretary of State for Work and Pensions in accordance with Section 174\(2\) of that Act. p 17, November 2018](#)

18 [Letter from the Secretary of State to the SSAC](#), 5 November 2018

19 See for example, [PQ 233458](#), 18 March 2019

20 Citizens Advice ([UCN0062](#))

15. Witnesses raised concerns that some of the many changes which can lead to natural migration might not seem significant to many people. Zoe Charlesworth said that, in particular, moving house to a different local authority or a claimant's child turning five “are not significant changes of circumstances in the minds of claimants”.<sup>21</sup>

### ***Department's rationale for the natural migration process***

16. The Department argues that it is right that people who have a ‘significant’ change in their circumstances should not receive transitional protection, on the grounds that it has always been the case that new claims for legacy benefits would be assessed on a claimant's new circumstances.<sup>22</sup> However, this argument fails to take into account UC's distinctive feature—that, unlike the legacy system, it now represents all, or the majority, of a claimant's income. Therefore, any change in a claimant's circumstances exposes them to all aspects of UC, which may be less generous than the legacy system but which may not be related to that specific change. For example, if a claimant moves house outside their local authority, they can potentially lose their disability premiums, even though their disability has not changed.

17. Furthermore, the Department conceded that its approach to natural migration was based on its own administrative needs. In a letter to the Chair, the Secretary of State said:

This approach was adopted because as part of the rollout plan for UC, administrative resources needed to be shifted from the old system in order to support the new system. Consequently, resources would not be available in the legacy system to continue to handle new claims to legacy benefits. Universal Credit is the new welfare system and improves the legacy model and these changes of circumstances offer the most auspicious moment to support people onto Universal Credit.<sup>23</sup>

Maeve McGoldrick, Head of Policy and Campaigns at Crisis stressed that this approach was “unfortunate”. She added, “we make the same mistake in the benefit system time and time again of designing things around benefit types rather than people's needs”.<sup>24</sup>

### ***Fairness of the different approaches to migration***

18. Several witnesses, including Policy in Practice, emphasised that there are a huge number of changes which can lead to natural migration, but only a small and clearly defined set of changes which can end transitional protection under managed migration. They suggested that this creates unfairness, as some households will lose benefit support simply due to the timing of the change in their circumstances.<sup>25</sup> The Social Security Advisory Committee also expressed concerns about the Department's different treatment of claimants who move to UC through natural and managed migration. Commenting on the Government's proposed draft regulations for managed migration, it said:

It is clearly undesirable to have two distinct systems where significantly different and long-lasting financial outcomes arise from arbitrary factors

21 [Q27](#)

22 See for example, [PQ 233458](#), 18 March 2019

23 [Letter to the Chair from the Secretary of State](#), 24 April 2019

24 [Q104](#)

25 See for example, Policy in Practice ([UCN0079](#))

such as the timing or order of the managed migration process. It has the potential to undermine confidence in the fairness of the benefit system and it puts work coaches in the unenviable position of having to explain why households in identical circumstances receive differing levels of benefit.<sup>26</sup>

It urged the Department to “consider other ways to protect” claimants who migrate naturally.

### *Moving home*

19. In particular, several organisations—including the Low Income Tax Reforms Group (LITRG), Policy in Practice and Entitledto—drew attention to the unfairness that the rules on moving home create. If a claimant moves outside of their local authority they must make a new claim to UC to get help with their housing costs, whereas if they move within the same local authority they can remain on legacy benefits. LITRG said there does not seem to be “any sound rationale” for this distinction.<sup>27</sup>

20. Zoe Charlesworth of Policy in Practice told us that this was causing local authorities a “huge amount of difficulty”. She explained that, where people who have mutual exchanges—a scheme which allows people to swap their home with another council or housing association tenant anywhere in the UK—are applying for housing in a new area, local authorities are having to do individual assessments of everyone who is applying to make sure that they are not set to lose out from a move to UC. She said this has resulted in some local authorities not offering properties to people because they do not have enough income following the move to UC.<sup>28</sup>

21. Dr Phil Algulnik, Director of Entitledto, an online benefit calculator provider, explained that the perceived unfairness in the natural migration process can be attributed to the way the Government has decided to cut benefits. He said:

If you are going to cut benefits, you can do it for everyone at once or you can do it from a particular date, but you probably cannot do it on the basis of whether you happen to move into that street in this borough or that street over there in a different borough, because people perceive it to be unfair. Included within people’s perception of unfairness are also successful challenges in the court against that postcode effect within it.<sup>29</sup>

He added that the nature of natural migration means that it is “highly likely” that the legality of natural migration will continue to be questioned.<sup>30</sup> Furthermore, neighbours with very similar circumstances could be receiving entirely different levels of support through no fault of their own, stoking division and uncertainty about the fairness of the system.

26 [SSAC, The Draft Universal Credit \(Managed Migration\) Regulations 2018: Report by the Social Security Advisory Committee and statement by the Secretary of State for Work and Pensions in accordance with Section 174\(2\) of that Act, November 2018, p39–40](#)

27 [The Low Incomes Tax Reform Group \(UCN0040\)](#)

28 [Q32](#)

29 [Q144](#)

30 [Entitledto \(UCN0080\)](#)

22. The Department has carefully selected the few changes it considers appropriate to bring an end to transitional protection for claimants who move to UC via managed migration. However, the many changes to a claimant's circumstances which can lead to natural migration are based, by the Department's own admission, on its own administrative practicalities. This means that claimants can lose out simply because of the arbitrary timing of a change in their circumstances. It is particularly unjust—as recognised by the courts—that the Department has in effect created a postcode lottery, where claimants who move house to outside of their local authority lose their entitlement to transitional protection, while those who move within local authorities do not.

23. *We recommend that the Department makes an ongoing payment to meet any shortfall in income for:*

- *All households that lose out compared to the legacy system as a result of moving home outside of their local authority; and*
- *These should include back-payments where claimants in these circumstances have already moved to UC and lost out as a result.*

### *Severe Disability Premium Gateway*

24. The legal challenge to which Dr Algulnik referred (see paragraph 21, above) relates to two severely disabled men who naturally migrated to UC when they moved house across local authority boundaries. Both were in receipt of disability premiums—the Severe Disability Premium (SDP) and Enhanced Disability Premium (EDP)—which do not exist in UC. Both claimants lost about £175 a month because they had to claim UC to get help with their housing costs. In his June 2018 judgment, Justice Lewis ruled against the Department. He said:

A change in housing circumstances may provide an explanation as to why it was appropriate to require them at that point to switch to universal credit. It does not explain why they should do so without any apparent consideration of whether any element of transitional protection should be provided in those circumstances in relation to the income related element of universal credit.<sup>31</sup>

25. On 7 June 2018, the day before the judgment was given, the Government announced plans to stop claimants in receipt of the Severe Disability Premium moving to UC via natural migration, to prevent them from losing out on transitional protection. The 'SDP gateway'—a rule which prevents claimants in receipt of the SDP from moving to UC before managed migration begins—was introduced on 16 January 2019. The Government also said that it would provide an on-going payment to claimants who had already lost the premium as a result of moving to UC.<sup>32</sup> However, the Secretary of State said that the arrangements for SDP legacy cases “were not as a consequence of the court case”.<sup>33</sup> The Department is currently appealing the judgment.

31 [R\(TP and AR\) v Secretary of State for Work and Pensions \(Universal Credit\) \[2018\]](#), High Court, Civil Division. Available at <https://www.judiciary.uk/judgments/r-tp-and-ar-v-secretary-of-state-for-work-and-pensions-universal-credit/> (Accessed: 05 July 2019)

32 HC Deb, 7 June 2018, [col HCWS745](#)

33 [Letter to the Chair from the Secretary of State](#), 24 April 2019

26. Following the judgment, claimants in this case challenged the level of compensation the Department planned to pay to claimants—claiming both the SDP and EDP—who had moved to UC before the SDP gateway was introduced. The relevant regulations provide that claimants will be provided with £80 a month in compensation, while claimants who are protected and move through managed migration will receive the full £180 a month difference.<sup>34</sup> In May 2019, the High Court ruled in favour of the claimants on the basis that the arrangements are discriminatory.<sup>35</sup> In a letter to the Chair of 24 April, the Secretary of State said that she is seeking permission to appeal the judgment.<sup>36</sup>

27. The Department has not yet paid any compensation to the estimated 10,000 claimants who lost the SDP because they moved to UC before the gateway was in place. This is because the regulations for these payments are included in the same statutory instrument as the provisions for a pilot of managed migration to UC, which needs to be approved by Parliament before it can come into force. This instrument was laid before Parliament on 14 January 2019, but the Government has not yet asked either House of Parliament to approve it.<sup>37</sup>

28. When asked about the delay in paying compensation to claimants who lost the SDP by moving to UC before the gateway was introduced, the Minister implied that Members of Parliament who refuse to support the regulations would be responsible for further delaying the compensation of former SDP claimants. He said:

The only way they will get that is if we collectively in the House support the regulations. All I am saying—and I am not trying to have an argument with the Committee—is I hope this is something the Committee recognises and would also support, because if individually we don't support these regulations in the House, these people will not get the support that we all believe it is right that they should be getting.<sup>38</sup>

29. There is, however, no obvious reason why the provisions for the pilot of managed migration to UC need to be contained in the same instrument as provision of compensation and transitional protection for claimants of the SDP. Following the session, the Chair wrote to the Secretary of State to ask the Government to split out the provisions for compensatory payments to former SDP recipients from the main managed migration regulations. That approach would allow claimants to be compensated more quickly. The Secretary of State said in response that the inclusion of the payments in the main managed migration regulations is “necessary” and that separating the SDP provisions from the main managed migration regulations would “create a completely separate scheme for a small group of people without the wider rationale of transitional protection”. She added that if the managed migration regulations were not subsequently introduced, then transitional

34 [SSAC, The Draft Universal Credit \(Managed Migration\) Regulations 2018: Report by the Social Security Advisory Committee and statement by the Secretary of State for Work and Pensions in accordance with Section 174\(2\) of that Act, November 2018](#). The Government published the original draft regulations on managed migration in June 2018. These regulations were withdrawn and replaced with the current draft regulations in November 2018, following a consultation by the Social Security Advisory Committee. Provisions for the SDP payments remained the same in both versions of the regulations.

35 [TP AR & SXC, R \(On the Application Of\) v Secretary of State for Work and Pensions \[2019\], High Court, Civil Division](#). Available at <https://www.bailii.org/ew/cases/EWHC/Admin/2019/1127.html>. Accessed 5 July 2019.

36 [Letter to the Chair from the Secretary of State, 24 April 2019](#)

37 [Draft SIs: The Universal Credit \(Managed Migration\) Regulations 2018](#)

38 [Q176](#)

protection would exist solely for SDP claimants.<sup>3940</sup> However, in the Committee’s view this would simply mean that these claimants would be treated equally to those claimants in receipt of the SDP who would remain on legacy benefits unless the managed migration regulations were approved. The Secretary of State said that she is “very aware of the need to begin making payments [to claimants] and will continue to work hard to do so”. She added that she is “considering options” in order to respond to the recent High Court Judgment, which ruled that the arrangements in the draft pilot regulations—which only compensate claimants for the loss of the SDP and not other disability premiums—are discriminatory.<sup>41</sup>

**30. It is inexcusable that severely disabled people are being made to wait for the vital support which enables them to live their lives independently—and which the Department itself recognises they need. The Department has provided no evidence to support its argument that the provisions for this compensation cannot be separated from the regulations for the pilot of managed migration. It is difficult to avoid the conclusion that the Department is holding disabled claimants to ransom in order to ensure that Parliament approves its managed migration plans. The High Court has now ruled that the compensation the Government plans to pay claimants is not enough. The Department must urgently take the High Court’s ruling into account and ensure that claimants are fully compensated as soon as possible. With no resolution in sight, and Parliament’s summer recess fast approaching, the Department must now take action.**

**31. *We recommend that the Government withdraws the draft Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019 and replaces them with :***

- a) *An instrument subject to negative resolution, to make provision for people previously entitled to a severe disability premium; and*
- b) *An instrument subject to affirmative resolution, with the provisions for the pilot of managed migration.*

**32. *The Department should ensure that the provisions for people previously entitled to the SDP should take into account the High Court’s recent ruling and it should lay the regulations as soon as possible.***

## Impact on disabled people

33. There are two main changes to disability entitlements under UC, compared to the legacy system. These are:

- The removal of disability premiums: disability premiums which existed in the legacy system—the Disability Premium, Enhanced Disability Premium (EDP) and the Severe Disability Premium (SDP)—no longer exist under UC. These premiums are paid to claimants to help with additional costs associated with a disability or health condition

39 [Letter to the Chair from the Secretary of State](#), 24 May

40 [Letter to the Chair from the Secretary of State](#), 8 July 2019

41 [Letter to the Chair from the Secretary of State](#), 8 July 2019

- An increase in the amount paid to claimants who are in the LWCRA (Limited capability for work-related activity) group: Claimants in the LWCRA group in UC are equivalent to those in the Support Group in ESA. The Department considers them to be further from work than other disabled claimants in the ESA Work Related Activity Group (WRAG).

The combination of these two changes means that some disabled claimants are entitled to more money under UC, while others are entitled to less. Those entitled to the SDP are most likely to lose out, as even for those previously in the ESA Support Group, the higher LCWRA rate does not negate the loss of the SDP, which is worth around £64 a week. These claimants are now protected by the SDP gateway. Claimants previously in the ESA Support Group, but who were not in receipt of premiums, gain the most as they benefit from the increase in the LWCRA rate.<sup>42</sup>

34. Scope stressed that, while the Government’s decision to prevent disabled people in receipt of the Severe Disability Premium (SDP) from naturally migrating to UC is welcome, many disabled people and people with long-term health conditions in receipt of premiums other than the SDP can still lose out when they move to UC.<sup>43</sup> CPAG estimated that around 100,000 “moderately disabled” children will become nearly £30 a week worse off on UC because of the 50% cut to the lower child disability premium under UC.<sup>44</sup>

35. The Department has not been transparent about the scenarios in which disabled claimants can lose out when they move to Universal Credit. The Minister told the Committee that he would not commit to provide examples of the scenarios in which disabled claimants could be worse off.<sup>45</sup> However, in correspondence, he explained that, for people in receipt of the EDP only, those previously in the ESA Support Group will gain around £100 a month, while those in the WRAG group will lose around £70 a month. He added that the “vast majority” of EDP recipients will benefit from a move to UC and cited the Department’s most recent data (from February 2018), which shows that the vast majority (95%) of the 1.4 million claimants on ESA in receipt of the EDP are in the Support Group, while just 4% are in the Work Related Activity Group—about 56,000 people.<sup>46</sup>

36. We heard evidence that disabled people are particularly vulnerable to any loss in income. Scope emphasised that disabled people on average have a lower level of financial resilience than non-disabled people and are at “greater risk of falling into poverty or deprivation”.<sup>47</sup> The Trussell Trust said that the impact of any cut on already-low income households can be “catastrophic”, but that its research with foodbanks showed that disabled people are particularly affected.<sup>48</sup> The MS Society gave an example of the impact of natural migration on a disabled claimant and her husband, who lost out following a house move to a different local authority area. They were forced to use the money intended to help with the additional costs of the claimant’s disabilities on bills to try and make ends meet.<sup>49</sup> The case study is set out in Box 1, below.

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42 Department for Work and Pensions, [Benefit and pension rates 2019 to 2020](#), accessed 5 July 2019

43 Scope ([UCN0017](#))

44 Child Poverty Action Group ([UCN0059](#))

45 [Q184](#)

46 [Letter to the Chair from Alok Sharma, Minister of State for Employment](#), 4 June 2019

47 Scope ([UCN0017](#))

48 Trussell Trust ([UCN0073](#))

49 The MS Society ([UCN0049](#))

**Box 1: Case Study - Impact of natural migration on a disabled claimant**

Bee, age 22, was diagnosed with MS in 2016. Her husband Adam, age 29, is her full-time carer. A year after Bee was diagnosed they found out through a friend that they may be able to get financial support from disability benefits. The process of applying for ESA and PIP was not easy and after initially being refused, Bee and Adam had to move house due to their worsening financial situation. Unfortunately, it was unsuitable for Bee's needs and they had to move again. Their new home was in a different area which, unbeknown to them, meant they would need to transfer off ESA and onto UC. Since then, Adam says there has been no end of difficulty for the couple. Overall it has meant they have seen a significant loss of income. Adam says, "We lost a lot of money a month when we transferred to UC. It's a lottery. Some people are better off and some people are worse off."

Bee and Adam were unaware that due to the way their UC assessment periods are measured they would lose money every few months because of the date Bee's insurance payments fall on. This has led to them falling twice within one assessment period meaning they received a considerably lower amount to live on for that month. In the past this has led to Bee being unable to get the medication she needs.

Adam says, "We couldn't afford to get to the hospital for Bee to get her medication. I don't understand how it can work like that. We get a set amount from Bee's insurance every month. How is this fair? It's never-ending. It's a disability benefit, but we're using it to pay the bills. We should be using it for Bee's physio or for her to be able to go out. I genuinely believe that the stress caused by transferring onto UC has caused my wife to have two relapses in the past year."

Source: The MS Society ([UCN0049](#))

37. The Minister told the Committee that it was not the Department's intention for disabled people to lose out from a move to UC. He said:

What I am saying to you is that the intention has not been to have people with disabilities lose out. The intention has been to make sure that the support goes to those who need it most.<sup>50</sup>

However, he added that the Department would not consider exempting claimants with disability premiums other than the SDP from natural migration.<sup>51</sup>

**38. Cuts to disability entitlements for some disabled adults and children mean that disabled people are among the groups most likely to see a drop in income when they move to UC. The Committee welcomes the belated—though, so far, incomplete—steps the Government has taken to protect claimants in receipt of the Severe Disability Premium from moving to UC via natural migration. However, it has stopped short of extending this protection to all disabled claimants, in spite of evidence that disabled people are often more vulnerable to the hardship that a loss of income brings. We therefore urge the Department to ensure that all disabled claimants are protected financially when they move to UC. We do not expect that this would come at a huge cost to the Department, given its assurance that the majority of disabled claimants stand to gain from a move to UC. It may also reduce the overall cost, by preventing additional**

50 [Q164](#)

51 [Q181](#)

costs from emerging elsewhere, such as in the NHS. If, for example, 50% of all those in the ESA WRAG group in receipt of the EDP and 50% of all households in receipt of the lower-rate child disability premium move to UC via natural migration, we estimate that financial protection for these groups would cost the Department around £100 million pounds a year. It could put the £200 million it expects to save by 2023, as a result of the delay to managed migration, towards covering this additional cost.

39. *We recommend that the Department makes an ongoing payment to meet any shortfall in income for all households with any level of disability, including children with disabilities, who lose out when they move to UC. This should include making back-payments to claimants in these circumstances who have already moved to UC and lost out as a result.*

### Impact on the bereaved

40. Witnesses told us that the nature of the changes which can lead to natural migration, such as the breakdown of a relationship, mean that many claimants will need to move to UC when they are going through stressful times in their lives. Daphne Hall of NAWRA said that one of the most “heart-breaking” effects of natural migration is the impact on the recently bereaved, who she said are often forced to claim UC at a “very traumatic time of their lives”.<sup>52</sup> This is because the loss of a partner is treated as a change of circumstance that requires a claim for UC.

41. CPAG and Citizens Advice stressed that people should not have to cope with making a new claim for UC in the aftermath of a bereavement.<sup>53</sup> Peabody argued that there is often “enough distress without the claimant having to apply for UC and then wait weeks for a payment”.<sup>54</sup> Several organisations called on the Department to give claimants who have suffered a bereavement a grace period, during which they can remain on legacy benefits, to prevent them facing a potential financial loss immediately following the death of their partner.<sup>55</sup>

42. CPAG also explained that protections from Housing Benefit restrictions such as the under-occupancy penalty or ‘bedroom tax’, which currently exist in the legacy system, are reduced under UC. For example, in the legacy system housing benefit was protected for 12 months after a bereavement, to give people a time to grieve and adjust to their new circumstances before they were expected to move house or manage additional costs. Under UC this protection is only available for 3 months if the claimant is already on UC, and there is no protection if someone makes a new claim as a result of the bereavement. This could affect, for example, couples where one partner required overnight care or a separate bedroom because of ill-health or disability and so was exempt from the “bedroom tax”.

43. **The consequences of the Department’s decision to base its approach to natural migration around its own administrative practicalities, rather than on claimants’ needs, can be seen clearly in the particularly cruel effect it has on people who have been recently bereaved. It is inconceivable that, at a time of considerable grief and distress,**

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52 [Q50](#)

53 Child Poverty Action Group ([UCN0059](#)), Citizens Advice ([UCN0062](#))

54 Peabody ([UCN0077](#))

55 See for example, Child Poverty Action Group ([UCN0059](#))

the Department expects claimants who have just lost their partner to immediately claim UC and grapple with a process which by all accounts is often extremely complicated. We urge the Department to show these people some compassion.

44. *We recommend that the Department should allow people on legacy benefits to remain on legacy benefits for a grace period of one year after the death of their partner, so that they do not need to immediately apply for UC.*

45. The legacy system rightly provides easements to people who are going through a bereavement to allow them time to grieve before they have to think about engaging with the benefit system or changing their living arrangements. Under UC, however, some claimants who may no longer be exempt from housing restrictions (such as the “bedroom tax”) following the death of their partner could be immediately expected to change their living arrangements in order to cope financially. While the housing costs of claimants already on UC will be protected for three months—nine months less than in the legacy system—claimants who move to UC via natural migration may not receive this protection at all and could face the unenviable choice between finding alternative living arrangements at the peak of their grief or plunging themselves into debt.

46. *When claimants move to UC because of the death of their partner, the Department should provide them with transitional protection for their housing element for twelve months, as was the case in the legacy system.*

## General impact of natural migration

47. Several organisations including CPAG and Crisis stressed that the combination of a loss of income through natural migration and exacerbating factors of UC—such as the initial five-week wait for payment and deductions for debt—can in some cases result in a “drastic loss of income” and can “prolong the length of time people have to manage on a much lower income”.<sup>56</sup> The Single Financial Guidance Body (now renamed the Money and Pensions Service) highlighted that legacy benefit claimants are particularly vulnerable to any loss of income, citing results from its Financial Capability survey, which showed that people on legacy benefits are less likely to have savings accounts (44% had an account compared to 67% of those not on benefits) and are more likely to be falling behind on bills.<sup>57</sup>

48. Crisis explained that the “lack of clarity” around the financial impact people will experience when they move to UC, combined with the “lack of support”, can put people at risk of rent arrears and homelessness. It gave the example of one of its clients, a pensioner, who saw a drastic drop in his income after moving to UC. The man, who had been relying on Housing Benefit and a small private pension was advised to move to UC by another organisation but had not realised what the impact would be on his income. As a private pension is classed as unearned income and so treated differently under UC, it was deducted from his award. This, in combination with various deductions, including an

56 Child Poverty Action Group([UCN0059](#)), Crisis([UCN0058](#))

57 Single Financial Guidance Body ([UCN0047](#))

advance repayment, meant he was left with a UC entitlement of just £83.92 a month and was unable to meet the significant shortfall in his rent payments.<sup>58</sup> He was left in danger of losing his home. The impact of UC on his income is shown in table 2.

**Table 2: Impact of UC on a claimants income**

	Description	Amount
<b>UC elements claimed</b>	Standard Allowance	£317.82
	Housing Costs	£269.40
	<b>Subtotal</b>	<b>£587.22</b>
<b>Deductions</b>	Private Pension (treated as unearned income under UC and is deducted)	-£376.18
	Repayment of UC advance	-£20.84
	Other DWP recovery	-£47.67
	Council tax arrears	-£15.89
	Rent arrears	-£42.72
	<b>Subtotal</b>	<b>-£503.40</b>
<b>Monthly amount</b>		<b>£83.92</b>

Source: Crisis ([UCN0058](#))

49. The Department's own research, carried out with HMRC, into the experience of tax credit claimants who moved to UC via natural migration found that 65% of Tax Credit claimants were experiencing some form of financial difficulty after moving to UC. Over a quarter (27%) said they were keeping up with difficulty, while over a third (38%) reported falling behind with some or many bills. The research was carried out between October 2016 and July 2017 and published in April 2019.<sup>59</sup> This is in stark contrast to the Government's initial pledge that "in most cases" people would be better off on UC compared to legacy benefits.<sup>60</sup> The Department argues that, since the research was carried out, it has reduced waiting days and increased the amount of advance payment a claimant can receive to 100% of their estimated award, and that it will be reducing the maximum deduction rate from 40% to 30% later this year. It also plans to increase the advance repayment period from 12 to 16 months in October 2021.<sup>61</sup> But for those who have already moved to UC via natural migration, these changes will come too late.

### **Benefit run-ons**

50. In its 2018 report on managed migration, this Committee recommended that the Department eliminate the five-week wait for claimants who move to UC through managed migration and that it should consider how the wait could be reduced for claimants who migrate naturally or for those who make new claims.<sup>62</sup> This followed reports to the SSAC's

58 Crisis ([UCN0058](#))

59 Department for Work and Pensions, [The transition from tax credits to Universal Credit: qualitative and quantitative research with claimants](#), November 2017

60 The Department for Work and Pensions, [Universal Credit: Welfare that Works, November 2010](#)

61 [Letter to the Chair from the Secretary of State](#), 23 May 2019

62 Work and Pensions Committee, Twentieth Report of Session 2017–19, [Universal Credit: managed migration](#), HC 1762

consultation on the managed migration regulations that the five-week wait for payment had led to increased debt, rent arrears and mental health problems for claimants. In response to the report, the Government stated that it has introduced a number of measures to mitigate the wait for the first UC payment, which includes benefit run-ons.<sup>63</sup>

51. All claimants on Housing Benefit are now entitled to an additional two weeks of Housing Benefit payment immediately after they have made their UC claim. This is known as a “run-on”. Unlike an Advance Payment—a loan available to all claimants to help them cope with the initial five-week wait—which must be repaid in full to the Department through monthly deductions to a claimant’s future payments, run-ons are not repayable to the Department. However, additional support in the form of run-ons for income-related Jobseeker’s Allowance, Employment and Support Allowance and Income Support—announced by the Department in the 2018 Budget—are not due to come into effect until July 2020. Claimants who migrate naturally to UC before then will therefore not receive this support.

52. Zacchaeus 2000 Trust said it was “bizarre” that the Government had admitted the current 5-week wait is “so problematic that these benefit run-ons are required” but that it will take them nearly two years to implement them.<sup>64</sup> The National Housing Federation recommended that the Government bring the run-on of all legacy benefits forward to 2019, so that people moving now and later receive the same amount of help through the long five-week wait, rather than waiting until thousands of people have moved onto Universal Credit through natural migration.<sup>65</sup>

53. The Department has said that implementation of the run-ons cannot be brought forward without delaying other policy changes. Neil Couling, Universal Credit Senior Responsible Owner, told the Committee:

My development plan is full. You would have to decide what you were prepared not to do in order to put it out, and that is to sort of replay in public the kind of conversation you might have in private.<sup>66</sup>

He added that more resources would not help, saying:

More resources will not help you, because I already have many mechanics with their hands in the engine doing things. I am running the biggest digital development, we think, in western Europe to build this system. The banks are starting to look at what we are doing and copy, and indeed poach, some of my staff to come and do some of this. There is a limit to how many people you can get in the engine at any one time. It is not just a question of me going to the Treasury and saying, “Give me more resources.”<sup>67</sup>

**54. The Department has recognised the need to provide additional support to existing benefit claimants in the form of legacy benefit run-ons, to help people bridge the gap between applying for UC to their first payment. However, those who move to UC via natural migration without transitional protection—and who see a loss in income—**

63 Work and Pensions Committee, 18th Special Report, [Universal Credit: managed migration: Government Response to the Committee’s Twentieth Report](#), HC 1901, 23 January 2019

64 Zacchaeus 2000 Trust ([UCN0072](#))

65 The National Housing Federation ([UCN0063](#))

66 [Q249](#)

67 [Ibid.](#)

are arguably in most need of this support. Not only can people—who are already vulnerable financially—suffer the overnight financial loss that natural migration can bring, but this loss can be exacerbated by other features of UC such as high deduction rates, including the repayment of advances. This loss of income can leave claimants at risk of rent arrears, or even losing their homes. The Committee maintains its view that run-ons are ultimately a sticking plaster over one of UC’s fundamental design flaws—the five week wait for payment. The process of administering run-ons is surely more costly for the Department than finding a way to move people seamlessly from legacy benefits to Universal Credit. However, while the five-week wait remains, the Committee simply won’t tolerate that the run-ons will not be made available until 2020.

55. *We recommend that the Department should look at practical options to eliminate the five-week wait. This could, for example, involve the Department making advance payments to claimants non-repayable. It could adjust for any differences in the estimate on which a claimant’s advance is calculated and the calculation of their final award through additions or deductions to the claimant’s future UC payments.*

56. *In the meantime, while the five-week wait remains, we recommend that the Department bring the run-on of all legacy benefits forward to Autumn 2019, so that people moving now through natural migration and those moving later have the same amount of help while they wait for their first UC payment. If the Department cannot automate this process in time, it could for example:*

- *calculate these amounts manually; or*
- *achieve a similar result by reducing the proportion of an advance that claimants who naturally migrate have to pay back to the Department.*

57. *We also recommend that the Department provide the Committee with a list of the policy changes in the Department’s development schedule. This should also include:*

- *a timeframe for the completion of each change;*
- *the number of hours work each change is expected to take; and*
- *a time-frame and the number of hours work involved in implementing the system changes required for the benefit run-ons.*

### 3 Moving to UC without a change of circumstance

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58. The Department has repeatedly pledged that existing claimants whose circumstances remain unchanged will not lose out when they move to UC via managed migration. For example, in a letter to the Social Security Advisory Committee in November 2018, the then Secretary of State said:

No one on existing benefits whose circumstances remain unchanged and has entitlement to the same support will lose out in cash terms as a direct result of managed migration.<sup>68</sup>

59. However, anyone who is eligible can make a new claim to UC.<sup>69</sup> With the exception of claimants in receipt of the SDP—who since January 2019 are protected by the SDP gateway—there is nothing to prevent claimants whose circumstances remain unchanged and whose entitlement is less under UC from moving over before they need to. This can happen because they:

- Inadvertently make a new claim to UC without realising that they will lose out; or
- Are incorrectly advised by Jobcentre staff or other organisations to claim UC when they do not need to.

60. Once claimants submit a claim, their existing benefits are stopped and they do not have the option to return to the legacy system. In a recent court case, the Department stressed that this design feature—known within the Department as the “lobster pot” principle—is a “cornerstone” of UC policy.<sup>70</sup> Claimants who move to UC via natural migration and whose entitlement under UC is lower than in the legacy system can suffer financial losses in the short term, in addition to the loss of the transitional protection they would have received in the longer term if they had moved to UC through managed migration.

#### *Awareness of the natural migration process*

61. Mind raised concerns that claimants do not have a good level of awareness of Universal Credit and the migration process, around which it said there is a “significant amount of anxiety”.<sup>71</sup> This was supported by joint research carried out by the Department and HMRC between October 2016 and July 2017 and published in April 2019, which found that “overall there was a lack of awareness and a perceived lack of clear information about UC and the transfer process.” For example, almost half (43%) of claimants did not realise their tax credit award would end when they made a claim to Universal Credit.<sup>72</sup>

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68 [Letter from the Secretary of State to the Social Security Advisory Committee](#), 5 November 2018

69 With the exception of claimants in receipt of the Severe Disability Premium who are prevented from moving to UC since January 2019.

70 *TD, AD & PR v The Secretary of State for Work and Pensions* [2019], High Court, Queen’s Bench Division. Available at <http://www.cpag.org.uk/sites/default/files/uploads/TD%20AD%20PR%20Final%20Judgment.pdf>, accessed 5 July 2019

71 [Mind\(UCN0045\)](#)

72 Her Majesty’s Revenue and Customs and the Department for Work and Pensions, [The transition from tax credits to Universal Credit: qualitative and quantitative research with claimants](#), November 2017

62. We also heard that the Department does not provide claimants with clear information on which changes of circumstance may lead them to need to move to UC. LITRG said that the information on the main UC page on GOV.UK could be misleading. The site states that claimants do not have to do anything until they hear from the Department, “unless [they] have a change in circumstances”. However, it does not say what changes in circumstance lead to the need to claim UC, nor does it give a link to any further information or warn claimants that they may risk losing income when they move to UC. LITRG added that the Department’s website is “difficult to follow” and that working out which changes would trigger a move to UC would be complex and “require a person to have a good understanding of the existing benefit system and to follow a trail of pages across GOV.UK and then be able to put the information together to answer their questions.”<sup>73</sup> Law Centre NI stressed that the Department should make “every effort” to inform claimants that they could lose out when they move to UC, and should signpost them to independent advice for a benefit calculation, so they can make an informed decision.<sup>74</sup>

63. Both LITRG and Law Centre NI said that they had seen an increase in advice calls from claimants who had prematurely signed up for UC without being aware of the detrimental impact it would have on their lives.<sup>75</sup> Law Centre NI gave the following example of a claimant who moved to UC earlier than they needed to.

**Box 2: Case study: Claimants moving to UC inadvertently**

Donal and his wife were in receipt of a number of means-tested benefits. Between them, they received: Income Support, Employment & Support Allowance, Carer’s Allowance (Donal), daily living PIP at standard rate (Donal), high rate care and mobility DLA (his wife).

Donal heard a radio advert about Universal Credit and thought he had to make a claim immediately. Donal suffers from an anxiety disorder and worried about the implications of not making a claim. Donal made a joint online claim and was called in to an interview at the Jobs and Benefits Office (JBO) to complete the process. At no stage was he informed that it was not actually necessary for him to make the claim. The financial loss to Donal and his wife is approximately £400 a month. Donal has since requested that he returns to his legacy benefit but has been informed that it is not possible.

Source: Law Centre NI ([UCN0067](#))

64. This is particularly concerning following the Department’s decision to launch a nine-week PR campaign in the Metro, which began on 22 May, to “set the record straight” about UC.<sup>76</sup> In a blog on its website, Zacchaeus 2000 Trust (Z2K) explained that it has complained to the Advertising Standards Agency about the campaign, saying that it found the adverts to be “deliberately misleading and propagandist” and that it was not clear enough that the adverts were produced by the DWP. It also raised concerns that the

73 The Low Incomes Tax Reform Group ([UCN0040](#))

74 Law Centre NI ([UCN0067](#))

75 Law Centre NI ([UCN0067](#)), The Low Incomes Tax Reform Group ([UCN0040](#))

76 Images of the first advert were included in an article by the Mirror, which can be accessed at <https://www.mirror.co.uk/news/politics/fury-dwp-launches-taxpayer-funded-16183343>, accessed on 5 July 2019

advertises could lead to people who are entitled to less money under UC making a claim for UC prematurely which could leave them “seriously harmed and at risk of living with not enough income for basic provisions such as food”.<sup>77</sup>

### Advice to claimants

65. NAWRA said that the complexity of understanding when a claimant needs to move to UC means that it is often not just claimants, but also Jobcentre staff, local authority staff and support organisations who do not understand what is in a claimant’s best interest and therefore cannot explain it to them. Both CPAG and NAWRA explained that this has resulted in “countless” examples of inaccurate advice, often causing claimants to migrate to UC when they do not need to.<sup>78</sup> CPAG described a particularly common error: people who moved house within a local authority being told to claim UC when they did not need to.<sup>79</sup> It provided the examples of cases in which claimants had been misadvised, set out in Box 3 below. :

#### Box 3: Examples of claimants who moved to UC following incorrect advice

A homeless man living a tent and claiming contributory Jobseeker’s Allowance moved his tent from Salford to Bridpoint. He did not need to make a new claim for any legacy benefits and the change in address did not affect his legal entitlement to Jobseeker’s Allowance. Contributory JSA is a separate benefit to UC. However, his jobcentre refused to change his ‘care of’ address and advised him that his JSA claim would close and he would need to start a UC claim.

A woman receiving ESA and housing benefit was incorrectly advised to claim UC when she moved house within the same local authority in late 2018. She was £100 worse off on UC.

Source: Child Poverty Action Group ([UCN0059](#))

66. Organisations supporting claimants, including Shelter and Your Homes Newcastle, called for the Department to release a full list of circumstances which could lead to someone needing to make a claim for UC.<sup>80</sup> The Department has published guidance for local authorities on its website, which lists some of the circumstances which would require a claimant on existing benefits to claim UC.<sup>81</sup> But witnesses, including Policy in Practice and London Councils, pointed out that this list is not exhaustive.<sup>82</sup> Your Homes Newcastle noted that, in the absence of a comprehensive list from DWP, Newcastle City Council Active Inclusion Unit had developed a list of circumstances which can trigger a claim for UC. It said this list is “recognised and used by other areas too”, but it added that in practice it can take time to work through an individual’s circumstances and establish whether a claim is required.<sup>83</sup> Similarly, Citizens Advice warned that developing a comprehensive list is “potentially very difficult” given that differences in the calculation of income and capital must also be taken into account. Both Citizens Advice and Your

77 Zacchaeus 2000 Trust, [‘Z2K Formal Complaint to Advertising Standards Authority \(ASA\)’](#), accessed 2 June 2019

78 NAWRA ([UCN0033](#))

79 Child Poverty Action Group ([UCN0059](#))

80 Shelter ([UCN0076](#)), Your Homes Newcastle ([UCN0027](#))

81 Department for Work and Pensions, [‘A7/2018 \(revised\) Universal Credit full service areas: Guidance for local authorities’](#), accessed 2 June 2019

82 Policy in Practice ([UCN0079](#)), London Councils ([UCN0024](#))

83 Your Homes Newcastle ([UCN0027](#))

Homes Newcastle stressed that, in the light of the potential financial implications for some legacy benefit claimants moving to UC, it is “critical” that claimants, DWP staff, local authority staff, HMRC staff and support organisations all have a “comprehensive understanding of what constitutes a change of circumstances and what moving to UC means for different claimants”.<sup>84</sup> The Committee does not feel that currently all DWP or Jobcentre Plus staff are in this position.

### **Advice from DWP staff**

67. We were shocked to hear from witnesses that DWP staff are not adequately trained to give advice to claimants on whether they need to move to UC and if it will result in them being better or worse off—often because they do not have sufficient knowledge of legacy benefits. Daphne Hall of NAWRA explained that, despite working in benefits advice for 30 years, she finds the rules around natural migration complex. She suggested that, due to this complexity, DWP staff should not be giving this advice to claimants. She said:

We said already the work coaches or employment support, the helpline staff follow a script. They are call-centre workers and they are not benefits experts. NAWRA sent in a chart that Newcastle Welfare Rights put together to try to explain all the triggers in Universal Credit. It is five pages long and has 18 detailed footnotes to it. I have been doing advice for 30 years and I have to sit down and think what are the different options open to them. It needs an experienced adviser. I absolutely agree with you they should not be advising people whether or not to claim Universal Credit.<sup>85</sup>

68. She added that, in addition to a lack of training, DWP helpline staff are “completely overworked”. She referred to strike action which took place at Walsall and Wolverhampton call centres in March 2019 because of “unmanageable workloads”.<sup>86</sup> PCS said that the service was suffering because of “severe under investment and staff shortages”. Members took two further days of strike action in May 2019; a PCS press release said that DWP had “refused to meet the demands of members”.<sup>87</sup>

69. Kelly-Marie Jones of CPAG explained that one Jobcentre in Scotland had taken the approach of sending people to their local Citizens Advice before they start their UC claim. She said:

They will not start the claim until they know that that person has been, particularly for people who have had their ESA stopped. That is working very well because they have very good local connections and they can ensure a prompt appointment. It may be that that could be something that could work well across the country, but we are yet to see.<sup>88</sup>

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84 Citizens Advice ([UCN0062](#)), Your Homes Newcastle ([UCN0027](#))

85 [Q78](#)

86 Public and Commercial Services Union, ‘[DWP staff in Universal Credit vote for strike action over unmanageable workloads](#)’, accessed 5 July 2019

87 Public and Commercial Services Union, ‘[Walsall and Wolverhampton UC Service Centres - Further Strike](#)’, accessed 28 May 2019

88 [Q81](#)

70. However, witnesses raised concerns that providing advice to claimants about natural migration is already placing additional pressures on support organisations. Kayley Hignell, Head of Policy at Citizens Advice, said that the funding the Department provides Citizens Advice with to run its ‘Help to Claim’ service—which can help claimants with aspects of making a claim from application through to the first payment—is not sufficient to cover all claimants receiving advice on natural migration before they start a claim. She said:

I think on this point the key thing here is we have had to project demand and that would require all claimants—we have not, the Department has had to project demand, and there is a fixed budget on it, as has been alluded to, that would not cover in any sense all claimants needing that before they made a claim.<sup>89</sup>

71. The Minister stressed that the Department does provide guidance to staff, which he stated, “goes to the fundamental point: at what point do you naturally migrate?”. However, he also stated that the Department can only advise claimants who have already had a change of circumstance and cannot inform claimants how a change in circumstance would affect them and whether or not they would lose out. He said:

We would not necessarily have access to all the information to be able to make an accurate assessment, because you have HMRC and you have local authorities who may be providing benefits.<sup>90</sup>

72. In a letter to the Chair, the Minister provided two pieces of guidance the Department provides to its staff, which he said, “ensures that staff support claimants correctly”. However, the guidance is complex and is not comprehensive. Guidance entitled ‘Moving onto UC’ lists some of the circumstances that will mean a claimant will need to claim UC “if they wish to claim support”, but notes that the list is “not exhaustive”. It adds that “it is important that individual circumstances are taken into account when deciding whether a move to UC is applicable”, but it does not go on to say what these circumstances are, neither does it set out the impact that changes to the rules on unearned income and savings can have for some claimants.<sup>91</sup> Other guidance entitled “Natural Migration guidance” sets out in more detail what steps staff should take in different circumstances, but is 14 pages in length and also has no information about the impact of unearned income and savings.

73. In the guidance the Department acknowledges the negative impact that incorrect advice can have on claimants. It states:

It is important that staff familiarise themselves with the rules to ensure the claimant is supported to claim the correct benefit. Otherwise the claimant may suffer hardship and additional unnecessary work will be created for DWP and other government departments.<sup>92</sup>

However, DWP appears to be simply relying on its staff—who are often under considerable time pressure—to be able to digest and apply this complex information correctly. More concerningly, it goes on to state that “if a claimant queries whether they should claim UC, they should initially be directed to claim online.” It adds that there are a “series of

89 [Q82](#)

90 [Q154](#), [Q204](#)

91 [Letter to the Chair from Alok Sharma](#), Minister of State for Employment, 4 June 2019

92 [Ibid.](#)

questions at the New Claim Gateway which are designed to direct claimants to claim the appropriate benefit”.<sup>93</sup> However, witnesses stressed that these questions are focused on ensuring claimants in receipt of the SDP are prevented from moving over to UC and do not protect other claimants who are set to lose out financially.<sup>94</sup>

74. **The Department does not tell claimants clearly that a move to UC can, in some cases, result in an irreversible loss of income. Given the potential impact of a premature move to UC on claimants who stand to lose income, this is irresponsible at best. It also denies that it is responsible for telling individual claimants what the impact on their income of a change in circumstances would be, and whether moving to UC would increase or decrease their income.**

75. *We recommend that the Department should tell claimants about natural migration as part of its ongoing communications about UC. This should include stating explicitly that some people may lose out financially as a result of a move to UC. This information should be added to the UC claim homepage along with a link to the benefit calculation websites such as entitledto and the Citizens Advice website. The Department should signpost claimants to organisations able to give accurate independent advice. It could for example, include this in the Citizens Advice “Help to Claim” offer, which provides help to claimants with aspects of making a claim through to first payment. However, it must ensure this is adequately funded.*

76. **Understanding when a claimant may need to move to UC is complex and involves a detailed understanding of both UC and legacy benefits. However, the Department has not developed clear or comprehensive guidance for its staff, local authorities and organisations supporting claimants. This has resulted in cases of claimants being given incorrect advice, often with serious financial consequences. Given the potential financial implications a move to UC can have for some existing claimants, it is vital that the Department does more to ensure that anyone providing advice to claimants is able to give accurate advice which is in the claimant’s best interest.**

77. *We recommend that the Department work with stakeholders to develop clearer and comprehensive guidance on when claimants need to move to UC and how this can affect different claimant groups. It should make this guidance publicly available. In addition, the Department should publish a comprehensive list of the changes in a claimant’s circumstances which could lead to them needing to claim UC.*

78. We have identified some changes of circumstance which do not seem, on the face of it, necessarily to require a move to Universal Credit. These are set out in table 3 below.

Table 3

Change of Circumstance - if you:	Current Requirement
Are on Working Tax Credits and your hours fall below 16	Be asked to claim UC
Already claim Working Tax Credits and you become sick	Be asked to claim UC

93 [Letter to the Chair from Alok Sharma](#), Minister of State for Employment, 4 June 2019

94 See for example, [Q56](#)

Change of Circumstance - if you:	Current Requirement
Are a couple on Tax Credits and you separate	Be asked to claim UC as single people
Are a lone parent on Income Support and Child Tax Credit and you form a couple with a partner working more than 24 hours a week	Be asked to claim UC as a couple
Satisfy Carers Allowance rules and are making a new benefit claim	Be asked to claim UC
Claim Income-based Jobseeker’s Allowance and you need to attend court or jury service	Be asked to claim UC
Claim Income Based Jobseeker’s Allowance and you are remanded in custody	Be asked to claim UC

Source: [Entitledto](#) website, accessed 17 July 2019

79. *We recommend that the Government review these triggers for natural migration and consider whether it is appropriate that these changes of circumstance should require a new claim for Universal Credit. If it believes that they are appropriate, it should clearly explain why.*

### Compensation

80. Neil Couling, Universal Credit Senior Responsible Owner, told the Committee that there are some “isolated examples” where the Department has given the incorrect advice to claimants about natural migration and that the Department’s approach is to provide these claimants with compensation, rather than to allow them to return to legacy benefits. He said:

What we have done with the cases where we have found this has wrongly happened ... we have compensated the individuals for this, as I hope you would expect we would do.<sup>95</sup>

81. In a letter to the Chair dated 24 April 2019, the Secretary of State explained that Neil Couling was “outlining the Department’s policy with regards to compensation for maladministration”. She said that the compensation scheme had been in place for “some time” and any claims under UC would be dealt with in exactly the same way. She added that, from April 2018 to December 2018, the Department paid compensation in 26 cases because of a loss of statutory entitlement; just 5 of these were as a result of mistaken advice by DWP staff to claim UC. The total cost of the financial compensation for these cases came to £2347.62.<sup>96</sup> The circumstances of these 5 cases are set out in Table 4 below.

95 Oral evidence: Benefit Freeze, HC 1983, [Q137](#)

96 [Letter to the Chair from the Secretary of State](#), 24 April 2019

**Table 4: Cases in which compensation paid to claimants following incorrect advice to claim UC (April 2018-December 2018)**

Number	What happened	Correct Advice	Total Amounts awarded
1	Inaccurate advice given about claiming UC or JSA. This caused delays in claiming and backdating could not be awarded for Housing Benefit as a result.	Should have been told to claim JSA from the outset	£121.16 - Loss of Statutory Entitlement £150 - Consolatory payment
2	Incorrect advice regarding claiming UC to obtain the equivalent of Child Tax Credits. Backdating not allowed despite departmental error causing the delay	Claim for UC should have been accepted.	£361.64- Loss of Statutory Entitlement £75 - Consolatory payment
3	Incorrect information regarding effect of earnings and mortgage help on UC led customer to move from JSA to UC and being worse off	Should not have been advised to move from JSA to UC	£7.02 - Loss of Statutory Entitlement £50 - Consolatory payment
4	Customer incorrectly advised that they needed to claim UC to get new style ESA. This stopped the claimant's Child Tax Credit payments	Should not have been told they needed to claim UC	£63.84 - per week on-going loss of statutory Entitlement £100 - Consolatory payment
5	The claimant had been misadvised to claim UC and was worse off as a consequence. They were also subject to further mis-advice which resulted in a period of lost benefit entitlement.	Should not have been told they needed to claim UC when she was going to move. Advice was given by Local Authority	£620 - Loss of Statutory Entitlement (includes £39 which was not issued due to an overpayment that the customer wished to repay from the total)

Source: [Letter to the Chair from Neil Couling](#), 10 May 2019

In a separate letter, the Minister for Employment said that there were just two claims during this period where the Department had concluded it was not at fault. Neither of these cases related to people claiming UC following incorrect advice.<sup>97</sup>

82. It is not clear to what extent claimants are aware of the maladministration process, how easy it is for them to make a complaint, the burden of proof that they have to provide or how long it takes for them to receive compensation. Neither does the compensation seem to cover claimants who move to UC inadvertently and suffer a loss of income. Citizens Advice, Craven and Harrogate Districts said that, in their experience of supporting claimants who

97 [Letter to the Chair from Alok Sharma](#), Minister of State for Employment, 4 June 2019

had moved to UC following mis-advice from DWP staff, making a complaint is “extremely difficult and time consuming, especially when the advice has been word of mouth in the office”.<sup>98</sup>

**83. Universal Credit will not be more generous for all. Many claimants will see a drop in their entitlement under UC compared to the legacy system, with an average loss of £59 a week or around £3000 a year. Some of the groups affected include: families with a disabled child, who stand to lose £30 a week; some disabled claimants will see a drop in entitlement of £70 a month; and the self-employed, who stand to lose as much as £8000 a year. The Department has repeatedly pledged that claimants whose circumstances remain the same will not lose out financially when they move to UC via managed migration. However, it has done nothing to prevent claimants from moving to UC prematurely—even if they stand to lose out by doing so. Given how difficult it is to work out when a move to UC is required, it is little wonder that some claimants find themselves trapped in the Department’s chillingly-named “lobster pot”, either by their own mistake or by following incorrect advice from the Department’s own staff or other organisations. By the Department’s own admission, this can leave claimants in some cases with substantial losses in income, unable to return to legacy benefits. While it is welcome that the Department has said it will compensate claimants who move to UC following incorrect advice from its staff, this commitment does not go far enough. We urge the Department to change its approach.**

*84. We recommend that the Department provides full compensation to all claimants who have lost out financially because they have moved to UC prematurely, despite their circumstances remaining the same. This could be done separately from the Department’s maladministration process. Payments should compensate for the additional amount they were previously receiving in the legacy system and should apply regardless of whether the move is a result of the claimant’s own misunderstanding or mis-advice from DWP staff or other organisations.*

## 4 How is it working in practice?

### Claimants awaiting appeal decisions

85. If a claimant loses their entitlement to a legacy benefit—for example, if they claim ESA but fail the initial Work Capability Assessment (WCA)—they can challenge the decision via the Department’s appeal process, known as a Mandatory Reconsideration (MR). Claimants who have completed an MR can go to an Appeal if they are still unsatisfied with the Department’s decision. Around 22% of MR decisions are revised and rates of overturn of decisions at the Appeal stage are high;<sup>99</sup> in 2017, 67% of ESA WCA decisions were overturned at appeal.<sup>100</sup> While claimants are awaiting the result of their MR or Appeal, they can apply for alternative benefits to help them cope financially. However, now that new claims to legacy benefits are no longer possible in most cases, this means claimants must apply for UC or go without their full benefit entitlement. Once they are on UC claimants cannot return to legacy benefits, even if their appeal is successful. This means that if their entitlement is lower under UC than in the legacy system, they will lose out on the transitional protection they would have received if they had remained on legacy benefits and moved to UC via managed migration.

86. Citizens Advice highlighted that the MR process can be long and often leaves claimants with the impossible choice of obtaining money in the short term by claiming UC, or potentially having a higher income in the long term by remaining on ESA if their appeal is successful.<sup>101</sup> Zoe Charlesworth of Policy in Practice described how claimants in this position are forced to make a gamble. She said:

They have to weigh up how likely they are to win that appeal. This is putting an awful lot on ill people. They have to make a sort of bet with themselves on which way it is going to go... They can either claim Universal Credit if they are putting in an appeal and get some money or they can live on nothing, hope they get an appeal and then they are allowed to go back on to ESA.<sup>102</sup>

Citizens Advice provided the case study of a claimant who lost out following an incorrect decision on her ESA claim:

#### Box 4: Case study: Claimant awaiting ESA appeal decision

Lisa\* suffers from fibromyalgia and is in constant pain. She also suffers from anxiety. While challenging a decision on her ESA claim Lisa applied for UC. Following a mandatory reconsideration, the original decision on her ESA claim was overturned. In spite of this outcome because she is now on UC, Lisa is unable to go back to ESA. As a result, she is now £70 a week worse off.

\*Client name has been changed to protect anonymity

Source: Citizens Advice ([UCN0062](#))

99 Department for Work and Pensions, ‘[Employment and Support Allowance: Work Capability Assessments, Mandatory Reconsiderations and Appeals](#)’, 13 September 2018; 22% of MR decisions were revised in July 2018, the latest data available.

100 Department for Work and Pensions, [Stat-xplore](#); data taken from Appeal Outcomes by Claim Start Date table

101 Citizens Advice ([UCN0062](#))

102 [Q41](#)

## Legal challenge

87. A recent case was brought against the Department on behalf of two households who had had their legacy benefits incorrectly terminated by DWP. One claimant had their Employment and Support Allowance stopped because they failed to attend a Work Capability Assessment; this decision was subsequently revised before the claimant got to the appeal stage. The other claimant had their Income Support stopped after the DWP failed to take into account their daughter's Disability Living Allowance award; this decision was revised and classed as official error—which means the Department considers it to be their fault. As neither household had sufficient other benefits for daily living and both were in full-service areas for UC, they had no alternative but to claim UC. Both households were worse off on UC (one due to the lack of severe disability premium, the other due to the lower amount of standard disabled child element in UC compared to tax credits). Mrs Justice May, the judge in the case, said that she had “reluctantly” concluded that there was no discrimination in this case as the Secretary of State had considered the impact it would have on such claimants. However, she was critical of the Department's approach in her judgment. She said:

[The Secretary of State] has decided as a matter of policy to withhold transitional protection from claimants in respect of whom she has wrongly ceased legacy benefits notwithstanding an expressed commitment when UC was introduced to the effect that no one was to suffer hardship at the point of transition to the new system. It is the evidence of her department's consideration and her policy decision that in my view obliges me to find that the test of justification is satisfied here.<sup>103</sup>

## Compensation

88. The Department has implied that, unlike claimants who have been misadvised, claimants who move to UC following an incorrect decision it has made to stop their legacy benefits will not be entitled to compensation. In a letter to the Chair, dated 24 April 2019, the Secretary of State explained that the claimants in the court case above—who moved to UC after the Department incorrectly stopped their legacy benefits—would not be entitled to compensation because the challenge “was not a case of misdirection”.<sup>104</sup>

**89. The Department is forcing claimants who are waiting for appeal decisions to gamble with their financial future—they can claim UC to survive in the short term, or go without in the hope that they will be better off in the longer term. It is entirely unacceptable that the Department refuses to offer compensation to claimants whose appeal is successful, effectively penalising them because of incorrect decisions it has made to deprive them of their legacy benefits. We are convinced of the need for urgent change.**

**90. *We recommend that the Department allows claimants who have an ongoing legacy benefit appeal to remain on legacy benefits until their application has been processed, where the legacy benefit allows them to receive money they would be entitled to under***

103 TD, AD & PR v The Secretary of State for Work and Pensions [2019], High Court, Queen's Bench Division. Available at <http://www.cpag.org.uk/sites/default/files/uploads/TD%20AD%20PR%20Final%20Judgment.pdf>, accessed 5 July 2019

104 [Letter to the Chair from the Secretary of State](#), 24 April 2019

***JSA. For instance, claimants awaiting an ESA appeal decision should be able to remain on the assessment phase of ESA. Where this is not possible, the Department should pay claimants who win their appeal transitional payments, which should equate to the difference between their entitlement under UC and the amount they would have received in legacy benefits had the Department not made the wrong decision.***

## EEA Nationals

91. European Economic Area (EEA) nationals—people from the EU as well as Iceland, Liechtenstein and Norway—living in the UK who want to claim certain means-tested benefits must normally meet the conditions of the Habitual Residence Test (HRT). The purpose of the test is to show whether they have the right to live in the UK (known as the right to reside) and whether they intend to settle in the UK for the time being (this is known as habitual residence).

92. Several organisations, including Citizens Advice, the Scottish Government, and Oxfordshire Welfare Rights reported that there is a growing number of EEA nationals, who had previously been entitled to legacy benefits, being left destitute following incorrect judgments on their Right to Reside in the UK when they move to UC.<sup>105</sup> Zacchaeus 2000 Trust said that, while it had seen a number of similar decisions for claimants of both JSA and ESA in the last year or so, the number under UC has increased dramatically. Citizens Advice said that during 2018 it had helped over 2,700 people with issues relating to HRT and right to reside. It said when claimants fail the HRT there is often “little or no evidence as to why this is the case”.<sup>106</sup> The Scottish Government said that this is one of the most “frustrating and distressing” problems its clients are experiencing.<sup>107</sup>

93. Citizens Advice explained that, because claimants have to meet the HRT requirements before they can receive their UC award, people are being left without income for significant periods of time, exacerbated by the fact that a mandatory reconsideration decision can take up to 2 months. It provided the case study set out in Box 5 below.<sup>108</sup>

### Box 5: Case study: EEA national

Peter\* is an A8 national. He was previously in receipt of ESA but was required to claim UC after a change in circumstances. He subsequently failed the HRT however it would appear the decision is incorrect because he has retained worker status, having worked in the UK for 5 continuous years. He rents privately and is now at risk of rent arrears and homelessness. Citizens Advice helped him with his Mandatory Reconsideration request and he is currently awaiting the outcome.

\*client name has been changed to protect anonymity.

Source: Citizens Advice ([UCN0062](#))

94. Oxfordshire Welfare rights explained that incorrect decisions on claimants’ ‘right to reside’ may be down to the Department’s administrative processes. It said that decision makers often had no access to the evidence used and the reasons for a determination

105 Citizens Advice ([UCN0062](#)), The Scottish Government ([UCN0075](#)), Oxfordshire Welfare Rights ([UCN0046](#))

106 Citizens Advice ([UCN0062](#))

107 The Scottish Government ([UCN0075](#))

108 Citizens Advice ([UCN0062](#))

that a claimant previously had a ‘right to reside’ for the purposes of ESA (or other legacy benefits). It added that one of the “main administrative issues” is that the Department does not keep its records for long enough. It said:

It would appear one of the main administrative issues is that DWP destroy legacy benefit paper records including regarding habitual residence after a relatively short period. The electronic records retained frequently do not include sufficient details regarding the habitual residence determination that the claimant had a right to reside (including the evidence used or the specific criteria within the Immigration (European Economic Area) Regulations under which that prior determination was made).<sup>109</sup>

95. Giving evidence to the Committee, the Minister explained that there is “no new right to reside test” and that regulations have been in place since 2015. He said that he would advise people to apply for settled status so they could claim UC more easily. He said:

My advice would be to get on to the Home Office EU settlement scheme. You then have a settled status and on that basis you would be able to claim Universal Credit.<sup>110</sup>

96. **We recognise the Department’s need to ensure that claimants are eligible for the benefits they receive. However, incorrect decisions on a claimant’s right to reside can leave them without income and at risk of rent arrears, destitution or losing their homes. Where claimants have transferred from legacy benefits, the Department has, in most cases, already made a past decision that they have the right to reside. We urge the Department to look carefully at whether all claimants need to go through this process again and to make full use of the information it already holds on claimants’ status.**

97. *The Department should review whether all changes in circumstances should trigger EEA nationals to re-take a right to reside test. Where claimants have failed a right to reside test, it should provide clear reasons why this is the case.*

98. *We also recommend that the Department should conduct a review of its data retention policies. This should look specifically at the impact its policies have on EEA nationals who it has previously assessed as having the right to reside in the UK. It should cease destroying records, where doing so could negatively impact claimants.*

## Transfer of ESA decisions

99. Mind and Crisis stressed that some of the “most concerning issues” with natural migration are situations where people with an existing entitlement to Employment and Support Allowance have experienced “unacceptable delays” in having the outcomes of their Work Capability Assessment (WCA) applied to their UC award.<sup>111</sup> WCA decisions determine both whether a claimant is entitled to ESA, and whether they are put in the Support Group or the Work-Related Activity Group. Claimants in the Work-Related Activity Group have to attend work-focused interviews and may need to take part in ‘work-related activity’. Those in the Support Group receive a higher level of benefit and are

109 Oxfordshire Welfare Rights ([UCN0046](#))

110 [Q243](#)

111 Mind ([UCN0045](#)), Crisis ([UCN0058](#))

not expected to complete work-related activities. CPAG explained that by law claimants should not have to supply this information again or undergo further assessments, and should receive additional elements and appropriate conditionality from the start of their UC claim. However, we heard that this is not always happening in practice.<sup>112</sup>

100. Mind explained that failure to transfer ESA decisions correctly can have “very serious financial consequences” and can also have a “devastating” impact on a person’s mental health. This is particularly problematic because claimants are expected to look for work while they wait for the Department to correctly apply the outcome of their Work Capability Assessment. It gave the following examples of the impact on claimants from a 2018 survey of 130 of its clients about their UC experience:

**Box 6: Survey responses**

“Until they had information from my current medical situation I was forced to sign an agreement to look for full time work. The handover from ESA was disjointed completely. I will say the work coach I had was very helpful and it wasn’t her fault.”  
Claudia (survey respondent who migrated from ESA to UC)

“Even though they were aware of my Health Conditions on ESA I had to declare all these again & was asked for a Fit Note even though I was in ESA Support Group the decision should have been carried over.” Nadia (survey respondent who migrated from ESA to UC)

“For a week before each appointment I struggled to sleep and eat, I had panic attacks—sometimes several a day. I just could not face the thought of the DWP because of the power they had over my life. This stress led to me considering self-harm and suicide, which I had previously attempted and been hospitalised for.” Julia (survey respondent who migrated from ESA to UC)

Source: Mind ([UCN0045](#))

101. In evidence to the Committee, Ayaz Manji, Senior Policy and Campaigns Manager at Mind explained that the consequences of decisions not being applied correctly can be “stark”, as people will not only be underpaid by potentially £300 a month but they may also be asked to go through another assessment unnecessarily. He added that one third of people in the ESA support group are there “because the DWP says that there is a risk to their physical or mental health if they are required to engage with Jobcentres”. He added that these risks include “suicide, self-harm or to going into a mental health crisis.”<sup>113</sup>

102. CPAG said that it has repeatedly raised the issue with the Department, but stressed that despite the Department’s promise to “spotlight” the issue internally, the process remains “imperfect” as it is a manual process and requires a form to be completed by the ESA team when a claimant claims UC.<sup>114</sup>

103. In a letter to the Chair, dated 24 April, the Secretary of State said that this was a problem in the early stages of UC Full Service and there was no evidence that it is a “systemic problem”. She said:

112 Child Poverty Action Group ([UCN0059](#))

113 [Q114](#)

114 Child Poverty Action Group ([UCN0059](#))

As soon as we were aware of this problem we took steps to remind staff of the appropriate action that should be taken. Subsequently we monitored ESA migrations closely and did not detect significant issues. In any system, there is scope for human error and we believe that the handful of cases shared with the Committee demonstrates that this has been the case for UC; and it is not evidence of a systemic problem. However, the Department will of course keep this under review, and act should any further evidence come to light.<sup>115</sup>

She added that there is “no specific data available on the number of cases” in which this has occurred.<sup>116</sup>

104. John-Paul Marks, Director General of Work and Health, explained that the Department has put in place a “centralised legacy claim closure team” whose sole responsibility is to look at ESA claims and the WCA decision and apply it to UC. He added that the team reports weekly data on how many decisions are carried across against forecasts, so that he can see “whether it is getting done on time”.<sup>117</sup>

105. Neil Couling, Senior Responsible Owner for UC, reiterated the Secretary of State’s assertion that this is not a ‘systemic’ problem. However, he added that the Department cannot be sure that they are always getting this right. He said:

I would be foolish to say hand on heart that we are capturing every case. I suspect you will find the odd case where we have missed it.<sup>118</sup>

**106. People on ESA are some of the Department’s most vulnerable claimants. Therefore, when these claimants move to UC, the failure to correctly transfer decisions the Department has made about the income they are entitled to and the accompanying conditions which apply is far more serious than a simple administrative error. Not only can claimants find themselves with less money to live on, but they may be subject to harsher conditionality rules, with the expectation that they seek work or face sanctions. This is deeply concerning, given that in many cases the Department has assessed that engaging with Jobcentres can put these claimants at risk of self-harm or even suicide. While we welcome the Department’s efforts to address this issue, we cannot simply accept on trust its assurances that this is not a “systemic” issue. Given the potential impact on claimants, it cannot afford to let one case slip through the net.**

**107. *We recommend that the Department explore ways to make the carry-over of WCA decisions from legacy benefits to UC a more automated process, to reduce the risk of human error. If this is not possible, the Department should provide the Committee with quarterly reports on the number of cases where this is not happening on time so that we can continue to monitor the issue.***

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115 [Letter to the Chair from the Secretary of State](#), 24 April 2019

116 [Letter to the Chair from the Secretary of State](#), 24 April 2019

117 [Q232](#)

118 [Q228](#)

## Conclusions and recommendations

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### Natural vs managed migration

1. The Department has carefully selected the few changes it considers appropriate to bring an end to transitional protection for claimants who move to UC via managed migration. However, the many changes to a claimant's circumstances which can lead to natural migration are based, by the Department's own admission, on its own administrative practicalities. This means that claimants can lose out simply because of the arbitrary timing of a change in their circumstances. It is particularly unjust—as recognised by the courts—that the Department has in effect created a postcode lottery, where claimants who move house to outside of their local authority lose their entitlement to transitional protection, while those who move within local authorities do not. (Paragraph 22)
2. *We recommend that the Department makes an ongoing payment to meet any shortfall in income for:*
  - *All households that lose out compared to the legacy system as a result of moving home outside of their local authority; and*
  - *These should include back-payments where claimants in these circumstances have already moved to UC and lost out as a result.* (Paragraph 23)
3. It is inexcusable that severely disabled people are being made to wait for the vital support which enables them to live their lives independently—and which the Department itself recognises they need. The Department has provided no evidence to support its argument that the provisions for this compensation cannot be separated from the regulations for the pilot of managed migration. It is difficult to avoid the conclusion that the Department is holding disabled claimants to ransom in order to ensure that Parliament approves its managed migration plans. The High Court has now ruled that the compensation the Government plans to pay claimants is not enough. The Department must urgently take the High Court's ruling into account and ensure that claimants are fully compensated as soon as possible. With no resolution in sight, and Parliament's summer recess fast approaching, the Department must now take action. (Paragraph 30)
4. *We recommend that the Government withdraws the draft Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019 and replaces them with:*
  - a) *An instrument subject to negative resolution, to make provision for people previously entitled to a severe disability premium; and An*
  - b) *instrument subject to affirmative resolution, with the provisions for the pilot of managed migration.* (Paragraph 31)
5. *The Department should ensure that the provisions for people previously entitled to the SDP should take into account the High Court's recent ruling and it should lay the regulations as soon as possible.* (Paragraph 32)

6. Cuts to disability entitlements for some disabled adults and children mean that disabled people are among the groups most likely to see a drop in income when they move to UC. The Committee welcomes the belated—though, so far, incomplete—steps the Government has taken to protect claimants in receipt of the Severe Disability Premium from moving to UC via natural migration. However, it has stopped short of extending this protection to all disabled claimants, in spite of evidence that disabled people are often more vulnerable to the hardship that a loss of income brings. We therefore urge the Department to ensure that all disabled claimants are protected financially when they move to UC. We do not expect that this would come at a huge cost to the Department, given its assurance that the majority of disabled claimants stand to gain from a move to UC. It may also reduce the overall cost, by preventing additional costs from emerging elsewhere, such as in the NHS. If, for example, 50% of all those in the ESA WRAG group in receipt of the EDP and 50% of all households in receipt of the lower-rate child disability premium move to UC via natural migration, we estimate that financial protection for these groups would cost the Department around £100 million pounds a year. It could put the £200 million it expects to save by 2023, as a result of the delay to managed migration, towards covering this additional cost. (Paragraph 38)
7. *We recommend that the Department makes an ongoing payment to meet any shortfall in income for all households with any level of disability, including children with disabilities, who lose out when they move to UC. This should include making back-payments to claimants in these circumstances who have already moved to UC and lost out as a result.* (Paragraph 39)
8. The consequences of the Department’s decision to base its approach to natural migration around its own administrative practicalities, rather than on claimants’ needs, can be seen clearly in the particularly cruel effect it has on people who have been recently bereaved. It is inconceivable that, at a time of considerable grief and distress, the Department expects claimants who have just lost their partner to immediately claim UC and grapple with a process which by all accounts is often extremely complicated. We urge the Department to show these people some compassion. (Paragraph 43)
9. *We recommend that the Department should allow people on legacy benefits to remain on legacy benefits for a grace period of one year after the death of their partner, so that they do not need to immediately apply for UC.* (Paragraph 44)
10. The legacy system rightly provides easements to people who are going through a bereavement to allow them time to grieve before they have to think about engaging with the benefit system or changing their living arrangements. Under UC, however, some claimants who may no longer be exempt from housing restrictions (such as the “bedroom tax”) following the death of their partner could be immediately expected to change their living arrangements in order to cope financially. While the housing costs of claimants already on UC will be protected for three months—nine months less than in the legacy system—claimants who move to UC via natural migration may not receive this protection at all and could face the unenviable choice between finding alternative living arrangements at the peak of their grief or plunging themselves into debt. (Paragraph 45)

11. *When claimants move to UC because of the death of their partner, the Department should provide them with transitional protection for their housing element for twelve months, as was the case in the legacy system. (Paragraph 46)*
12. The Department has recognised the need to provide additional support to existing benefit claimants in the form of legacy benefit run-ons, to help people bridge the gap between applying for UC to their first payment. However, those who move to UC via natural migration without transitional protection—and who see a loss in income—are arguably in most need of this support. Not only can people—who are already vulnerable financially—suffer the overnight financial loss that natural migration can bring, but this loss can be exacerbated by other features of UC such as high deduction rates, including the repayment of advances. This loss of income can leave claimants at risk of rent arrears, or even losing their homes. The Committee maintains its view that run-ons are ultimately a sticking plaster over one of UC’s fundamental design flaws—the five week wait for payment. The process of administering run-ons is surely more costly for the Department than finding a way to move people seamlessly from legacy benefits to Universal Credit. However, while the five-week wait remains, the Committee simply won’t tolerate that the run-ons will not be made available until 2020. (Paragraph 54)
13. *We recommend that the Department should look at practical options to eliminate the five-week wait. This could, for example, involve the Department making advance payments to claimants non-repayable. It could adjust for any differences in the estimate on which a claimant’s advance is calculated and the calculation of their final award through additions or deductions to the claimant’s future UC payments. (Paragraph 55)*
14. *In the meantime, while the five-week wait remains, we recommend that the Department bring the run-on of all legacy benefits forward to Autumn 2019, so that people moving now through natural migration and those moving later have the same amount of help while they wait for their first UC payment. If the Department cannot automate this process in time, it could for example:*
  - *calculate these amounts manually; or*
  - *achieve a similar result by reducing the proportion of an advance that claimants who naturally migrate have to pay back to the Department. (Paragraph 56)*
15. *We also recommend that the Department provide the Committee with a list of the policy changes in the Department’s development schedule. This should also include:*
  - *a timeframe for the completion of each change;*
  - *the number of hours work each change is expected to take; and*
  - *a time-frame and the number of hours work involved in implementing the system changes required for the benefit run-ons. (Paragraph 57)*

## Moving to UC without a change of circumstance

16. The Department does not tell claimants clearly that a move to UC can, in some cases, result in an irreversible loss of income. Given the potential impact of a premature move to UC on claimants who stand to lose income, this is irresponsible at best. It also denies that it is responsible for telling individual claimants what the impact on their income of a change in circumstances would be, and whether moving to UC would increase or decrease their income. (Paragraph 74)
17. *We recommend that the Department should tell claimants about natural migration as part of its ongoing communications about UC. This should include stating explicitly that some people may lose out financially as a result of a move to UC. This information should be added to the UC claim homepage along with a link to the benefit calculation websites such as entitledto and the Citizens Advice website. The Department should signpost claimants to organisations able to give accurate independent advice. It could for example, include this in the Citizens Advice “Help to Claim” offer, which provides help to claimants with aspects of making a claim through to first payment. However, it must ensure this is adequately funded.* (Paragraph 75)
18. Understanding when a claimant may need to move to UC is complex and involves a detailed understanding of both UC and legacy benefits. However, the Department has not developed clear or comprehensive guidance for its staff, local authorities and organisations supporting claimants. This has resulted in cases of claimants being given incorrect advice, often with serious financial consequences. Given the potential financial implications a move to UC can have for some existing claimants, it is vital that the Department does more to ensure that anyone providing advice to claimants is able to give accurate advice which is in the claimant’s best interest. (Paragraph 76)
19. *We recommend that the Department work with stakeholders to develop clearer and comprehensive guidance on when claimants need to move to UC and how this can affect different claimant groups. It should make this guidance publicly available. In addition, the Department should publish a comprehensive list of the changes in a claimant’s circumstances which could lead to them needing to claim UC.* (Paragraph 77)
20. *We recommend that the Government review these triggers for natural migration and consider whether it is appropriate that these changes of circumstance should require a new claim for Universal Credit. If it believes that they are appropriate, it should clearly explain why.* (Paragraph 79)
21. Universal Credit will not be more generous for all. Many claimants will see a drop in their entitlement under UC compared to the legacy system, with an average loss of £59 a week or around £3000 a year. Some of the groups affected include: families with a disabled child, who stand to lose £30 a week; some disabled claimants will see a drop in entitlement of £70 a month; and the self-employed, who stand to lose as much as £8000 a year. The Department has repeatedly pledged that claimants whose circumstances remain the same will not lose out financially when they move to UC via managed migration. However, it has done nothing to prevent claimants from moving to UC prematurely—even if they stand to lose out by doing so. Given how difficult it is to work out when a move to UC is required, it is little wonder

that some claimants find themselves trapped in the Department’s chillingly-named “lobster pot”, either by their own mistake or by following incorrect advice from the Department’s own staff or other organisations. By the Department’s own admission, this can leave claimants in some cases with substantial losses in income, unable to return to legacy benefits. While it is welcome that the Department has said it will compensate claimants who move to UC following incorrect advice from its staff, this commitment does not go far enough. We urge the Department to change its approach. (Paragraph 83)

22. *We recommend that the Department provides full compensation to all claimants who have lost out financially because they have moved to UC prematurely, despite their circumstances remaining the same. This could be done separately from the Department’s maladministration process. Payments should compensate for the additional amount they were previously receiving in the legacy system and should apply regardless of whether the move is a result of the claimant’s own misunderstanding or mis-advice from DWP staff or other organisations.* (Paragraph 84)

### How is it working in practice?

23. The Department is forcing claimants who are waiting for appeal decisions to gamble with their financial future—they can claim UC to survive in the short term, or go without in the hope that they will be better off in the longer term. It is entirely unacceptable that the Department refuses to offer compensation to claimants whose appeal is successful, effectively penalising them because of incorrect decisions it has made to deprive them of their legacy benefits. We are convinced of the need for urgent change. (Paragraph 89)
24. *We recommend that the Department allows claimants who have an ongoing legacy benefit appeal to remain on legacy benefits until their application has been processed, where the legacy benefit allows them to receive money they would be entitled to under JSA. For instance, claimants awaiting an ESA appeal decision should be able to remain on the assessment phase of ESA. Where this is not possible, the Department should pay claimants who win their appeal transitional payments, which should equate to the difference between their entitlement under UC and the amount they would have received in legacy benefits had the Department not made the wrong decision.* (Paragraph 90)
25. We recognise the Department’s need to ensure that claimants are eligible for the benefits they receive. However, incorrect decisions on a claimant’s right to reside can leave them without income and at risk of rent arrears, destitution or losing their homes. Where claimants have transferred from legacy benefits, the Department has, in most cases, already made a past decision that they have the right to reside. We urge the Department to look carefully at whether all claimants need to go through this process again and to make full use of the information it already holds on claimants’ status. (Paragraph 96)
26. *The Department should review whether all changes in circumstances should trigger EEA nationals to re-take a right to reside test. Where claimants have failed a right to reside test, it should provide clear reasons why this is the case.* (Paragraph 97)

27. *We also recommend that the Department should conduct a review of its data retention policies. This should look specifically at the impact its policies have on EEA nationals who it has previously assessed as having the right to reside in the UK. It should cease destroying records, where doing so could negatively impact claimants.* (Paragraph 98)
28. People on ESA are some of the Department's most vulnerable claimants. Therefore, when these claimants move to UC, the failure to correctly transfer decisions the Department has made about the income they are entitled to and the accompanying conditions which apply is far more serious than a simple administrative error. Not only can claimants find themselves with less money to live on, but they may be subject to harsher conditionality rules, with the expectation that they seek work or face sanctions. This is deeply concerning, given that in many cases the Department has assessed that engaging with Jobcentres can put these claimants at risk of self-harm or even suicide. While we welcome the Department's efforts to address this issue, we cannot simply accept on trust its assurances that this is not a "systemic" issue. Given the potential impact on claimants, it cannot afford to let one case slip through the net. (Paragraph 106)
29. *We recommend that the Department explore ways to make the carry-over of WCA decisions from legacy benefits to UC a more automated process, to reduce the risk of human error. If this is not possible, the Department should provide the Committee with quarterly reports on the number of cases where this is not happening on time so that we can continue to monitor the issue.* (Paragraph 107)

## Formal minutes

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**Wednesday 17 July 2019**

Members present:

Rt Hon Frank Field, in the Chair

Heidi Allen            Nigel Mills  
Ruth George          Chris Stephens  
Steve McCabe

Draft report (*Universal Credit: natural migration*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph. Paragraphs 1 to 107 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Twenty-seventh Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 24 July at 9.45am]

# Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

## Wednesday 27 February 2019

**David Finch**, Senior Research Fellow, Resolution Foundation, **Tom Waters**, Research Economist, Institute for Fiscal Studies, **Zoe Charlesworth**, Policy and Product Manager, Policy in Practice [Q1–48](#)

**James Taylor**, Head of Policy, Public Affairs and Campaigns, Scope, **Kayley Hignell**, Head of Policy (Families, Welfare and Work), Citizens Advice, **Daphne Hall**, Vice-Chair, National Association of Welfare Rights Advisers, **Kelly-Marie Jones**, Welfare Rights Adviser, Child Poverty Action Group [Q49–87](#)

## Wednesday 6 March 2019

**Laura Dewar**, Policy Officer, Gingerbread, **Ayaz Manji**, Senior Policy and Campaigns Officer, Mind, **Maeve McGoldrick**, Head of Policy and Campaigns, Crisis, **Anastasia Berry**, Policy Manager, MS Society [Q88–129](#)

**Dr. Phil Agulnik**, Director, Entitledto [Q130–145](#)

## Wednesday 1 May 2019

**Alok Sharma MP**, Minister of State for Employment, **John-Paul Marks**, Director General, Work and Health, and **Neil Couling**, Director General, Change Group, Department for Work and Pensions [Q146–257](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

UCN numbers are generated by the evidence processing system and so may not be complete.

- 1 Aster Group ([UCN0069](#))
- 2 Charles Elinson ([UCN0008](#))
- 3 Charter Housing ([UCN0028](#))
- 4 Child Poverty Action Group ([UCN0059](#))
- 5 Citizens Advice ([UCN0062](#))
- 6 Citizens Advice Craven Harrogate & Districts ([UCN0034](#))
- 7 Citizens Advice Peterborough ([UCN0052](#))
- 8 Citizens Advice Scotland ([UCN0020](#))
- 9 Citizens Advice Staffordshire North and Stoke-on-Trent Citizens Advice ([UCN0041](#))
- 10 Crisis ([UCN0058](#))
- 11 Curo ([UCN0066](#))
- 12 Derbyshire County Council Welfare Rights Service ([UCN0023](#))
- 13 Derek Bates ([UCN0005](#))
- 14 Disability Rights UK ([UCN0056](#))
- 15 Entitledto ([UCN0080](#))
- 16 Gingerbread ([UCN0022](#))
- 17 Glasgow City Council ([UCN0054](#))
- 18 Homeless ([UCN0048](#))
- 19 Inclusion London ([UCN0061](#))
- 20 Islington Council ([UCN0053](#))
- 21 Law Centre NI ([UCN0067](#))
- 22 London Councils ([UCN0024](#))
- 23 Macmillan Cancer Support ([UCN0057](#))
- 24 Mind ([UCN0045](#))
- 25 Laura Pidcock MP ([UCN0070](#))
- 26 Mr Mr Hadwen ([UCN0035](#))
- 27 Mrs Vanessa Bowen ([UCN0012](#))
- 28 Mrs Vanessa Bowen ([UCN0015](#))
- 29 Ms Jane Halliday ([UCN0038](#))
- 30 MS Society ([UCN0049](#))
- 31 Name Withheld ([UCN0007](#))
- 32 Name Withheld ([UCN0011](#))
- 33 Name Withheld ([UCN0013](#))

- 34 Name Withheld ([UCN0036](#))
- 35 Name Withheld ([UCN0068](#))
- 36 Name Withheld ([UCN0078](#))
- 37 NAWRA ([UCN0033](#))
- 38 NHS Health Scotland ([UCN0060](#))
- 39 None None ([UCN0004](#))
- 40 One Housing ([UCN0055](#))
- 41 Oxfordshire Welfare Rights ([UCN0046](#))
- 42 Peabody ([UCN0077](#))
- 43 Policy in Practice ([UCN0019](#))
- 44 Policy in Practice ([UCN0079](#))
- 45 Resolution Foundation ([UCN0081](#))
- 46 Riverside ([UCN0064](#))
- 47 Royal Mencap Society ([UCN0050](#))
- 48 Scope ([UCN0017](#))
- 49 Scottish Federation of Housing Associations ([UCN0051](#))
- 50 Shelter ([UCN0076](#))
- 51 Single Financial Guidance Body ([UCN0047](#))
- 52 T. Rees. ([UCN0003](#))
- 53 Tax and Welfare Rights Advice Service, Equity Trade Union ([UCN0025](#))
- 54 The Highland Council ([UCN0071](#))
- 55 The Low Incomes Tax Reform Group ([UCN0040](#))
- 56 The National Housing Federation ([UCN0063](#))
- 57 The Scottish Government ([UCN0075](#))
- 58 Trussell Trust ([UCN0073](#))
- 59 UNISON ([UCN0021](#))
- 60 United Welsh ([UCN0074](#))
- 61 Usdaw ([UCN0031](#))
- 62 Vanessa Bowen ([UCN0006](#))
- 63 Your Homes Newcastle ([UCN0027](#))
- 64 Zacchaeus 2000 Trust ([UCN0072](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

### Session 2017–19

First Report	Universal Credit: the six week wait	HC 336
Second Report	A framework for modern employment	HC 352
Third Report	Protecting pensions against scams: priorities for the Financial Guidance and Claims Bill	HC 404
Fourth Report	PIP and ESA assessments: claimant experiences	HC 355
Fifth Report	Universal Credit Project Assessment Reviews	HC 740
Sixth Report	British Steel Pension Scheme	HC 828
Seventh Report	PIP and ESA assessments	HC 829
Eighth Report	European Social Fund	HC 848
Ninth Report	Pensions freedoms	HC 917
Tenth Report	Assistive technology	HC 673
Eleventh Report	Universal Credit: supporting self-employment	HC 997
Twelfth Report	Carillion	HC 769
Fourteenth Report	Appointment of Professor Sir Ian Diamond as Chair of the Social Security Advisory Committee	HC 971
Fifteenth Report	The Motability Scheme	HC 847
Sixteenth Report	Collective defined contribution pensions	HC 580
Seventeenth Report	Universal Credit and Domestic abuse	HC 1166
Eighteenth Report	Universal Support	HC 1667
Nineteenth Report	Benefit Sanctions	HC 955
Twentieth Report	Universal Credit: managed migration	HC 1762
Twenty First Report	Universal Credit: support for disabled people	HC 1770
Twenty-Second Report	Universal Credit: Childcare	HC 1771
Twenty-Third Report	Two-child limit	HC 1540
Twenty-Fourth Report	The benefit cap	HC 1477
Twenty-Fifth Report	Universal Credit: childcare: Government Response to the Committee's Twenty-Second Report	HC 2078
Twenty-Sixth Report	Universal Credit: tests for managed migration	HC 2091

First Special Report	Child Maintenance Service: Government's Response to the Committee's Fourteenth Report of Session 2016–17	HC 354
Second Special Report	Self-employment and the gig economy: Government Response to the Committee's Thirteenth Report of Session 2016–17	HC 644
Third Special Report	Disability employment gap: Government Response to the Committee's Seventh Report of Session 2016–17	HC 652
Fourth Special Report	Victims of modern slavery: Government Response to the Committee's Twelfth Report of Session 2016–17	HC 672
Fifth Special Report	Employment Opportunities for Young People: Government response to the Committee's Ninth Report of Session 2016–17	HC 872
Sixth Special Report	Protecting pensions against scams: priorities for the Financial Guidance and Claims Bill: Government Response to the Committee's Third Report	HC 858
Seventh Special Report	A framework for modern employment: Government response to the Second Report of the Work and Pensions Committee and First Report of the Business, Energy and Industrial Strategy Committee	HC 966
Eighth Special Report	PIP and ESA assessments: Government Response to the Committee's Seventh Report	HC 986
Ninth Special Report	British Steel Pension Scheme: The Pensions Regulator Response to the Committee's Sixth Report	HC 987
Tenth Special Report	Pension freedoms: Government response to the Committee's Ninth Report	HC 1231
Eleventh Special Report	Carillion: Responses from Interested Parties to the Committee's Twelfth Report	HC 1392
Twelfth Special Report	Universal Credit: supporting self employment: Government Response to the Committee's Eleventh Report	HC 1420
Thirteenth Special Report	Employment Support for Carers: Government Response to the Committee's Thirteenth Report	HC 1463
Fourteenth Special Report	Carillion: Government Response to the Committee's Twelfth Report	HC 1456
Fifteenth Special Report	Assistive technology: Government Response to the Committee's Tenth Report	HC 1538
Sixteenth Special Report	Universal credit and domestic abuse: Government response to the Committee's Seventeenth Report	HC 1611

Seventeenth Special Report	Universal Support: Government Response to the Committee's Eighteenth Report of Session 2017–19	HC 1862
Eighteenth Special Report	Universal Credit: managed migration: Government Response to the Committee's Twentieth Report of Session 2017–19	HC 1901
Nineteenth Special Report	Benefit sanctions: Government Response to the Committee's Nineteenth Report of Session 2017–19	HC 1949
Twentieth Special Report	Universal Credit: support for disabled people: Government Response to the Committee's Twenty- First Report of Session 2017–19	HC 1998
Twenty-First Special Report	Two-child limit: Government Response to the Committee's Twenty-Third Report	HC 2174
Twenty-Second Special Report	The benefit cap: Government Response to the Committee's Twenty-Fourth Report	HC 2209
Twenty-Third Special Report	Universal Credit: childcare: Government Response to the Committee's Twenty-Fifth Report	HC 2422
Twenty-Fourth Special Report	Universal Credit: tests for managed migration: Government Response to the Committee's Twenty-Sixth Report	HC 2091