House of Commons

Work and Pensions Committee

Universal Credit: managed migration: Government Response to the Committee's Twentieth Report of Session 2017–19

Eighteenth Special 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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Contacts

All correspondence should be addressed to the Clerk of the Work and Pensions Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 8976; the Committee's email address is workpencom@parliament.uk

Eighteenth Special Report

The Work and Pensions Committee published its Twentieth Report of Session 2017–19, Managed Migration (HC 1762) on 22 November 2018. The Government response was received on 14 January 2019 and is appended to this report.

Appendix: Government Response

1. The Government welcomes the Twentieth Report of Session 2017–19, published on 22 November 2018, following the Work and Pensions Select Committee's inquiry into Managed Migration.

2. In the report, the Government is pleased to note the Committee's acknowledgement that the Department has "listened to" and "acted on" concerns following the Social Security Advisory Committee's consultation and that the draft Universal Credit (Managed Migration) Regulations 2018, which were laid before the House on 5th November 2018, are a "significant improvement on the Government's original proposals".

3. The Government acknowledges the Committee's support of the 2018 Budget announcement and is pleased that the Committee regards "[t]he Department's 2018 Budget announcement that will extend run-on payments to income related JSA and ESA is hugely welcome". For clarification, run-on payments are also extended to Income Support.

4. Additionally, the Government agrees with the Committee that it is impossible to overstate the importance of getting managed migration right both for claimants and for the success of Universal Credit itself.

5. The Committee made 11 recommendations that fall within the remit of the Department for Work and Pensions. The Government's response to these recommendations is set out below.

Work and Pensions Select Committee Recommendations

Recommendation 1:

We recommend that the Government should not ask the House to vote on the Regulations until the Social Security Advisory Committee has been able to report on them. (Paragraph 11)

6. The Government does not accept this recommendation as the draft regulations have already been subject to extensive scrutiny by various bodies including the Social Security Advisory Committee (SSAC).

7. The Social Security Advisory Committee considered the draft Universal Credit (Managed Migration) Regulations 2018 and, taking them on formal reference, conducted a public consultation, which received 455 responses. SSAC's report and the Government response were laid before Parliament alongside the draft regulations on 5th November 2018. In its response, the Government welcomed the advice of the Committee and accepted, in whole or in part, all but one of its recommendations. Recommendation 10, which related to the level of transitional protection for tax credits claimants with capital

exceeding £16,000, was rejected as the Government believes that the proposed approach strikes the right balance between providing this protection for claimants migrating to Universal Credit and the needs of the taxpayer.

8. The draft regulations were scrutinised by the Joint Committee on Statutory Instruments (JCSI) and the Secondary Legislation Scrutiny Committee (SLSC), in their respective roles of ensuring the legal text is correct, clear and within the powers given by the parent Act (primary legislation); and examining and advising Parliament on the policy merits of the draft instrument.

9. On 14 January 2019, we are withdrawing the draft Universal Credit (Managed Migration) Regulations 2018 and are bringing forward two sets of revised legislation.

10. The first is a negative Statutory Instrument (SI), The Universal Credit (Transitional Provisions) (SDP Gateway) Amendment Regulations 2019, which provides for the Severe Disability Premium (SDP) Gateway, which meets our commitment to prevent recipients of SDP from moving to Universal Credit until they are moved over as part of the managed migration process and ensures that this is delivered to the announced timetable.

11. The second, affirmative SI, the draft Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019, contains the remaining regulations as laid on 5th November 2018 and a new provision which provides that once 10,000 awards of Universal Credit have been made as part of managed migration, no further migration notifications will be issued.

12. In effect, this means that the Government is legislating for 'piloting powers', rather than for the whole of the migration period. This is in line with one of the recommendations that was made by the SLSC in its letter to the Secretary of State dated 12 December 2018.

Recommendation 2:

We recommend that the Government continue its preparations for managed migration while the Social Security Advisory Committee carries out its work. (Paragraph 12)

13. The Government accepts this recommendation in part, that is, it agrees that it should continue its preparations for managed migration.

14. The Department is continuing its engagement with SSAC and other external stakeholders. The Department hosted an event in London on 17 October 2018 to engage a large number of diverse stakeholders and partners in the next phase of Universal Credit, seeking their input on the design of the managed migration process and to start to draw out some of the key challenges for their organisations.

15. On 29 November, the Department held an induction seminar over the internet (webinar) for all stakeholders who attended the 17 October event and additional groups who were unable to attend. All of these stakeholders have been invited to be involved in an initial set of workshops to discuss key areas of the migration process, which form the basis of four work streams of Service Design, Delivery Model, Communicating and Orientation, and Supporting Vulnerable Claimants.

16. The first workshop was held on 6 December 2018, there are two further workshops in January 2019, and subsequent workshops are scheduled to take place later in the year. We are currently engaging with over 80 stakeholders.

Balance of risk: the requirement to make a new claim

Recommendation 3:

We recommend that the Government accept the recommendation of the Social Security Advisory Committee to conduct a segmented analysis of the claimant groups who will be subject to "managed migration", with a view to identifying circumstances in which it does not need to require people to make a new claim. This analysis should be published. (Paragraph 24)

17. The Government agrees to explore options on this point as set out in our response to SSAC's recommendations.

18. There are a number of reasons why the Department will not be transferring claimants to Universal Credit automatically, which include:

- the need to ensure that data is accurate and up to date to avoid transferring errors from legacy benefits;
- the need to ensure that people will not miss out on their full entitlement. Following the completion of managed migration, an additional £2.4 billion will be going to 700,000 families who currently do not take up their full entitlement owing to the complexity of the legacy system;
- the need to ensure that claimants can start using the digital service from day one, as Universal Credit is a digital service. There are safeguards in place to ensure all claimants are digitally supported and assistance is available to those who need it.
- the fact that when we have used pre-population before, we found that out-ofdate information had been carried forward as we did not hold the most up to date information on claimants' circumstances. This was, in some part, due to the fact that claimants had not had recent contact with the Department once their legacy benefit had been awarded.

19. However, it is right that the detail of the design of managed migration is flexible so that the process can adapt to ensure that it works for everyone. We have said that, where possible, we will use existing decisions or verification to make aspects of the process easier. For example, if claimants have an existing Work Capability Assessment decision, they will not be required to have another assessment in order to receive the disability additions of Universal Credit.

20. In addition, for claimants who do not have any work-related requirements, we already operate a digital claimant commitment acceptance process and we will carry that forward as part of managed migration. Also, where tax credit claimants have already verified their

identity in order to make and maintain their tax credit claim, we may be able to reuse this digital registration to the benefit of the claimant. This will mean that a significant number of claimants will not need to attend a face-to-face interview.

Recommendation 4:

We recommend that the Department extends run-ons to all legacy benefits that Universal Credit replaces. We further recommend that the Government publish a set of worked examples showing how claimants in different scenarios will be affected by its changes to the run-ons. This should include, but need not be limited to: single claimants with and without disabilities and in and out of work; and couples, especially where they are receiving different benefits (for example, where one is receiving ESA and the other JSA) or have different employment statuses. (Paragraph 31)

21. The Government accepts this recommendation in part.

22. Claimants in receipt of Housing Benefit are already entitled to a two-week run-on of the benefit when they transfer to Universal Credit. Additionally, from July 2020, claimants receiving income-based Jobseekers Allowance (JSA (IB)), income-related Employment Support Allowance (ESA(IR)) and Income Support (IS) will also be entitled to a two-week run-on of those benefits. The principle is that claimants will receive an additional two-week payment of their (income based) legacy benefit, which will be paid at the rate in payment at the time the Universal Credit claim begins.

23. The Department also considered extending run-ons to those claimants receiving Working Tax Credit and/or Child Tax Credit. However, the Government decided not to extend run-ons to Working Tax Credit claimants as, by definition, these claimants are in work and will have other income to help support them while moving to Universal Credit. Child Tax Credits claimants who are in-work will similarly have their own income to support themselves through the transition, while those who are not working and do not have private means of supporting themselves will benefit from receiving a run-on of the income-related legacy benefits that they may be claiming. Claimants with children will also have continued access to Child Benefit, as well as access to up to 100% Universal Credit advances.

24. Before the run-on comes into force, discretionary hardship payments under new Regulation 65 will be available to help those in the managed migration pilot.

25. In addition to the announced run-ons, there is further support available. Claimants moving to Universal Credit will also receive whatever residual legacy payments are due to them up until the date of the Universal Credit claim as well as the run on. Therefore, those claimants receiving the two-week run on and a final two-week payment of their legacy payment will receive, in effect, a four-week payment to help them with the transition. Claimants will also have access to advance payments of up to their full indicative Universal Credit award, which can be claimed from day one and which provide further financial support until they receive their first Universal Credit payment.

26. With regard to the example provided in the recommendation, it is not possible for one member of a couple to receive ESA and for the other to receive JSA. The couple would both be included in a claim to either ESA or JSA.

Recommendation 5:

We recommend that the Department must not proceed with migration on a large scale until it knows in practice whether run-ons deliver the support that claimants need. We therefore recommend the Department start the run-ons from the beginning of testing of managed migration. (Paragraph 32)

27. The Government accepts this recommendation in principle.

28. The Department will introduce a Discretionary Hardship Payment to support those claimants who will be managed migrated as part of the pilot phase and who appear to be in hardship. The power for Discretionary Hardship Payments is broad and could be used to pay the equivalent of the two-week legacy run on to the 10,000 claimants who will be moved to Universal Credit as part of the piloting phase and who are in hardship on account of the absence of the run on. We will also have the discretion to make payments if any other issues related to managed migration have resulted in hardship.

29. Introducing the Discretionary Hardship Payment during the piloting phase will allow the Department to evaluate this support and assess what impact the current policy may have on claimants before introducing the run-ons from July 2020. This evaluation will allow us to consider whether further support is needed as a result of other issues that may arise and we have committed to reporting on our findings from the pilot before bringing forward legislation to proceed with volume managed migration.

Recommendation 6:

The Department should eliminate the wait for claimants moving to Universal Credit via managed migration, many of whom will have little or no financial backstop to tide them over. It should use this as a basis for considering how the wait could be reduced for claimants migrating naturally, and for new claims. (Paragraph 33)

30. The Government accepts this recommendation in part.

31. Monthly assessments are part of the design of Universal Credit and reflect how most people are paid in work; we know that most people are paid monthly or four weekly. Therefore, gaining a familiarity with monthly payments through Universal Credit ensures that claimants are better aligned with the world of work, which makes the transition to receiving a monthly wage easier. Also, paying Universal Credit monthly in arrears supports claimants in the intervening period when they come off benefits and await their earnings. It is important for Universal Credit claimants moving off benefits and into work, many of whom may have limited resources to tide them over, to know that they will still receive their final monthly Universal Credit award to support them during their first month in work.

32. The Department has introduced a number of measures to mitigate the wait for the first Universal Credit payment. As mentioned previously, we introduced a two-week run on of housing benefit in 2018, and in 2020 we are introducing a two-week run on of DWP out-of-work legacy benefits. As also mentioned previously, from July 2019, we are also introducing a Discretionary Hardship Payment that will be available for claimants migrated through the piloting period and which will allow the Department to pay the equivalent of their legacy benefit for two weeks for those who appear to be in hardship.

Claimants will also receive a final payment of their legacy benefit which, coupled with their run on of legacy benefits, means that they may have up to four weeks' payment to help support them when they move onto Universal Credit. Those migrating to Universal Credit can also claim an advance payment of up to 100% of their indicative entitlement on day one of their claim, which is currently paid back over 12 months. However, as part of the 2018 Budget announcement, the Government will also increase the maximum period over which advances will be recovered from 12 to 16 months from October 2021. It is also worth noting that in some circumstances, repayments can already be deferred by a further three months.

Recommendation 7:

We recommend the Department use its pilot to test different approaches to rolling out managed migration. In particular, it should work with stakeholders to identify and test approaches that limit both stress on claimants, and demands on its own workload. It should consider, for example, using existing intervention points such as the renewal of a tax credit claim or expiry of a Work Capability Assessment to prompt migration, rather than migrating claimants on an arbitrary timetable. (Paragraph 36)

33. The Government accepts this recommendation.

34. The Department has already begun an extensive programme of engagement and design activity with over 80 stakeholders; we held a large scale stakeholder event on 17 October and have subsequently started collaborative working, including hosting workshops and webinars on key work streams. The Department will continue this engagement to identify different approaches to the managed migration pilot from July 2019, such as a non-mandatory approach where claimants will be invited to go through the process.

35. We fully appreciate the need for managed migration to meet the needs of claimants in different situations. Therefore, we intend to include claimants from a variety of circumstances in receipt of various benefit combinations in the pilot to ensure that we are able to move all claimants safely onto Universal Credit.

36. With a view to reducing stress on claimants, we will be considering the way in which we communicate with claimants and the different timescales, frequency, language and channels that we should use. We will test a variety of communication methods including advertising campaigns, face-to-face communication, letters, texts, telephone calls and home visits. At each stage, we will be adjusting and amending our processes and claimant journey according to how claimants respond.

Transitional protection

Recommendation 8:

We recommend that claimants should not lose their entitlement to transitional protection unless their earnings have been above or below the Universal Credit threshold for six consecutive months. (Paragraph 50)

37. The Government has agreed to seek further evidence on this point. As stated in our response to SSAC's recommendation 11, we intend to use the pilot phase to assess what impact the current policy may have on claimants. Discretionary Hardship Payments will also be available for claimants who experience hardship in these circumstances.

38. The rules for cessation of transitional protection remain as follows:

- a sustained (three months) earnings drop below the Administrative Earnings Threshold where the claimant has moved into a more intensive conditionality regime;
- the formation or separation of a couple; and/ or
- the ending of the Universal Credit award. Where this was due to an increase in earnings and a new claim is made within four months of the Universal Credit award ending, the claimant will have their Transitional Protection reawarded as part of their new award of Universal Credit.

Recommendation 9:

We recommend that the Government create exemptions to the rules on couples forming or separating to protect transitional protection in cases where it is clearly justified to do so. In particular, the Government should create exemptions for:

a) ***survivors of domestic abuse, so that no one is deterred from leaving an abusive partner by the fear of losing transitional protection; and***

b) ***people entitled to the Severe Disability Premium, so that no one loses their SDP entitlement because a couple forms or separates.***

The Government should also consider carefully what exemptions might be appropriate for couples with disabled children, and for couples where one or both partners has a disability but is not in receipt of the Severe Disability Premium. (Paragraph 52)

39. Transitional protection is awarded following a 'like for like' comparison between existing legacy benefit entitlement and Universal Credit entitlement based on the circumstances for the claimant household at the point of managed migration. As such the Government does not accept this recommendation.

40. The recommendation presupposes that the separation of the couple will mean that the claimants are worse off financially. This is not necessarily the case. As single Universal Credit claimants, individuals would have full access to all Universal Credit elements and allowances to which they are entitled. Also, where two people claim Universal Credit individually, the sum of their individual standard allowances will add up to more than the Universal Credit standard allowance for a couple.

41. In response to part (b), transitional protection awarded at the point of migration ensures that where claimants' circumstances remain the same, they will be no worse off when they move to Universal Credit.

42. If claimants receiving transitional protection owing to having previously been in receipt of the Severe Disability Premium (SDP) as single people form a couple, their

circumstances are significantly different to when they managed migrated from legacy benefits. For those who received SDP at the couple rate, this rate was contingent on both members of the couple being eligible. Therefore, when couples form or separate, any previous comparison to their circumstances from when they had a different status would no longer be relevant and, therefore, transitional protection will cease.

Recommendation 10:

We recommend that the Government urgently assess the impact of a sudden loss of income due to natural migration on different claimant groups and in light of that reconsider whether the triggers for natural migration remain appropriate. We will examine the Government's assessment as part of our future work on natural migration. (Paragraph 53)

43. The Government does not accept this recommendation as natural migration only occurs when a claimant has a change of circumstance that necessitates making a new claim to a benefit that Universal Credit replaces.

44. Universal Credit now provides the nation's vital social security safety net. As Universal Credit is rolled out nationally, it is right that claimants must claim Universal Credit instead and that the new claim is assessed under Universal Credit rules. Any consequential change in the level of income is likely to be on account of the new set of circumstances. As such the Department has no plans to review its approach to natural migration.

45. This is part of a complex plan to move safely from the old system to the new and has been operating since 2013. HMRC and Local Authorities will no longer have the capacity to take new claims. Similarly, staff working on legacy benefits in DWP are being gradually moved to support Universal Credit delivery. There is no scope within the legacy benefit systems in DWP, Local Authorities and HMRC to deal with legacy changes of circumstances in any appreciable volumes.

Tests of readiness

Recommendation 11:

We urge the Government to commit to setting tests which must be met before a single claimant is transferred to Universal Credit via the managed migration pilot. Given its role in delivering Universal Support on behalf of the Department, and supporting claimants more widely, we recommend that Citizens Advice is given a formal role in defining the tests. (Paragraph 60)

46. The Government does not accept this recommendation as it has now put beyond doubt that it will pilot the first stage of managed migration. In addition, the Government is incorporating involvement from a variety of stakeholders, including Citizens Advice.

47. The Government recognises the invaluable contribution of stakeholders. That is why the Department is working closely with over 80 charities, experts, and welfare groups, including those who specialise in supporting vulnerable claimants, such as disabled or terminally ill people. Therefore, when defining success criteria for the pilot phase, it is only

right that we continue to listen to all the stakeholders with which we are working, rather than with just one stakeholder. This inclusive approach will be more beneficial to gaining the relevant insight to support all claimants during the pilot.

48. The Department has committed to publishing the evaluation of the pilot, which will inform the readiness of the managed migration process to increase volumes. We have agreed with the Social Security Advisory Committee's first recommendation on the need for criteria and expect to set those in 2020 following evaluation of the pilot. It is more sensible for the success criteria to be determined by the piloting phase, so that it is informed by what we have learned during this period.

49. The Department has already demonstrated its effective use of learning in its 2016/17 piloting of the Universal Credit process, which informed the criteria that it subsequently used for the successful expansion of Universal Credit delivery from October 2017 to date. There are now over 1.4 million households claiming Universal Credit and service improvements continue to be introduced.

50. The Department has always said that it will pilot the first stage of managed migration and is now putting this commitment beyond doubt by introducing a new provision in the draft Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019, which will provide that once 10,000 awards of Universal Credit have been made to persons to whom a managed migration notice has been issued, no further notices may be issued. In effect, this means that the Government is legislating for piloting powers, rather than for the whole of the migration period. For the Government to continue with migration activity, it would need to bring forward a further regulation to revoke this provision.