

To: UC Programme Board Members **From:** Graeme Connor – UC Policy
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Paper Title: Update on UC Regulations

Issue: This paper outlines the recent and potential upcoming changes made to the UC regulations.

Recommendations/Decisions required: For Information

Timing: For Information

Summary

1. This paper has been brought to this meeting to update Programme Board on the latest UC Regulations. The paper outlines the legislative process and three recent amendments that have been made. Finally, it looks at the changes we are proposing to make ahead of Move to UC.

Decision / Recommendation

2. This is provided for information only.

Background

The Legislative Process

3. There are a number of steps in the process to deliver new Regulations. These include:
 - Instructing lawyers to achieve policy aim;
 - Comment on Draft versions of the Regulations;
 - Obtain Parliamentary Business and Legislation (PBL) Committee approval to make Regulations and agree laying date;
 - Write to Social Security Advisory Committee (SSAC) with Explanatory Memorandum and Draft Regulations and attend follow up meetings as necessary;
 - Prepare Explanatory Memorandum for Secondary Legislation Scrutiny Committee;
 - Consider Public Sector Equality Duties;
 - Complete Family Test;
 - Obtain Ministerial agreement to make and lay Regulations;
 - Arrange making and laying of Regulations;
 - Liaising with Department for Communities in Northern Ireland in line with devolution principles.

Recent Regulatory Changes

Taper and Work Allowance Changes

4. Following the Budget announcement on 27 October, the Universal Credit (Work Allowance and Taper) (Amendment) Regulations 2021 were laid before Parliament on 18 November and came into force on 24 November 2021.
5. These Regulations increased the Universal Credit work allowances by more than £500 a year and reduced the earnings taper to 55% from 63%. 1.9m households are estimated to gain next year by an average of just over £1,000 per year as a consequence of both measures.
6. The Department for Communities has made equivalent regulations for people living in Northern Ireland.

Historical Institutional Payments Disregard Changes

7. The Social Security (Income and Capital Disregards) (Amendment) Regulations 2021 were laid before Parliament on 10 December 2021 and came into force on 1 January 2022.
8. These regulations amend means-tested benefits provisions, including Universal Credit, to ensure that payments made by approved schemes compensating for historical institutional child abuse in the United Kingdom do not affect recipients' entitlements to means-tested benefits.
9. They also make amendments to ensure payments made under the Home Office's Windrush Compensation Scheme do not affect recipients' entitlements to means-tested benefits and to exclude such payments from Recovery of Benefit provisions.
10. The Department for Communities has made equivalent regulations for people living in Northern Ireland.

Amending the regulations to the requirement not to be receiving education

11. This amendment provides that a person who is entitled to attendance allowance (AA), disability living allowance (DLA), child disability payment (CDP) or personal independence payment (PIP) must have been determined to have limited capability for work (LCW) before the person starts undertaking a course of education. This amendment closed a 'workaround' that provided an unintended route to eligibility to Universal Credit (UC) for disabled students, via a claim to New Style (Contributory) Employment and Support Allowance (NS ESA) and its associated Work Capability Assessment (WCA).
12. The regulations were prayed upon in the Lords and a fatal motion debate was held. Fortunately it was not taken to a vote, however in the closing speech by Lord Storey it was suggested that they may wish to have another debate on the matter of disabled student support once the judgement from the JR has been published.

Upcoming regulation changes

Move to UC

13. The team are currently progressing in laying a set of regulations that will support Move to UC. In particular:

- Abolition of regulations that were in place to manage the roll out of Universal Credit that are no longer required now that UC is fully rolled out to all jobcentres.

- Managed migration of couple claims – tidying up the legislation for separated couple claims. In particular:
 - Ensuring the legacy claim of a separated claimant is not terminated by the claim of their former partner.
 - Where one of the couple claims later than the other they do not lose out through the earlier termination date.
 - Removal of transitional protection where a claimant makes a UC couple claim with a new partner.
- Adjustment to transitional element where other elements increase.
- Alignment of the transitional protection for students with others who are managed migrated.
- Abolition of discretionary hardship payments.
- The removal of the 10,000 limit on the number of migration notices that the Secretary of State can issue.

14. The proposed regulations are currently being considered by SSAC. In order for the discovery phase to proceed without limitation these regulations need to be in place.