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Welfare Reform Bill: Universal Credit provisions

Bill No 154 of Session 2010-11

RESEARCH PAPER 11/24 7 March 2011

The *Welfare Reform Bill* provides for the introduction of a "Universal Credit" to replace a range of existing means-tested benefits and tax credits for people of working age, starting from 2013. The Bill follows the November 2010 White Paper, *Universal Credit: welfare that works*, which set out the Government's proposals for reforming welfare to improve work incentives, simplify the benefits system and tackle administrative complexity.

The White Paper also announced plans to localise aspects of the discretionary Social Fund, linked to the introduction of Universal Credit. The Bill provides for the abolition of the Social Fund as it currently stands. Locally-administered assistance is to be provided instead, and the Government has launched "call for evidence" seeking views from local authorities and other interested organisations.

Besides Universal Credit and related measures, the Bill makes other key changes including the introduction the Personal Independence Payment to replace Disability Living Allowance, changes to Housing Benefit, restrictions on Employment and Support Allowance, amendments to the forthcoming statutory child maintenance scheme, and the introduction of a benefit cap. These aspects are covered in Library Research Paper 11/23, *Welfare Reform Bill: reform of disability benefits, Housing Benefit, and other measures.*

This paper has been prepared for the Second Reading debate in the House of Commons.

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Summary

On 11 November 2010 the Department for Work and Pensions published a White Paper*, Universal Credit: welfare that works*. The White Paper – which followed the July 2010 Green Paper *21st Century Welfare* – set out the Government's plans for a "Universal Credit" to replace most in work and out of work benefits for people of working age. The intention is to introduce the Universal Credit for new claims from October 2013, with the aim of completing the transfer of all existing claimants to the new system by October 2017. Part 1 of the *Welfare Reform Bill* provides the legislative framework for the Universal Credit, but much of the detail is to be set out in regulations.

Universal Credit will be payable to people both in and out of work, and will replace Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Housing Benefit, Child Tax Credit and Working Tax Credit. A key feature of Universal Credit is a single "taper" for the withdrawal of the Credit for those in work. As earnings rise, Universal Credit is to be withdrawn at a constant rate of 65 pence for each pound of net earnings, although for some groups an initial amount of earnings would be disregarded before the taper applies. For employees paid through PAYE, Universal Credit payments are to be calculated and adjusted automatically using a new system giving "real time" information on earnings from employers.

The financial support provided by Universal Credit is underpinned by a new "conditionality" framework setting out the responsibilities claimants may be required to meet. The level of requirements will depend on the claimant's circumstances. The conditionality framework is backed up by a new "strong and clear" sanctions regime for non-compliance which provides for a reduction in Universal Credit payments for periods of up to three years.

Welfare rights organisations, pressure groups and think tanks have broadly welcomed to the Government's objective of reforming the benefit and tax credit systems to achieve greater simplicity, increase work incentives and tackle poverty. However, there is concern about the lack of detail on key issues such as how help with childcare costs is to be provided, how the new "localised" Council Tax Benefit will fit in with Universal Credit, and how entitlement to passported benefits is to be determined. Some argue that the Government should not proceed with such important welfare reforms until these and other issues are resolved. Others argue that, with so many unanswered questions, it is difficult to say whether the proposals will in fact achieve the stated policy aims of simplifying the system and making work pay, and determine exactly who, in the long term, will be "winners" and "losers" from Universal Credit. There are also doubts about whether a taper rate of 65% – significantly less generous than previous suggestions – would provide sufficient incentive to work. Some would like the Government to commit to a review of the taper, with the long term aim of reducing it.

The Universal Credit proposals have to be seen in the context of wider Government strategies aimed at reducing the current financial deficit, including the £18 billion package of benefit and tax credit cuts announced in the June Budget and 2010 Spending Review which, some argue, overshadow potentially positive aspects of the Universal Credit. The Government has given an undertaking that there will be no cash losers at the point of transfer to Universal Credit but, organisations point out, many claimants will already have been affected by these wider changes by the time the new system is introduced.

Concerns have also been voiced about more detailed aspects of the Universal Credit proposals, including the treatment of sickness and maternity benefits, savings rules, and how self-employment income will be determined. Other issues of concern include the frequency of payments, who within a family should receive the benefit, and the risks associated with providing support for families in a single payment. It has been suggested that payments of

Universal Credit should be "firewalled" into different components so that if payment of one component stopped, other elements would continue to be paid.

The Universal Credit depends crucially on the successful introduction of new IT systems – including the proposed "real time" PAYE system – in time for the planned roll-out in October 2013. Welfare rights groups believe that the Government should only implement Universal Credit when the supporting systems have been built, tested and proved fit for purpose.

Alongside the introduction of the Universal Credit, the Government proposes to transfer responsibility for Social Fund Crisis Loans and Community Care Grants to local authorities in England and to the devolved administrations in Scotland and Wales. The intention is that local authorities in England would provide new locally-administered assistance to vulnerable groups, under existing powers, from April 2013. Funding is to be made available to local authorities in England, and to the devolved administrations, which will decide the most appropriate arrangements for giving assistance. The Bill provides for the abolition for the discretionary Social Fund in its current form. Alongside the Bill, the Government has launched a "call for evidence" inviting comments from local authorities and other interested parties on how the new locally-administered assistance should be provided. Concerns have been voiced about a possible "postcode lottery" following localisation of assistance, particularly in light of the Government's announcement that funding will not be "ring-fenced" for this purpose.

Most of the provisions in the Bill covered in this Research Paper extend to England, Wales and Scotland, but not to Northern Ireland. Social security is a transferred matter under the *Northern Ireland Act 1998*, although there is a long-standing policy of parity in this area.

The following provisions relate to the whole of the United Kingdom:

- Clause 33 (power to make consequential and supplementary provision: Universal Credit); and

- Clause 34 (abolition of benefits).

There are also provisions which require the consent of the Welsh Ministers because they impact on their functions. These include:

- changes to Welsh legislation as a result of the introduction of UC (clause 33); and

- changes following from the localisation of the Social Fund (clause 69)

Besides Universal Credit and related measures, the Bill makes other key changes including the introduction of Personal Independence Payments to replace Disability Living Allowance, changes to Housing Benefit, restrictions to Employment and Support Allowance, amendments to the forthcoming statutory child maintenance scheme, and the introduction of a benefit cap. These aspects are covered in Library Research Paper 11//23, *Welfare Reform Bill: reform of disability benefits, Housing Benefit, and other measures.*

1 Introduction

Section 2 of this paper gives the background to the Universal Credit proposals, up to and including the November 2010 White Paper, *Universal Credit: welfare that works*[1], and responses to it.

Section 3 looks at the provisions in Part 1 of the Bill covering the Universal Credit.

The October 2010 Spending Review announced that responsibility for Council Tax Benefit would be devolved to local authorities, alongside a 10% reduction in expenditure on CTB, from 2013-14. The Bill provides for the abolition of Council Tax Benefit, but the Government is still deciding the details of the system to replace it. This issue is covered in section 4 of this paper.

Section 5 covers the provisions in the Bill relating to the new "conditionality" framework setting out the responsibilities claimants may be required to meet, and sanctions for non-compliance.

Section 6 looks at the impact of the Universal Credit, both in terms of its distributional impact and its effect on work incentives.

Section 7 looks at the implications for Pension Credit of the Universal Credit.

Section 8 covers reforms to the Social Fund, linked to the introduction of Universal Credit.

The Department for Work and Pensions has prepared Explanatory Notes which give further information on the provisions in the Bill.[2] It has also produced a memorandum for the House of Lords Select Committee on Delegated Powers and Regulatory Reform, on the regulation-making powers in the Bill.[3]

The DWP has also produced a number of Impact Assessments on different aspects of the Bill.[4] This includes Impact Assessments on the Universal Credit, and on localising Social Fund Crisis Loans and Community Care Grants.

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1 Cm 7957, 11 November 2010
2 Bill 154-EN
3 DEP2011-0318
4 *Welfare Reform Bill Impact Assessments*

2 Development of the Universal Credit proposals

Part 1 of the Bill creates the legislative framework for a new benefit – the Universal Credit – to replace most in work and out of work benefits for people of working age. This section gives a brief outline of existing benefits and tax credits for people of working age, and looks at some of the problems identified with the current system. The origins of the Universal Credit proposals are then outlined, up to including the November 2010 White Paper, *Universal Credit: welfare that works*.[5] The provisions in the Bill relating to the Universal Credit are covered in sections 3-5 of this Research Paper.

2.1 Current working age benefits and tax credits

The main social security benefits for people of working age who are not in work are:

- Jobseeker's Allowance (JSA)
- Income Support (IS)
- Employment and Support Allowance (ESA)
- Incapacity Benefit (IB)
- Carer's Allowance (CA)

Jobseeker's Allowance is payable to people who are not in full-time paid work (defined as 16 hours or more a week), but who are available for and actively seeking work. There are two types of Jobseeker's Allowance: contribution-based JSA, for those who satisfy the National Insurance contribution conditions; and income-based JSA, which is means-tested.

Income Support is a non-contributory, means-tested benefit for certain groups who are not expected to be available for or seek work, including lone parents with younger children, disabled people, people incapable of work and carers. Benefit is not payable if the person is in full-time work.

Employment and Support Allowance is payable to people who are not in full-time work and who have a "limited capability for work" because of sickness or disability. It replaced Incapacity Benefit and Income Support on the grounds of incapacity for work from October 2008. As with JSA, there are two versions: contributory ESA, for those with sufficient National Insurance contributions; and income-related ESA, which is means-tested.

Around 1.6 million of the remaining claimants of **incapacity benefits** (Incapacity Benefit, Severe Disablement Allowance and Income Support paid on the grounds of incapacity for work) are to be reassessed for Employment and Support Allowance between 2011 and 2014. Those who are deemed to have a "limited capability for work" will be "migrated" to ESA. Those deemed "fit for work" may be able to claim other benefits including Jobseeker's Allowance.

Carer's Allowance is a non-contributory benefit for people who are providing 35 hours or more care per week for a person who is entitled to the middle or higher rate Disability Living Allowance care component. It is non-means-tested, but may be affected by earnings above a certain level, or if the person is in full-time education. CA cannot be paid in addition to certain other benefits such as Incapacity Benefit or contributory ESA, but a person satisfying the conditions for CA can qualify for an addition to any means-tested benefits they receive.

[5] Cm 7957, 11 November 2010

For all the means-tested benefits listed above, entitlement depends upon the person's income and/or capital (i.e. savings and other assets), and that of their partner, if they have one. Most sources of income reduce the amount of benefit payable on a pound for pound basis, although for earnings a small weekly amount is disregarded (£5, £10 or £20, depending on the circumstances). Capital of up to £6,000 is ignored. If capital is between £6,000 and £16,000, a "tariff income" of £1 a week is assumed for every £250 of capital in excess of the lower limit; this is included in the income calculation and can therefore reduce or extinguish entitlement to benefit. Benefit is not payable if capital exceeds £16,000.

The table below gives statistics on receipt of key out-of-work benefits for people of working age in Great Britain up to May 2010.

Claimants of key out-of-work benefits (a)**, Great Britain, 2000 to 2010**

DWP Working-age client group analysis (b) - May of each year

	Key out-of-work benefits - total		Of whom: Jobseeker's Allowance		ESA and incapacity benefits (c)		Other (d)	
	number ('000s)	rate (%)(e)	number ('000s)	rate (%)(e)	number ('000s)	rate (%)(e)	number ('000s)	rate (%)(e)
2000	4,842	13.2	1,037	2.8	2,675	7.3	1,130	3.1
2001	4,732	12.9	909	2.5	2,743	7.5	1,080	2.9
2002	4,668	12.6	877	2.4	2,755	7.4	1,036	2.8
2003	4,659	12.5	886	2.4	2,762	7.4	1,012	2.7
2004	4,517	12.0	777	2.1	2,761	7.4	979	2.6
2005	4,470	11.8	801	2.1	2,729	7.2	940	2.5
2006	4,499	11.8	896	2.3	2,676	7.0	927	2.4
2007	4,370	11.3	807	2.1	2,631	6.8	932	2.4
2008	4,284	11.0	788	2.0	2,584	6.7	912	2.3
2009	4,957	12.7	1,443	3.7	2,610	6.7	904	2.3
2010	4,828	12.4	1,354	3.5	2,603	6.7	871	2.2

Source: DWP Work and Pensions Longitudinal Study

Notes:
(a) Key out-of-work benefits, as defined within the DWP working-age client group analysis, include JSA, ESA and incapacity benefits, Income Support and Pension Credit for men under 65.

(b) The total count is broken down by statistical groups. These categorise each person according to the main reason why they are claiming benefit. Each client is classified to a single group to avoid double-counting.

(c) Includes ESA, Incapacity Benefit, Severe Disablement Allowance, and Income Support paid on the grounds of incapacity.

(d) Other Income Support (including Pension Credit for males aged 60 to 64). Does not include claimants of Income Support who also receive Carer's Allowance.

(e) Rates are percentages of population aged 16-64.

In addition, 430,000 people of working age in Great Britain were in receipt of Carer's Allowance at May 2010.[6]

[6] *DWP Quarterly Statistical Summary*, 17 November 2010

All the above benefits are administered by the Department for Work and Pensions (DWP). Means-tested help is also available through local authorities in respect of rent and Council Tax. **Housing Benefit (HB)** is payable to people liable to pay rent who are on a low income, whether in or out of work. The amount will vary according to rent, income and family circumstances. **Council Tax Benefit (CTB)** is available for people on low incomes, regardless of housing tenure, who are liable for Council Tax Benefit. As with DWP-administered means-tested benefits, entitlement depends on an assessment of income and capital. Neither is payable if the person and/or their partner has capital of more than £16,000.

At August 2010, just under 4.8 million people were claiming Housing Benefit in Great Britain, of whom almost three-quarters were aged under 65. There were 5.8 million claimants of Council Tax Benefit, of whom 3.6 million were under 65.[7]

In addition to benefits administered by the DWP and local authorities, HM Revenue and Customs provides means-tested support for families though tax credits. Tax credits comprise:

- **Child Tax Credit**, payable to people with children. Along with Child Benefit, it provides a single system of financial support for families with children, whether in or out of work. It also replaced additions for children that were formerly payable with benefits such as Income Support and income-based Jobseeker's Allowance.

- **Working Tax Credit**, payable to people in low-paid work, including those without children. Those with children may be able to get help with childcare costs via the childcare element of Working Tax Credit.

People may receive the Child Tax Credit, or the Working Tax Credit, or both. Tax credits are claimed on a family rather than an individual basis, so that for couples the incomes and circumstances of both partners will be taken into account. When calculating entitlement to tax credits, any "investment income" in excess of £300 a year is taken into account, but capital as such is ignored.

As of 1 December 2010, 6.3 million families, containing 10.1 million children, were in receipt of tax credits. Of those, 5.7 million were receiving Child Tax Credit and 2.0 million received both Child Tax Credit and Working Tax Credit. 600,000 single persons and couples without children received Working Tax Credit.[8]

As the following chart indicates, expenditure on means-tested support for people of working age has increase substantially in recent years, largely as a result of tax credits. In 1992-93, total expenditure was just over £20 billion, but expenditure is forecast to be around £50 billion in 2011-12 (both at 2010-11 prices).

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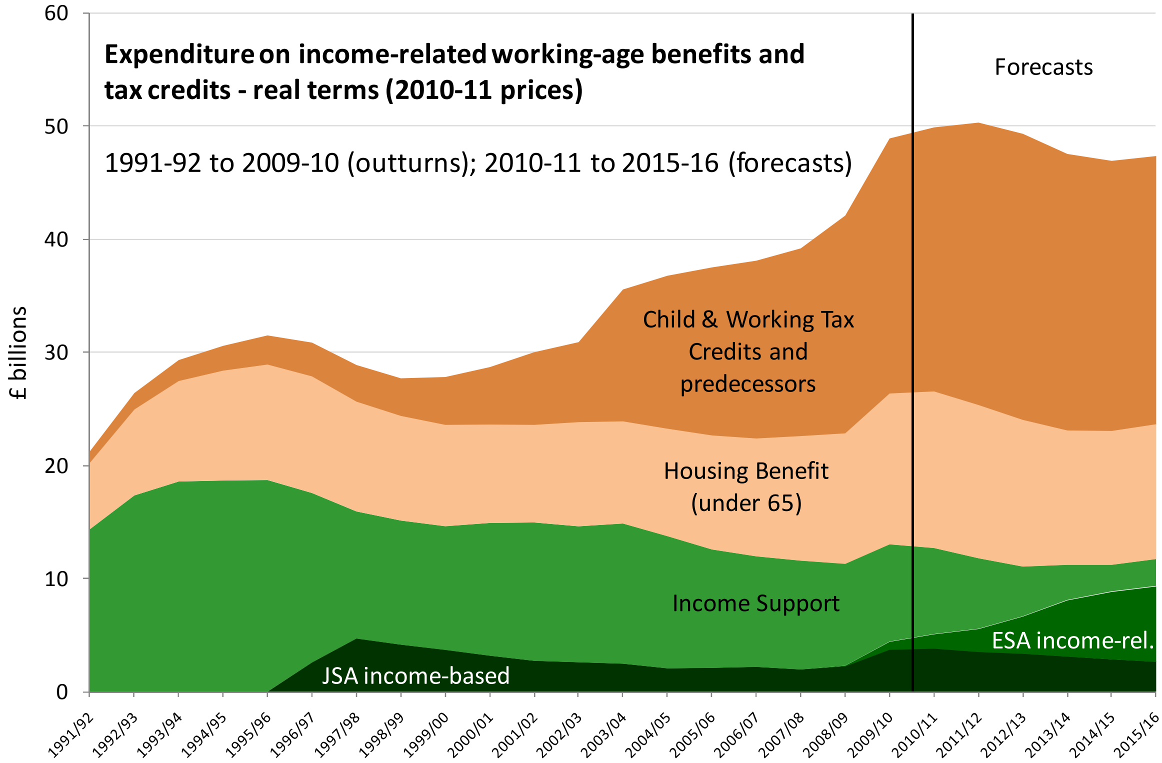
7 *Ibid.*

8 HMRC, *Child and Working Tax Credit Statistics - December 2010*



Sources: DWP Benefit Expenditure Tables (JSA, ESA, IS, Housing Benefit outturns and forecasts); HM Treasury Public Expenditure Statistical Analyses (Tax Credit outturns) Office for Budget Responsibility Economic and Fiscal Outlook, November 2010 (Tax Credit forecasts)

Notes: Only Tax Credit awards which exceed the recipient's tax liability are treated as Government expenditure and included here – they are otherwise treated as negative tax revenue. Child Tax Credit and Working Tax Credit were introduced in April 2003. Child allowances which had previously been part of Income Support and JSA were incorporated into CTC for new claims from this date.

2.2 Problems with the current system

The Government's July 2010 Green Paper, *21st Century Welfare*, summarised the problems with the current benefits and tax credit system as follows:

> Our welfare system has failed to keep up with the pace of change in the economy and society. Successive governments have made piecemeal reforms without rationalising the overall landscape.
>
> There are two key problems.
>
> 1. Work incentives for some groups are poor:
>
> - interactions between benefits and Tax Credits make the transition to work risky and uncertain;
> - the financial incentives to enter work at less than 16 hours are relatively low: this works against the successes of the strong conditionality regime; and

> - the rate at which benefits and Tax Credits are withdrawn as earnings increase means that some people see no more than a few pence for every extra £1 earned – resulting in the perception that work does not pay.
>
> 2. The system is too complex:
>
> - for claimants – arising from the interaction between different benefits and Tax Credits and layers of previous reforms, with many different benefits addressing the same underlying issue and entitlement to benefit paid by one agency affecting the benefit payable by another; and
>
> - to administer – where people may need to provide the same information to different agencies, often through paper-based transactions.
>
> As a result we have rising costs of state support – including waste through unproductive administration, error and fraud – accompanied by high rates of welfare dependency and poverty.[9]

In particular, the Green Paper considered how the current system impacted on choices to take up employment:

> 19. Leaving the security of the benefits system is made harder by uncertainty about how to get benefits reinstated quickly if the job does not work out. Distinct in-work benefits have failed to convince some people to make the transition to work. People often worry about the loss of Housing Benefit when they are thinking of returning to work, or are concerned that their Working Tax Credit may not be accurate or paid quickly enough.
>
> 20. People planning a move into work have understandable concerns about how they will support their families during the transition. They ask themselves: “Will the in-work benefits kick in quickly enough to fill the gap before my pay arrives?” and “How long will it take to get out-of-work benefits again if the job does not work out?”.
>
> 21. The complexity of the system means that these legitimate questions can be difficult to answer. The fear and uncertainty that people experience when thinking about returning to work is real and understandable. For many, the world of work is an unknown that raises feelings of apprehension. Underpinning their fears is the perception that the rewards from working are small, leaving people feeling that they are being punished for working while their neighbours are rewarded for doing nothing.
>
> 22. As a result, working legitimately is not a rational choice for many poor people to make. Fraud is always wrong, but we must recognise that the benefits system is making matters worse by pushing valuable work, and the aspiration that this can engender, underground.[10]

With regard to work incentives, attention frequently focuses on the problem of high “Participation Tax Rates” and “Marginal Deduction Rates”.

The **Participation Tax Rate (PTR)** is a measure of the financial gain from moving from out of work benefits into paid work at a particular level of earnings. It is expressed as a percentage; a high PTR (i.e. approaching 100%) would indicate that a person would benefit financially only very slightly from moving into a job from benefits, so there may be little

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[9] Cm 7913, p7
[10] *Ibid.* pp12-13

incentive to seek employment. A low PTR, on the other hand, means there is a greater reward for working than remaining on benefits.

The **Marginal Deduction Rate (MDR)** (also referred to as the Marginal Tax Rate (MTR) or Marginal Effective Tax Rate (METR)) is a measure of the financial incentive for someone already in work to increase their earnings by, for example, working additional hours. The higher the MDR, the less the incentive to work additional hours because the financial gain may be negligible.

The problem of high PTRs and MDRs has long been acknowledged. It is caused in the main by the combined rates of withdrawal of benefits and tax credits, as income increases. The incentive to move into work may be weak, particularly at low earnings or hours. The DWP estimates, for example, that around 1.3 million workless households would lose up to 70% of their earnings on moving into work of ten hours a week at the National Minimum Wage.[11] Here the 100% withdrawal rate of out of work means-tested benefits beyond the current small earnings disregards is a major issue. Incentives to work may however be greater for those able to work sufficient hours to gain entitlement to Working Tax Credit (either 16 hours or 30 hours, depending on the circumstances).

For those in work, the incentive to increase hours may be weak because of the combined effect of the withdrawal of Housing Benefit, Council Tax Benefit and tax credits. For people who have exhausted their entitlement to IS, ESA or JSA, the simultaneous withdrawal of HB, CTB and tax credits can result in MDRs as high as 96%.[12] The DWP estimates that at present around 700,000 households in low paid work would lose more than 80% of any increase in their earnings because of higher tax or withdrawn benefits.[13]

2.3 Proposals for reform

A number of options for tax and benefit reform to address the issues outlined above and to simplify the system have been put forward in recent years.[14] The introduction of Child Tax Credit – combining in-work and out-of-work support for families with children – may itself be seen as a step towards the integration of benefits. In addition, the Labour Government's *Welfare Reform Act 2009* included provisions to move towards a system of working age benefits based around JSA and ESA, as a possible step towards a "single working age benefit."[15]

However, the measures in the current Bill have their origin in the work of the Centre for Social Justice (CSJ). Following the CSJ's findings that "the biggest barrier to those entering work for the first time was the benefit system itself", Iain Duncan Smith, in his former role as Chairman of the CSJ, was prompted to request a "root and branch review" of the benefits system.

The culmination of this review was the CSJ's report, *Dynamic Benefits*, published in September 2009 – its central proposal was the creation of a Universal Credit, and Mr Duncan Smith said that he hoped "these recommendations are accepted by politicians and civil servants alike".[16]

The key element of the CSJ's proposals was the "Universal Credit":

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[11] *Universal Credit Impact Assessment*, p7
[12] *Ibid.* p20
[13] *Ibid.* p1
[14] See for example the Work and Pensions Committee report, *Benefits Simplification*, HC 463 2006-07; and Chapter 3 of the July 2010 Green Paper, *21st Century Welfare*, Cm 7913
[15] See Library Research Paper 09/08, *Welfare Reform Bill: social security provisions*, 23 January 2009
[16] Centre for Social Justice, *Dynamic Benefits – Executive Summary*, September 2009, p4 and p8

> One primary benefit system with two components:
>
> - Universal Work Credit, for those out of work or on very low wages. This will combine JSA [Jobseeker's Allowance], IS [Income Support], IB/ESA [Incapacity Benefit/Employment and Support Allowance];
>
> - Universal Life Credit, to cover additional living expenses for all those on low incomes. This will combine HB [Housing Benefit], CTB [Council Tax Benefit], DLA [Disability Living Allowance], WTC [Working Tax Credit], CTC [Child Tax Credit] (and potentially Child Benefit), without cutting the levels of these benefits for those who need them the most;
>
> [...]
>
> A more work-focused system that reduces in-work poverty for low earners:
>
> - Introduce a standard withdrawal rate for all benefit payments of 55% of post-tax earnings;
>
> - Significantly increase the earnings disregards for all benefits claimants;
>
> - Treat 'passported benefits' as universal benefits-in-kind, and taper them away with increasing earnings rather than taking them away abruptly;
>
> - Restructure Incapacity Benefit, replacing the permitted work regime with the increased earnings disregards, and separating the fit-for-work test from disability-based payments.[17]

On the proposed 55% withdrawal (or taper) rate, the CSJ explained:

> This new system of reduced withdrawal rates would increase work incentives for those who are currently hardest hit by the welfare system. The lower withdrawal rate would provide much more in-work financial support for low earners, and would be fairer and more transparent. **This proposal would benefit nearly everyone who wants to work**.[18]

The CSJ explained why they identified 55% as the "preferable withdrawal rate":

> Setting it higher than 55% would increase MTRs for those working households in receipt of benefits other than Housing Benefit (even if their net income was higher than today). As a result, there would be a negative impact on earnings, and on the number of second earners in employment.
>
> Setting it lower than 55% would increase the number of higher earners receiving benefits, and hence facing higher withdrawal rates, which would also reduce earnings – and increase costs for the system as a whole.[19]

There was also a need to encourage people to enter work. The CSJ noted the "comparative lack of incentives" to enter work below the current hours thresholds for Working Tax Credit.[20] To encourage people on benefits to enter the workforce, the CSJ proposed "significantly more generous earnings disregards than are currently available". The level of the earnings

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[17] Centre for Social Justice, *Dynamic Benefits – Part III*, September 2009, p264
[18] *Ibid.* p273, original emphasis
[19] *Ibid.* pp273–274
[20] *Ibid.* p274

disregard would vary according to household type, with larger households having more generous disregards.[21]

In conclusion, the CSJ said that its Universal Credit proposals were a "cost-effective way of greatly increasing household employment and tackling poverty and child poverty", calculating that "a total of 4.9 million households with low-earning workers would see their incomes rise by an average of £1,000 per year". The CSJ forecast that, under its proposals, "600,000 previously workless households would enter employment, and the national income (GDP) would increase by £4.7 billion".[22]

Neither the Conservatives' nor the Liberal Democrats' election manifestos mentioned proposals for a Universal Credit. The Coalition's *Programme for government,* similarly, made no mention of plans for such root and branch reforms.

In his first speech as the new Secretary of State for Work and Pensions, entitled "Welfare for the 21st Century", Iain Duncan Smith commented on the current benefit system: "A system that was originally designed to support the poorest in society is now trapping them in very condition it was supposed to alleviate. Instead of helping, a deeply unfair benefits system too often writes people off."[23]

Mr Duncan Smith went on to express his determination to make the welfare "simpler and more transparent so that work always pays", saying:

> it is absolutely vital that we get this right and people see a clear link between work and reward. Less complexity in the system will also save money in administration costs, as well as cutting back on the opportunities for fraud and error. However, the biggest savings of all will come from putting clear incentives in place to get people back into work and off benefits altogether.[24]

The Secretary of State echoed these comments in his remarks during the Debate on the Address, when he told the House that the Government's welfare reforms would mean that "going to work pays".[25]

2.4 Welfare Reform Green Paper

The Green Paper, *21st Century Welfare*, published on 30 July 2010, proposed seven principles to underpin reform of the tax and benefits system:

- ensure that people can see that the clear rewards from taking all types of work outweigh the risks;
- further incentivise and encourage households and families to move into work and to increase the amount of work they do, by improving the rewards from work at low earnings, and helping them keep more of their earnings as they work harder;
- increase fairness between different groups of benefit recipients and between recipients and the taxpayer;

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21 Centre for Social Justice, *Dynamic Benefits – Executive Summary*, September 2009, p26
22 *Ibid.* p28
23 Department for Work and Pensions, *Welfare for the 21st Century – Speech by the Secretary of State for Work and Pensions*, 27 May 2010
24 *Ibid.*
25 HC Deb 8 June 2010 c291

- continue to support those most in need and reduce the numbers of workless households and children in poverty and ensure that interactions with other systems of support for basic needs are considered;
- promote responsibility and positive behaviour, doing more to reward saving, strengthening the family and, in tandem with improving incentives, reinforcing conditionality;
- automate processes and maximise self service, to reduce the scope for fraud, error and overpayments. This could include a responsive and immediate service that saves the taxpayer significant amounts of money and ensures compliance costs for employers, at worst, no worse than under the current system; and
- ensure that the benefits and Tax Credits system is affordable in the short and longer term.

It continued: "In order to put our principles into practice it is essential to improve work incentives. Different approaches could be designed to give greater emphasis to either increasing the incentive to take up work, or to increasing the incentive to increase earnings once in work. Striking a balance between these elements will be important".[26]

It set out proposals for a Universal Credit – drawing upon the work of the Centre for Social Justice and others – alongside other alternative models – and sought views on which approach the Government should consider.
The DWP subsequently reported that, of the total 1,668 responses received, "the majority of respondents who provided a preference on these options expressed support for our proposals for a Universal Credit". Respondents identified certain advantages to the Universal Credit proposals, including:

- It would simplify the benefits system by replacing existing working-age benefits and tax credits with a single payment;
- It would ease the transition to work;
- It would reduce to one the number of applications required to receive benefits and would lead to a more transparent system which should increase take-up rates;
- It would reduce over-and underpayments; and
- It would remove the existing 16 and 30 hours rules which create arbitrary thresholds for working hours.[27]

The Government's response was that "There was widespread recognition of the attractions of moving towards a single benefits system and of improving the incentives to work. The introduction of the Universal Credit will deliver both of these objectives". However, it noted that "respondents did raise concerns or felt greater clarification was needed" on several issues, including:

- what the level of the disregard, tapers and benefit rates would be;
- whether it could be counter-productive to allow people to stay on benefits for longer, as this may actually increase welfare dependency;

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[26] Department for Work and Pensions, *21st Century Welfare*, Cm 7913, 30 July 2010, p18
[27] Department for Work and Pensions, *Consultation responses to 21st Century Welfare*, Cm 7971, November 2010, p17, para 2

- how Universal Credit would make provision for housing costs. In particular, if housing costs are not paid to the landlord or mortgage lender people may fall into arrears;
- whether the IT platforms would support the new system; and
- whether there would be enough jobs available in the economy for people to move into.[28]

On the DWP's seven principles, it was reported that the consultation had found "widespread support for the main thrust of our principles", albeit with the caveat that "many respondents said they [the principles] could ultimately only be judged on the manner of their implementation".[29] The Government responded by saying "we believe the Universal Credit is in line with those principles".[30]

2.5 Welfare Reform White Paper

On 11 November 2010 the Department for Work and Pensions published the White Paper, *Universal Credit: welfare that works*[31], setting out more detailed plans for the Universal Credit. The intention was to introduce the Universal Credit for new claims from October 2013, with the aim of completing the transfer of all existing claimants to the new system by October 2017. In short, the Universal Credit would:

- Replace a range of existing benefits and tax credits, including Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Housing Benefit, Child Tax Credit and Working Tax Credit.
- Comprise a basic allowance for adults with additions for children, disability, housing costs and caring.
- Be assessed and paid on a household basis.
- For people in work, Universal Credit would be withdrawn at a uniform rate of 65 pence for each pound of net earnings, though for certain groups an amount will be disregarded from earnings before the taper applies.
- For employees paid through PAYE, payments would be calculated and adjusted automatically using information on earnings from new "real time" information system.
- Include four levels of "conditionality", ranging from "full conditionality" for jobseekers to "no conditionality" for those in the ESA Support Group, carers and lone parents with a child under one.

The Government also gave an undertaking that no existing claimants would experience a reduction in cash terms in the amount they receive at the point of transfer to the new system, as a result of the introduction of the Universal Credit.

2.6 General responses to the White Paper

Welfare rights organisations, pressure groups and think tanks have given a broad welcome to the Government's objective of reforming the benefit and tax credit systems to achieve

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[28] *Ibid.* pp17–18, paras 1, 3 and 8
[29] *Ibid.* para 1, p15
[30] *Ibid.* para 4, p16
[31] Cm 7957

greater simplicity, increase work incentives and tackle poverty. The concept of a single benefit, administered by one government department, is widely seen as attractive, given the current array of in-work and out-of work benefits and tax credits with their separate sets of rules, complicated and confusing interactions, administrative burdens, and problems of low take-up. The potential of the proposed single taper to make the financial gains from work more transparent, and to encourage more part-time work, is also recognised. The possibilities offered by “real time” income data - provided the system can be made to work - are also acknowledged.

However, the White Paper proposals have been viewed in the context of wider Government strategies aimed at reducing the current financial deficit, including the £18 billion package of benefit and tax credit cuts announced in the June Budget and 2010 Spending Review which, some argue, overshadow positive aspects of the Universal Credit. The Government has given an undertaking that there will be no cash losers at the point of transfer to Universal Credit but, organisations point out, many claimants will already have been affected by these wider changes by the time the new system is introduced.

There was also concern about the lack of detail in the White Paper about key issues including help with childcare costs, the new localised Council Tax Benefit, how carers would fit into the new system, and how entitlement to passported benefits would be determined. Some argued that the Government should not proceed with such wide-ranging reforms until these and other issues were resolved. Others argued that, with so many unanswered questions, it was difficult to say whether the proposals would in fact achieve the stated policy aims of simplifying the system and making work pay, and to determine exactly who, in the long term, would be “winners” and “losers” from the Universal Credit. There were also doubts about whether a taper rate of 65% - significantly less generous than previous suggestions - would provide sufficient incentive to work, and some organisations would like the Government to commit to a review of the taper, with the long term aim of reducing it.

Concerns have also been voiced about more detailed aspects of the Universal Credit proposals, including the treatment of sickness and maternity benefits, savings rules, and how self-employment income is to be determined. Other issues of concern include the frequency of payments, who within a family should receive the benefit, and the risks associated with providing support for families in a single payment. It has been suggested that payments of Universal Credit should be “firewalled” into different components so that if payment of one component stops, other elements would continue to be paid.

The Universal Credit depends crucially on the successful introduction of new IT systems - including the proposed “real time” PAYE system – in time for the planned roll-out in October 2013. Welfare rights groups believe that the Government should only implement Universal Credit when the supporting systems have been built, tested and proved fit for purpose.

Further details of the proposals set out in the White paper, and of the reactions to them, are given in a Library standard note, *Welfare Reform and the Universal Credit.*[32]

3 Part 1 of the Bill: Universal Credit

Provisions establishing the Universal Credit and related matters are in Part 1 of the Bill (clauses 1-43) and Schedules 1-7.

The *Explanatory Notes*[33] give further commentary on individual clauses, and the DWP has produced a number of Impact Assessments to accompany the Bill, including one specifically

[32] SN/SP/5782, 16 February 2011
[33] Bill 154-EN

on the Universal Credit. The Department's memorandum for the House of Lords Select Committee on Delegated Powers and Regulatory Reform (hereinafter referred to as the Delegated Powers Memorandum) has also been deposited in the House of Commons Library.[34]

3.1 Eligibility

Clause 1 introduces the Universal Credit, which can be awarded to a single person who is not a member of a couple, or to a couple jointly; and provides that it is to be calculated by reference to four elements (see clauses 9-12 below).

Clause 2 provides that a claim for UC may be made by a single person or members of a couple, although regulations may set out when a member of a couple can claim as a single person, such as "where one member of a couple does have a right to reside in the UK, and so is not entitled to universal credit".[35]

To be entitled to UC, **clause 3** states that the "basic conditions" and "financial conditions" must be met. For couples, both claimants must meet the basic conditions and they must meet the financial conditions jointly.

Clause 4 sets out what the basic conditions are, namely: that they are at least 18 years old, but under the qualifying age for pension credit; are in Great Britain; are not "receiving education" (a term to be defined in regulations), and; has accepted a "claimant commitment" (see clause 14).

Subsections enable regulations to provide exceptions to the basic conditions. The Explanatory Notes give the following examples:

- where one member of a couple is above qualifying age for Pension Credit but their partner is entitled to UC, the upper age limit will not apply

- some young people under 18 years, such as lone parents or those estranged from their parents (such people aged 16 or 17 are currently eligible for income-based benefits);

- people working on board a ship or oil rig may be treated as being in Great Britain, as may people temporarily leaving GB. In addition, "regulations may also specify when a person is to be treated as not in Great Britain because they are not considered to be habitually resident here".

- circumstances in which a person is treated as having accepted or not accepted a claimant commitment. (e.g. where a person's health prevents them from complying)[36]

Clause 5 concerns the financial conditions. Entitlement to UC will depend on both income and capital. The Government's intention is that UC will not be payable if capital is above a certain limit. The limit is to be prescribed in regulations, but the Delegated Powers Memorandum confirms that is the Government's intention that the capital limit will be that which currently applies to Housing Benefit, namely £16,000.[37]

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[34] DEP2011-0318
[35] Bill 154-EN, para 33
[36] Bill 154-EN, paras 36-39; Delegated Powers Memorandum, para 26
[37] *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 27

Clause 6 allows regulations to prevent UC being payable to someone who would otherwise be entitled (for example, if they are already receiving another benefit such as Pension Credit). The Delegated Powers Memorandum states that the power could also be "used to exclude particular groups such as prisoners or those involved in trade disputes".[38] Payments may also be limited to those who have satisfied the conditions for a certain period, provided it is not more than seven days. Similar "waiting periods" currently exist for other benefits, the purpose being to avoid the administrative costs of making awards for very short periods of entitlement.[39]

3.2 Elements of Universal Credit

Clauses 9-12 make provision for the different elements which form the basis of the Universal Credit calculation.[40] These are:

- the standard allowance;
- an amount for responsibility for children and young persons;
- an amount for housing; and
- an amount for "other particular needs and circumstances"

In each case, specific amounts are to be set out in regulations.

Clause 9 concerns the standard allowance, which is intended to provide a basic amount for living costs. There will be different amounts for single persons and coupes. Clause 42(6) provides that the amount may also differ depending on age. The Delegated Powers Memorandum states that this power will be used to prescribe a lower rate for claimants under 25.[41]

Clause 10 provide for separate elements in respect of each child or qualifying young person for whom a claimant is responsible. Additional amounts may be prescribed for disabled children or young persons.

Clause 12 concerns amounts for "other needs and circumstances". This may include additional amounts for:

- Claimants with a "limited capability for work" (the basic condition for Employment and Support Allowance);
- Claimants with a "limited capability for work-related activity" (the requirement for the ESA Support Group); and
- Those with "regular and substantial caring responsibilities for a severely disabled person"

The Delegated Powers Memorandum states that "it is possible that other groups will be identified for whom additional amounts are required."[42]

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38 *Welfare Reform Bill 2011 Delegated Powers Memorandum*,, para 30
39 *Ibid*, para 31
40 See section 1.2 of SN/SP/5782 about statements in the White paper regarding UC elements
41 *Welfare Reform Bill 2011 Delegated Powers Memorandum*,, para 37
42 *Ibid*, para 44

Housing costs

Clause 11 provides for an amount to be included in the Universal Credit in relation to housing costs. These housing costs may take the form of rent payments, mortgage costs for "other housing related costs."

Where a claimant is liable to pay rent, their level of assistance will be calculated with reference to their household size and circumstances in addition to the actual rent level charged. This is currently the case for Housing Benefit claimants living in the private rented sector.

The detailed rules on calculating assistance with housing costs under the Universal Credit will be set out in regulations. The limitations to Housing Benefit that were announced in the June 2010 Budget and October 2010 Spending Review[43] will be carried over into the new system – although the impact of these measures will be subject to an independent review which will be completed before transition to the Universal Credit begins.

Regulations made under clause 11 will also provide for circumstances in which no award for housing costs will be made, or for the elapse of a given time period before an award is made. The Explanatory Notes give the example of time limits that currently apply before a claimant can be eligible to receive assistance with mortgage costs.[44]

The White Paper provided the following information on calculating housing costs under the Universal Credit:

> An appropriate amount will be added to the Universal Credit award to help meet the cost of rent and mortgage interest. For those who rent their accommodation, this amount will be similar to the support currently provided through Housing Benefit. The intention is that this support for rent, currently delivered by Local Authorities, will over several years be replaced by Universal Credit.
>
> Our aim is to simplify provision for rent support in Universal Credit as much as possible, while protecting potentially vulnerable people from unintended consequences, such as getting into arrears or being made homeless. As announced in the Budget, we will set the amount we pay to support people in the private-rented sector at a level that will generally make the lowest third of market rents affordable. Rates will be set and uprated to ensure that the support received is fair but not excessive.
>
> For social-rented sector tenants (including those who rent properties with the new shorter tenures and affordable rents), the housing component will build on the support currently provided by the current Housing Benefit system, based on actual rents in both housing association and Local Authority properties, including in the new 'affordable rent' tenure. We have already announced our intention to limit Housing Benefit payments to social-rented-sector tenants who under-occupy their properties. Other than this, we do not anticipate further changes in the short to medium term.[45]

Responses to the consultation paper, *21st Century Welfare,* demonstrated widespread concern over the impact of any limits or caps on Housing Benefit in the social rented sector on the ability of landlords to continue to provide affordable housing. The point was made that any reduction in Housing Benefit would, in the longer term, require additional resources to

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43 See Library note SN/SP/5638*, Housing Benefit: implications of the June 2010 Budget and Spending Review*

44 Bill 154–EN, para 57

45 DWP, *Universal Credit: Welfare that Works*, CM 7957, November 2010, paras 28-30

fund the development of new social housing.[46] The view was also expressed that governments had never properly addressed the tension between housing and benefit policy:

> Over the years Housing Benefit expenditure has been driven by rent levels, which tend to rise in line with earnings rather than prices. This has meant that expenditure in this area will tend to outstrip inflation.[47]

The Chartered Institute of Housing (CIH) suggested a restructure of Housing Benefit to base it on a proportion of a claimant's actual rent rather than the full amount but stressed that this would require "a considerable uplift in basic benefit levels so that the customer could afford the difference."[48]

The Secretary of State was questioned by the Work and Pensions Committee on how housing costs would be reflected within the Universal Credit. The responses from Mr Duncan Smith and Terry Moran (Universal Credit Director General) indicate that some key decisions around whether housing costs will be based on actual rents or a simple flat rate system have yet to be made:

> **Q103 Mr Heald:** In terms of the broad principle, our witnesses agree. There is just the question of the mechanics of it. I don't know if either you or perhaps Mr Moran might be able to help on this, but we have two slightly contrary views coming through in the evidence. Crisis told us that it thought registered social landlords should be required to feed in information to you about the level of rent a claimant should be eligible to pay, so that the amount that was added to the Universal Credit was an accurate reflection of their actual rent in that particular locality, under this new system.
>
> Now, the Building and Social Housing Foundation argued for something rather different. It said that for each area you ought to have flat rates so that if you were a claimant you could go to a table and look up your local area; there might be five or 10 different household sizes or shapes, but it would be very simple. Look it up, and then rather than all the current calculations and bureaucracy, you'd just be able to know how much money your household formation would get. I wondered if this was something that you'd looked at-whether to have perhaps a very accurate but rather bureaucratic system or something that's a bit simpler and more accessible.
>
> ***Mr Duncan Smith:*** The whole principle is to make sure that these things are simpler and easier to understand, but there are complexities to be recognised within it. While I understand what the latter group said about the need for absolute simplicity, there are complexities that we recognise. What we are trying to do is reflect that by still making it simple. Terry, do you want to say anything about the details?
>
> ***Terry Moran:*** The obvious thing to say is that if it was a flat rate, which is what the Building and Social Housing Foundation were offering, then in terms of administration for everyone's understanding it's pretty clear and indisputable. If, however, we have a system about your actual costs, we have to have systems that will help us gather that information effectively and quickly, and assure ourselves that it is the right number. We are at the early stages of understanding whether, and how, we should do that. Part of this, inevitably, relies as it always does on the people who are the customers-the claimants of the system-telling us. We then need to think, and to have systems in place that assure us, about whether we go down the full route that says that, for every single

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46 DWP, *Consultation Responses to 21st Century Welfare*, Cm 7971, November 2010, p26
47 *Ibid*
48 *ibid*

> person, we have that automatically available to us. That might be a disproportionate cost, but we will look at it.[49]

Mr Duncan Smith provided the following information on how mortgage costs may be accounted for within the new system:

> **Q105 Mr Heald:** A similar issue has been raised with us over support for mortgage interest where, at the moment, it's a very broad-brush approach: an interest rate is set and that is the amount. Various witnesses have been saying to us that it would help if that could be a more accurate reflection of people's costs. That is raised particularly in the context of the disabled and the shared equity arrangements that they often want to be part of, for independent living. Do you have any thoughts on the balance there? Is it better to stick with the broad brush or would it be possible to move to something a bit more individualised?
>
> ***Mr Duncan Smith:*** Instinctively, my reaction is that the simpler we can make that, the easier it is to administer, but I recognise the problems that we have had quite recently, where the nature of broad brush means that sometimes you set the rate far too high, and then, when you have to reduce it, others who have set themselves on the higher rate find themselves trapped. I fully understand that.
>
> Frankly, there is no easy solution to this. We think the principle that should lie behind this is that we basically set an amount that is attached to Universal Credit that deals with it. Again, much like housing benefit, we are still trying to figure out whether we go for a simple flat amount, in the sense that it is set and pegged at a rate, or whether we take a greater understanding of the different natures of mortgages. Personally, instinctively, I sense if we start making it too complex on the mortgage front, we are going to end up introducing complexity through the system and then lots of caveats, and I think if you do that it starts to run against the principle of Universal Credit.
>
> So again, there is no simple answer. We've got lots of advice and we'll reach a conclusion at roughly the same time as we do on housing benefit.[50]

Mr Moran said that decisions around the high level building components of Universal Credit, including the housing elements, would be reached "no later than the summer."[51]

The Explanatory Notes to the Bill state that "in the short to medium term" Housing Benefit for social rented sector tenants will continue to be based on the actual rent charged by local authorities and housing associations, subject to the requirement that the property is not under-occupied.[52]

There would be significant concerns for social landlords if the housing element of Universal Credit is paid direct to tenants. Council tenants receive their Housing Benefit as a rent rebate and their rent accounts are adjusted accordingly. Housing associations, the other main providers of social housing, invariably require any Housing Benefit entitlement that a tenant may have to be paid direct to them by the local authority. Some of the potential difficulties with direct payment of Housing Benefit to social housing tenants, as identified by social landlords, include:

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[49] HC 743-ii 2010-11 Q103. Note that *this is an uncorrected transcript of evidence taken in public and reported to the House. The transcript has been placed on the internet on the authority of the Committee, and copies have been made available by the Vote Office for the use of Members and others. Neither witnesses nor Members have had the opportunity to correct the record. The transcript is not yet an approved formal record of these proceedings.*

[50] *Ibid* Q105

[51] *Ibid* Q104

[52] Bill 154–EN, para 325

- people on a low income using the housing payments to cover other bills instead of prioritising rent payments;
- increased administrative costs to deal with the predicted increase in rent arrears and the need to provide financial advice to tenants;
- expected difficulties in collecting the payments due – exacerbated by the difficulties low income groups experience in opening bank accounts;
- the knock-on effects of a cash shortfall from rising rent arrears and administration costs – preventing improvements in services to tenants. A significant increase in arrears could leave some associations struggling to survive; and
- lenders may be less willing to offer low interest rates to the sector if their confidence in associations' cash flow is undermined.

The White Paper acknowledged the importance of a stable rental income stream for social landlords:

> There are advantages in paying the housing component to individuals, rather than the current system of payments direct to landlords. This would encourage people to manage their own budget in the same way as other households. <u>However, we also recognise the importance of stable rental income for social landlords to support the delivery of new homes and will develop Universal Credit in a way that protects their financial position.</u> Options for achieving this could include some ongoing use of direct payments to landlords, use of direct debits, and a protection mechanism which safeguards landlords' income. We will work closely with the devolved administrations, providers and lenders in developing the new system.
>
> There are many policy and operational issues to work through in respect of housing. The Government will work closely with Local Authorities and the housing sector as plans develop.[53]

Childcare costs

Uncertainty about how support for child care costs is to be provided when the Universal Credit is introduced is a major cause for concern for welfare rights organisations and pressure groups. The Bill makes no explicit provision for childcare costs, and the Impact Assessment for Universal Credit confirms that childcare payments are one area "still to be finalised."[54]

The Childcare element of the Working Tax Credit currently provides help with up to 80% of eligible childcare costs up to a maximum of £175 a week for one child or £300 a week for two or more children. The October 2010 Spending Review announced that from 2011 the percentage of childcare costs covered by the childcare element would be reduced to 70% (the rate which previously applied from 2003-04 and 2005-06).

The White Paper stated that people often find the current arrangements for getting help with childcare costs "confusing" and "complicated", and that the Universal Credit provided an opportunity to "improve and simplify the way support is offered' while ensuring it remains 'fair, affordable and targeted to those most in need."[55] It sought views on how help with childcare costs might be provided, either as part of, or alongside, Universal Credit. As a minimum, it

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[53] *Ibid* paras 31-32, emphasis added
[54] *Universal Credit Impact Assessment*, p8
[55] Cm 7957, para 42, p21

suggested help could be provided as part of the Universal Credit along similar lines to the current WTC childcare element (but with the way costs are calculated and support paid simplified). However, the White Paper suggested possible alternative approaches, such as providing help through a separate voucher or discount system, or via an additional earnings disregard. Whatever the approach, the aim would be to give some help with childcare costs to those working less than 16 hours a week, "so that all types of work are rewarded."[56]

The issue of childcare costs was raised by a number of organisations responding to the Work and Pensions Committee call for evidence.

Citizens Advice points out that the issue of childcare costs is critical in ensuring that low income parents gain financially from moving into work, or increasing their working hours. It believes that Universal Credit "will succeed or fail depending on whether work really does pay for parents with childcare costs." It argues that the White Paper significantly underestimates existing help with childcare costs, since it does not acknowledge that Housing and Council Tax Benefit can cover up to 17% of childcare costs, in addition to the 80% maximum covered by tax credits. Given this, Citizens Advice estimates that providing support only up to 70% of childcare costs would leave some parents worse off than under the current system, with some facing effective marginal deduction rates of over 100%.[57]

Family Action[58] suggests that help with childcare through the Universal Credit should cover at least 80% of childcare costs, but is concerned that some of the proposals it had seen since the publication of the White Paper had been "decidedly less generous". It adds:

> Were these options implemented some working parents could face considerably reduced work progression incentives compared to their current position, and, ...some may have to *pay* to work additional hours.[59]

Some have suggested that the maximum level of support for childcare costs would in fact need to be lower than the 70% under the Working Tax Credit from April 2011, since the White Paper also envisaged extending help with childcare costs to those working under 16 hours a week, implying that the existing expenditure would need to be spread more thinly.

During the oral evidence session on 9 February, Neil Couling, the Universal Credit Director General at DWP, said that the Department was still "wrestling" with how to extend help with childcare costs to those working fewer than 16 hours "within the current envelope of spending" and had not reached any conclusions on that. Questioned on whether the Government had decided on which of the three options for providing support would be taken forward, the Secretary of State replied: "Not exactly, no", adding that there was still an "ongoing discussion." Mr Duncan Smith also indicated that the *Welfare Reform Bill* would not itself contain detailed provisions relating to childcare, adding "but as the passage of the Bill takes place, we will become clearer about it and we will certainly let everybody know."[60]

Other elements outside Universal Credit

Welfare rights organisations are also concerned about how the Government's proposal to devolve responsibility for Council Tax Benefit to local authorities, and how this fits in with the Universal Credit plans. The Bill includes provisions to abolish Council Tax Benefit (see

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56 *Ibid.* para 46, p22

57 UC54, *Written Evidence Submitted by Citizens Advice*. See also Citizens Advice Briefing, *Universal Credit: an exploration and key issues*, January 2011

58 Family Action is a charity which works with disadvantaged and socially isolated families

59 UC25, *Written Evidence Submitted by Family Action*, para 5.4

60 HC 743-ii 2010-11 Q147-153 (uncorrected transcript, see footnote 49)

section 4 below), but discussions are still underway between Departments on the details of what will replace it.

3.3 Calculating entitlement: income, capital, the taper and disregards

Clause 7 states that Universal Credit will be paid for each complete assessment period, which will be defined in regulations. Regulations may state when an assessment period is to start, and will also allow UC to be payable for part of an assessment period.[61] The Delegated Powers Memorandum states that the nature of UC means it is "important to be able to adapt the assessment period to cater for a broad range of different arrangements for assessment and payment, which can be changed through regulations in the light of operational experience".[62]

Clause 8 sets out how awards of Universal Credit are to be calculated. For each claimant there is a "maximum amount" made up of the different elements specified in clauses 9-12. From this, sums will be deducted in respect of earned income and unearned income (the two sources are to be treated differently). Regulations will prescribe how income is to be calculated and taken into account. Further provisions regarding the calculation of income and capital are in **paragraph 4 of Schedule 1**.

The expectation is that unearned income will reduce the maximum amount on a pound for pound basis. Some unearned income (e.g. Disability Living Allowance or the new Personal Independence Payment) may however be disregarded in full.

Earned income in excess of an earnings disregard – which will differ according to the household's circumstances – will reduce the maximum amount at a constant rate for each extra pound earned. The taper rate will be specified in regulations (subject to the negative procedure) made under subsection (3)(a), but the Impact Assessment confirms that, as proposed in the White Paper, Universal Credit is to be withdrawn at a constant rate of 65p for each additional £1 of net earnings, after tax and National Insurance. This means that there will, in practice, be two taper rates of UC:

- those earning below the personal tax threshold will gain 35 pence for each additional £1 of earnings (an MDR of 65%);

- basic rate taxpayers will receive around 24 pence for each additional £1 of earnings (an MDR of 76%) until payments from the Universal Credit taper to zero.

Comment

As noted above, some organisations have questioned whether a taper rate of 65% – less generous than the 55% taper proposed by the Centre for Social Justice – would have a significant impact on work incentives. It is argued that the Government should commit itself to keep the taper rate under review, with a view to reducing it in the future.

The Secretary of State explained to the Work and Pensions Committee the decision to select a taper rate of 65%: "this is a balance of what we can afford and what gives us the best advantage on the taper to still incentivise work, or working extra hours".[63] The White Paper had said that a withdrawal rate of around 65% "would deliver sufficient work incentives whilst also being affordable".[64]

[61] Bill 154-EN, p8, para 57
[62] *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 32
[63] HC 743-ii 2010-11 Q158 (uncorrected transcript, see footnote 49)
[64] *Universal Credit: welfare that works*, Cm 7957, 11 November 2010, para 9, p15

The Secretary of State also highlighted to the Committee that changes to the single withdrawal rate would be more straightforward to debate then the existing array of such rates for various benefits:

> Once we get Universal Credit in, any Government – whoever they are – will make decisions that are very transparent around those two things. Gone will be the days when the Government do an uprating statement and everybody glazes over in the Chamber because they lost track of half of it.
>
> [...]
>
> The ... 65% [taper rate] is ... a political decision – that is what it amounts to now, much like the upper and lower rates of taxation are. The brilliance of this, if we describe it as brilliant, is its simplicity. If the Government say, “We are going to raise it,” you can have an argument about whether that is unhelpful, and if they lower it, that is a clear statement that they are investing money in getting people back to work and you will all be able to understand that very simply.
>
> [...]
>
> As I say, if you get hooked up on the 65, you lose the point that, if another Government come in, they can make a decision about whether it is 55, 60, 63 or 72. It is their decision.[65]

The White Paper stated that the actual disregard levels would be set closer to the date of implementation, but the maximum disregards it then envisaged were (annual figures):

> **Couples**: £3,000 plus £2,700 per household for a child (regardless of number of children);
>
> **Lone parents**: £5,000 plus £2,700 per household for a child; and
>
> **Disabled people**: £7,000 per household if a recipient or either partner in a couple is disabled.

The maximum figure would be reduced for those getting help with housing costs; it envisaged that disregards would be reduced by one-and-a-half times eligible rent or mortgage interest support. The amount would not however be reduced below a “disregard floor”. The Government’s modelling assumed the following minimum disregards (again, annual figures):

> **Couples**: £520 per household plus £520 for the first child, £260 for each of the second and third children;
>
> **Lone parents**: £1,560 per household plus £520 for the first child, £260 for each of the second and third children; and
>
> **Disabled people**: £2,080.

A worked example is given in the White Paper showing how the taper and disregard would apply:

> A lone parent with three children has rent of £80 a week.

[65] HC 743-ii 2010-11 Q158 (uncorrected transcript, see footnote 49)

> The assumed maximum disregard in her case is £7,700 and the disregard floor is £2.600 (annual figures). Reducing the disregard by 1.5 times the help with housing costs (£6,240 annual figure) would bring the disregard below the floor.
>
> So the disregard that applies is the floor of £2,600 = £50 a week. As a result of the 65 per cent taper she also keeps 35p for each £1 of net earnings over £50.
>
> Under the current system on Income Support the earnings disregard for a lone parent is £20 a week. Any earnings over that are deducted pound for pound.[66]

The White Paper did not however propose any disregard for single people without children; currently, most childless single people on Income Support or income-based JSA have an earnings disregard of £5 a week.[67]

Welfare rights organisations have voiced some concerns about the proposed disregards structure, including the treatment of single childless people and the significant reduction in the level of disregards for people with high housing costs. The Impact Assessment for Universal Credit admits that the reduction in disregards for those receiving rent or mortgage interest support is because of "affordability constraints".[68]

Citizens Advice is concerned about how the new system of disregards might impact on disabled people. It is concerned that, if the criteria for disregards are the same as for the disability element of Working Tax Credit, because of other changes in the benefits system (affecting DLA and ESA), it is likely that fewer disabled people will be eligible for additional help to enable them to work. It is also concerned that couples where both partners are disabled could be worse off under Universal Credit, if there is only one earnings disregard per household.[69]

Treatment of savings

The Government has confirmed that Universal Credit will not be payable to those with savings in excess of £16,000, in line with the current capital rules for means-tested benefits. The intention is that the treatment of capital will be similar to that under Income Support currently (see section 2.1).[70]

The proposed treatment of savings would affect some families currently in receipt of tax credits. In its report *Universal Credit: a preliminary analysis*, the **Institute for Fiscal Studies** commented:

> In tax credits, there are no mechanical limits on the level of financial capital that families can own and still receive tax credits. Investment income below £300 per year is ignored altogether, and investment income above £300 per year, as well as all other unearned income, is subject to, at most, a 41% taper. The most extreme difference between this and the Universal Credit treatment of investment income and capital is for families with financial assets in excess of £16,000: such families will never be entitled to any Universal Credit, but currently could be entitled to tax credits; indeed, with an interest rate of 3%, savings of £16,000 would reduce tax credit entitlement by £1.42 a week, but the same level of savings would mean that a family will lose all entitlement to Universal Credit. Having capital limits in Universal Credit limits the payment of

66 *Ibid.* Box 1, p67
67 The *Universal Credit Impact Assessment* published alongside the Bill states however that "There will be considerably higher disregards for lone parents and couples with children, and **lower disregards for single people without children**" (p12), suggesting that there will after all be an earnings disregard for this group.
68 *Ibid.*
69 Citizens Advice, *Universal Credit: an exploration and key questions*, January 2011
70 Bill 154-EN, para 117

> Universal Credit to those who have both a low income and low levels of savings. But the mechanism will give some families a strong incentive to lower their financial capital to below £16,000 and will give others a strong incentive not to accumulate more than this amount.[71]

Citizens Advice is concerned about the impact on three groups in particular:

> - Couples who, having saved for a mortgage deposit over a number of years, become parents but lose out greatly from support through the tax credit system. Better off couples who either have relatives who can help with the deposit and so have already bought their house will still be able to access that support as they are less likely to have savings.
>
> - Parents of disabled children who at present get a lot of extra help through the tax credit system to cover the extra costs of having a disabled child. They will lose very significantly if they have savings. The only help they will be eligible for is DLA.
>
> - Couples in their fifties who have worked all their lives and collected modest savings. One becomes too ill to work, and they experience a large drop in income which is financially very difficult to cope with. The one who is still working would have been eligible for help through the tax credit system. When the effect of this measure is combined with the removal of ESA(contribution-based) after one year, the total impact is likely to be devastating, with people losing all their life savings.[72]

The **Social Market Foundation** estimates that the savings rules could penalise more than 600,000 families. An SMF press release issued on 16 February stated:

> The SMF's new figures, released ahead of the publication of a Welfare Reform Bill, show that around 400,000 families with children – currently receiving tax credits - will lose their entire eligibility for financial support under the Universal Credit. New rules for the Universal Credit mean that families with £16,000 or more in savings are disqualified. At least a further 200,000 families with savings of between £6,000 and £16,000 will lose some of their entitlement under the new regime.
>
> "The Universal Credit will punish working families trying to save for the future, such as those trying get a foot on the property ladder," said Ian Mulheirn, Director of the SMF.
>
> The SMF's analysis of the savings penalty shows that a family with two children and a combined income of £25,000 per year could lose out to the tune of around £50 per week depending on the ultimate design of the Universal Credit. In addition, many thousands more working families receiving support for childcare could be disqualified from eligibility.
>
> Ian Mulheirn continued: "These reforms will save the Government a lot of money, but they send all the wrong signals to working families. The Government should reassess these punitive proposals and support working families on low incomes seeking to save for the future."[73]

Sick pay, and maternity pay and benefits

Citizens Advice highlights potential problems with Universal Credit if benefits such as contractual sick pay, Statutory Sick Pay, maternity, paternity and adoption pay are not

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[71] IFS, *Universal Credit: a preliminary analysis,* January 2011, pp22-23

[72] Citizens Advice Briefing, *Universal Credit: an exploration and key issues*, January 2011, pp10-11

[73] Social Market Foundation, *Hundreds of thousands of families saving for the future will lose out under plans for Universal Credit, says think tank*, 16 February 2011

treated as earnings for Universal Credit purposes. For example, at present, people in work who become ill remain entitled to Working Tax Credit for the first six months, helping cushion against the drop in income. Citizens Advice gives an example of how someone would fare before and after Universal Credit, if SSP is *not* treated as earnings:

> Consider a couple in which one is at home looking after a two year old child, and the other works fulltime. They own their own house and pay council tax of £20/week. If the person who works gets cancer and has to be off work for a long period, s/he receives SSP and they will receive full WTC and CTC for the first six months of illness. Their total income will be £259/week. If SSP is not treated as earnings under UC, a couple in this situation would only be entitled to £198.[74]

Citizens Advice also notes it will be crucial whether Statutory Maternity Pay and Maternity Allowance are treated as earnings, or as income other than earnings, under Universal Credit. It comments:

> Will there be any concessions within the universal credit for mothers on maternity leave to match the extra help currently available through the tax credit system? Currently, they are counted as being in work and entitled to receive WTC as well as CTC. £100 of their statutory maternity pay is disregarded as income. For this group, it will be very significant whether statutory maternity pay is treated as earnings (as in the tax credit system and HB/CTB) and thus qualifies for an earnings disregard, or is treated as income other than earnings (as in the income-based earnings replacement benefits such as income support).

It then presents a number of scenarios illustrating potential losses (compared with the current system), including one indicating that a lone parent previously in work who has a new baby could lose nearly £90 a week if her maternity payments are not treated as earnings.[75]

3.4 Claims and payments

The Department for Work and Pensions will be responsible for the administration of the Universal Credit. The Government expects that claims for Universal Credit will normally be made via the internet and that most subsequent contact between claimants and the DWP, including the reporting of changes in circumstances, will also be conducted online. Recipients will have access to an “online account” through which they can access information about their claim.[76]

The White Paper envisaged that payments will be made on a monthly basis, but said that there would be “appropriate budgeting support to ensure recipients are supported effectively.”[77]

The Universal Credit is to be assessed and paid on a household basis and it is assumed that, in the case of couples, only one partner would receive the payment. The White Paper said that the Government would however “consider the scope to arrange payments to parents in couples, so that support for children goes to the mother or main carer, as now in Tax Credits.”[78]

Welfare rights organisations and pressure groups have identified three main areas of potential difficulty regarding the proposed arrangements for paying the Universal Credit:

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[74] Citizens Advice Briefing, *Universal Credit: an exploration and key issues*, January 2011, p5
[75] Citizens Advice Briefing, *Universal Credit: an exploration and key issues*, January 2011, pp5-6
[76] *Universal Credit: welfare that works*, Cm 7957, 11 November 2010 paras 5-11, p34
[77] *Ibid.* para 13, p34
[78] *Ibid.* para 10, p68

- Monthly payments
- Having a single recipient for the whole household
- The risks associated with providing support through a single payment

Frequency of payment

A number of submissions to the Work and Pensions Committee suggested that monthly payments could cause budgeting problems for low income households and that claimants should have the option to receive Universal Credit payments on a more frequent basis.[79]

At the Committee's oral evidence session on 9 February, the Secretary of State, while acknowledging concerns about the impact of the move to monthly payment on vulnerable groups, said that he did not believe it would be a problem, noting that the move from weekly to fortnightly benefits had caused few problems. The Department would however keep the matter under review.[80]

The benefit recipient

Some respondents voiced concern about the default position that the entire Universal Credit payment should be received by one partner only, in the case of couples. It was argued that this went against the long-standing principle that benefits for children should be paid to the "main carer", usually the mother. This raised concerns about a "purse to wallet" redistribution of income, potentially exacerbating intra-household poverty. **Professor Ruth Lister** noted:

> The last time a Conservative government attempted this with its family credit proposal, it was forced to back down in the face of widespread opposition. Similarly, the New Labour government attempted initially to pay the working family tax credit through the pay-packet. Again it faced widespread opposition and conceded that child tax credit should be paid to the caring parent. This was, in part, in response to the evidence in a Joseph Rowntree Foundation study conducted by Jackie Goode, Claire Callender and myself, which demonstrated the continued importance of paying benefits for children to the caring parent and the continued significance of the intra-household distribution of benefits.[81]

RNID argued that giving one household member sole responsibility for the claim-

> …may run the risk of disempowering those household members other than the designated 'claimant'. This could see disabled people (and many women) lose access to their main or only source of independent income. We would seek clarification as to how this policy is aligned with the government's stated support of greater choice and control for disabled people.[82]

In the Work and Pensions Committee's oral evidence session on 9 February, the Secretary of State said that while he wanted couples to decide themselves who should receive the Universal Credit payment and that he wanted to keep the payment arrangements as simple as possible, he understood the concerns voiced by those who submitted evidence. The Government was still looking at the issue, but he said that "there should be scope within the system to make alterations, where a change is required on specific payments".

Terry Moran, DWP Universal Credit Director General, added:

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79 See for example the submissions from Professor Ruth Lister, Fran Bennett, and RNID
80 HC 743-ii 2010-11 Q128 (uncorrected transcript, see footnote 49)
81 UC11, *Written evidence submitted by Ruth Lister*, para 10
82 UC13, *Written evidence submitted by Royal National Institute for the Deaf*, para 16

> The system will present the opportunity of payment to either of the couple or, if we see a real need to do so - at the moment we're not designing it, because it's been a default scenario - we could split the payment if we wanted to.[83]

Clause 97 of the Bill amends the *Social Security Administration Act 1992* to clarify that, where benefit is awarded to a couple jointly, the Secretary of State has the power to decide which partner should receive the payment **"or any part of the payment"**. The Delegated Powers Memorandum states that the intention behind the amendments is to give the Secretary of State the power to decide which partner should receive a payment in preference to their nomination, "for example where the Secretary of State considers the benefit award would be mis-spent if paid to the nominated member of the couple."[84]

"Firewalling" payments

The Government's intention is for the Universal Credit should be paid to claimants at the same time as a single, unified award. This has however prompted concerns that delays in verifying entitlement to one element could potentially hold up payment of the entire amount. There are also concerns that problems with an award (e.g. due to IT or administrative error) could cause payments to cease entirely, leaving families with no income whatsoever to live on until the problem is resolved. At the moment, the fact that families receive benefits from different sources and at different times affords some protection, since cessation of one payment does not necessarily result in all payments stopping.

It has been suggested that payments of Universal Credit should be "firewalled" into different components so that if payment of one component stopped, other elements would continue to be paid. This would also allow payments of Universal Credit to start even if calculation of one element is delayed.[85]

The issue of firewalling was raised in the Work and Pension Committee's oral evidence session on 9 February. Commenting on payment issues, the Secretary of State said that he had noted submissions suggesting that elements of Universal Credit should be firewalled, and had read them with interest. However, he added:

> The trouble with things such as firewalling and the way payments are made within the individual elements is that you then, almost immediately, start to lose the whole point of the Universal Credit, and you start subdividing again. The reason why people who currently receive benefits through the present system say that they have got it sorted out so that they get a payment here and that helps, and a payment over there, is because, frankly, they have to do it like that. Quite often the very complexity right now means that these issues are not settled at the same time.
>
> We are certain that because the Universal Credit is being done in the same place, we should reach a conclusion about this pretty much at the same time, with all the evidence in front of us. Now, I understand the concern about what happens if one element is still not settled, because it is one payment. But we do have, and will have, scope within the payment of the Universal Credit to make advance payments on the basis that most of the evidence, or a large chunk of the evidence that is available to us, indicates that this is a correct assessment, but we are still waiting for some. So, there will be scope to be able to do that.
>
> It should not be, and we certainly would not want it to be, the case that anybody would simply be without money because they are still waiting for the settlement of some of

[83] HC 743-ii 2010-11 Q128 (uncorrected transcript, see footnote 49)
[84] *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 345
[85] See for example the submissions from Fran Bennett, Family Action, Save the Children and Citizens Advice

> the evidence that is necessary to be able to decide whether they are on the right benefit. So, we think that should cover it.[86]

3.5 Introducing the Universal Credit and transitional protection

The Government's current intention is that new claims for Universal Credit will start from October 2013. It wants to ensure that the transition to Universal Credit – which will involve 19 million individual claims and an estimated eight million households – is conducted "as smoothly and efficiently as possible."[87]

Some existing claimants will move to Universal Credit by a process of "natural transition", where they would otherwise have moved between existing out of work benefits and tax credits. Other existing claimants will form part of a "managed transition."[88]

The White Paper set out a provisional timetable for completing the transfer to Universal Credit by October 2017:

> **October 2013 to April 2014**
>
> All new claims for out-of-work support are treated as claims to Universal Credit. No new Jobseeker's Allowance, Employment and Support Allowance, Income Support and Housing Benefit claims will be accepted. Customers transitioning from out-of-work benefits into work will move onto Universal Credit if they are eligible.
>
> **April 2014**
>
> No new claims are made to Tax Credits.
>
> **April 2014 to October 2017**
>
> During this time we would begin to work through existing cases.[89]

The Government has said that there will be transitional protection for people who, at the point of transfer to Universal Credit, are receiving more than they would be entitled to under the new system. The White Paper stated:

> No-one will experience a reduction in the benefit they are receiving as a result of the introduction of Universal Credit. At the point of transition onto the new system, those households whose circumstances remain unchanged and who would otherwise experience a reduction in income will receive cash protection.[90]

The Bill

Clause 37 introduces **Schedule 6**, which concerns the migration of existing claimants to UC through regulations. For those transferring from existing benefits to UC, paragraph 4(3) provides that the amount they receive is not less than they were previously entitled to, "or is not less than that amount by more than a prescribed amount." The Delegated Powers Memorandum states:

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[86] HC 743-ii 2010-11 Q128 (uncorrected transcript, see footnote 49)
[87] *Universal Credit: welfare that works*, Cm 7957, 11 November 2010 para 18, p37
[88] *Ibid.* para 19, p37
[89] *Ibid.* para 21, p37
[90] *Ibid.* para 13, p53

> Regulations may provide that these cases may be awarded universal credit on terms, which match wholly or partly, the existing benefit. This means that regulations can ensure that claimants do not lose out as a result of moving to universal credit.[91]

Regulations may also permit work-related requirements and sanctions to transfer from a claimant's existing benefits to their UC.

Schedule 6 also provides for the transfer of recipients of CTC and WTC to UC, with any overpayments carried over. It also permits the Secretary of State, through regulations to modify the *Tax Credits Act 2002* or its subordinated legislation in order "to align certain tax credit rules more closely with universal credit to facilitate the transition process".[92]

Paragraph 7 provides for regulations which will allow transitional provisions to operate even if there is a gap in entitlement which would otherwise mean that they could not be used.

Comment

As Mike Brewer of the Institute for Fiscal Studies commented in evidence to the Work and Pensions Committee, "The Government's pledge or claim that no family will be worse off on the transition is a transitional protection issue; it will go away over time as family circumstances change and as this transitional protection, which is only in cash terms, gets eroded by inflation and obviously as new families start to claim benefits".[93] He added: "My feeling is it won't last that long for most families because family circumstances do change quite frequently", and noted that transitional protection "is mostly going to be applicable for families in work currently receiving tax credits".[94]

The Impact Assessment for Universal Credit states:

> At the point of transfer a comparison will be made between the household's total entitlement from current benefits and Tax Credits and the amount of their Universal Credit entitlement. In the majority of cases, Universal Credit will provide a level of support that is at least as high as the current system so there will be no need for transitional protection. Under Universal Credit, in steady state, around 3.5m households will see no change in their entitlement, 2.7m households will receive higher entitlements and around 1.7m households will receive lower entitlements. If the Universal Credit entitlement is less than that under the old system, the claimant will be awarded an amount of transitional protection equivalent to the potential reduction in their income. As a result they will not be worse off in cash terms.[95]

The Impact Assessment goes on to say that "Over time the value of transitional protection will be eroded as people move off Universal Credit or their circumstances change."[96]

The exact implications of a change in circumstances for someone receiving transitional protection after transfer to UC are not clear. For example, it is not clear if a change such as a child leaving the household would trigger reassessment of the entire UC award (leading to the loss of transitional protection completely), or only the child element.

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91 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 176

92 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 178

93 HC 743-i 2010-11 Q6. Please note however that *this is an uncorrected transcript of evidence taken in public and reported to the House. The transcript has been placed on the internet on the authority of the Committee, and copies have been made available by the Vote Office for the use of Members and others. Neither witnesses nor Members have had the opportunity to correct the record. The transcript is not yet an approved formal record of these proceedings.*

94 *Ibid.* Q20

95 *Universal Credit Impact Assessment*, p9

96 *Ibid.*

There are additional issues related to the fact that the guarantee regarding no drop in benefit when moving to UC is at the point of transition, as opposed to circumstances, say, at the end of 2010. Some claimants affected by benefit changes announced in the June 2010 Budget and October Spending Received may find that, by the time they are migrated to UC, their benefit income is less than the amount they currently receive.

3.6 Other clauses

Clauses 31 and 32 relate to Schedule 1 (regulation making powers) and Schedule 2 (supplementary and consequential amendments).

Schedule 1 includes, among other things, the following provisions:

- paragraph 4 provides for regulations to set out how the income and capital of a claimant or joint claimants is to be calculated for the purposes of UC. The DWP states that “the intention is that the treatment of capital will be similar to that under income support currently”;[97] see the section “Treatment of savings” above for more information.

- paragraph 6 allows for regulations to permit UC to be paid in part or in full by vouchers.

Schedule 2 amends existing legislation to take account of the introduction of UC. In particular:

- paragraph 1 amends the *Children Act 1989 to* exempt UC claimants, in prescribed circumstances, from contributing to the cost of certain local authority services (where currently those in receipt of certain benefits are exempt from charges)

- paragraph 2 will amend the *Child Support Act 1991* so that claimants of UC that meet certain other prescribed conditions are taken to have no assessable income for the purposes of calculating maintenance payments.

- paragraph 22 will allow for the annual uprating of UC by way of an uprating order.

- paragraph 24 will allow for the amount of UC payable to a claimant to increase on account of attaining a particular age.

- paragraphs 32 to 34 allow for deductions to be made directly from a UC award when outstanding amounts of Council Tax are owed (as is currently the case with IS, JSA and ESA, as well as state pension credit).

- paragraphs 37-39 amends provisions in the *Education Act 1996* on eligibility for exemption from charges for board and lodging on school trips, and for free school meals and milk, so that eligibility is based in receipt of UC and other prescribed circumstances. At present, the provisions link help to receipt of particular benefits and tax credits.

In the case of paragraphs 1 and 27-29, the amendments allow eligibility for “passported benefits” to be based on receipt of Universal Credit, but leaves it open for regulations to prescribe other conditions which would need to be satisfied. For further details see the section on passported benefits below.

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[97] Bill 154-EN, para 117

Clause 33 provides for a power to make, by way of regulations, such "consequential, supplementary, incidental or transitional" in relation to any provision in Part 1 of the Bill (Universal Credit). This includes the power to amend any provision of primary or secondary legislation.

The Delegated Powers Memorandum states that "although the power extends beyond simply consequential provision, this is only to take account of the change in nature of the benefit" and therefore "the Secretary of State would not be exercising this power beyond the scope of what would in other circumstances be considered simply consequential amendments".[98] Regulations made by the Secretary of State would be subject to the negative procedure.

The powers are also exercisable, in areas where they have legislative competence, by Scottish and Welsh Ministers. The DWP notes that "in relation to the power to be exercised by the Scottish Parliament and the Welsh Assembly; this is the first power of this nature to be conferred on those bodies and therefore it is more appropriate that the exercise of those powers be subject to the affirmative resolution procedure".[99]

Clause 34 provides for the abolition of the means-tested benefits to be subsumed within UC, and also abolishes Council Tax Benefit, responsibility for which if to be transferred to local authorities (see section 4 below). The clause also refers to **Schedule 3** which amends existing legislation to take account of the abolition of those benefits listed in clause 34.

Clause 36 refers to **Schedule 5**, concerning UC and working-age benefits, specifically contributory JSA and ESA which will continue to be available after the introduction of UC. The Schedule sets out how UC will interact with these benefits, with regulations to determine the amount of contributory JSA or ESA payable to a UC recipient. Regulations will also make provision for sanctions for those people entitled to UC and other working-age benefits, including allowing sanctions for a UC claimant to transfer to JSA or ESA should they then become eligible, and vice versa; such a claimant could be eligible for hardship payments by virtue of regulations made under clause 28. The Schedule also allows the Secretary of State, by regulations, to determine earnings disregards and tapers for JSA and ESA, "so that ESA and JSA will be reduced at a constant rate as earnings increase in the same way as universal credit".[100]

3.7 Adjusting awards in response to changes in earnings

As outlined in section 3.3 above, assessment for Universal Credit will involve two stages. At the first stage, DWP calculates a household's gross entitlement, taking into account the information given by the claimant including details of any income other than earnings they receive. Claimants who are not in work will receive this amount.

For those in work, there is a second stage where data on earnings is applied to calculate the net amount of the Universal Credit award. For employees, the Government proposes to use HM Revenue and Customs' proposed "real time information system" to identify earnings and to calculate the award. Those paid through Pay As You Earn (PAYE) should not need to inform DWP of changes in income since under this system employers would provide monthly data on earnings to HMRC who would, in turn, pass it to DWP via an earnings data feed. The household's award would then be adjusted automatically.

The White Paper was however less clear about how self-employed people will fit into the system. For those who have just started self-employment the Government was considering a "floor of assumed income" set at the National Minimum Wage for the reported hours of

98 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, paras 139 and 141
99 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, paras 141
100 Bill 154-EN, para 168

work, in recognition of the fact that it can be some time before a new business is profitable[101], but for others the White Paper merely stated:

> We will also provide for those who are outside the Pay As You Earn system, such as the self employed, to ensure that Universal Credit payments take into account all household earnings.[102]

The White Paper stated:

> The new IT required for Universal Credit is of similar scale to that needed for the recent introduction of Employment and Support Allowance which was successfully delivered on time and within budget. The Department for Work and Pensions and its suppliers are confident of delivering the systems needed for Universal Credit to meet the implementation timetable.[103]

However, the Government also recognised how much work will be involved in introducing the Universal Credit and stated that work was ongoing to assess how best to deliver the system. The White Paper added:

> This will be a substantial change programme and full implementation will be carefully managed over several years. Each component of the programme will build on existing experience of successfully delivering projects both for transferring people from one benefit to another and for implementing new IT for benefit processing. It will require two moderate scale IT developments to link into HM Revenue & Customs' reformed Pay As You Earn system. In doing this the Department for Work and Pensions will work closely with colleagues in HM Revenue & Customs and Local Authorities, as well as partners in the private and voluntary sectors.[104]

Comment

The White Paper argued that the Universal Credit would make error and fraud easier to prevent and detect. It also stated that the move to real-time earnings and the removal of end-of-year reconciliation (a feature of tax credits) would reduce the scope for overpayments. However, for changes in circumstances other than earnings changes, households will still need to notify DWP directly as they occur. Some of the responses to the Work and Pensions Committee inquiry argued that it was important to acknowledge the extent to which families' circumstances change over time – something which was not fully taken into account when the tax credits system was designed – and the importance of having necessary mechanisms within Universal Credit to cope with this. Given the lack of detail in the White Paper on this issue, doubts have been voiced about whether the overpayment problems associated with tax credits can be avoided under Universal Credit.[105]

Question marks also remain about how the system will deal with those outside the PAYE system, such as the self-employed (see below).

The Universal Credit depends crucially on the successful introduction of new IT systems involving not only DWP but also other agencies including HMRC. The Government has said that it is confident that the necessary systems can be put in place on time and within budget, but the scale of the task at hand is considerable and the timetable tight. In his statement to the House of Commons on 11 November, the Secretary of State for Work and Pensions said

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[101] *Universal Credit: welfare that works*, Cm 7957, 11 November 2010, para 5, p67
[102] *Ibid.* para 16, p35
[103] *Ibid.* para 33, p39
[104] *Ibid.* para 36, p40
[105] See the submissions from Jane Millar and Tess Ridge, Fran Bennett, the Low Incomes Tax Reform Group, and the Northern Ireland Welfare Reform Group

that the introduction of the system to provide real time earnings data is not dependent on HMRC's wider plans to upgrade the PAYE system.[106]

In an evidence session of the Public Accounts Committee on 16 November, Dame Lesley Strathie, Permanent Secretary and Chief Executive of HMRC, and Sarah Walker, Director of PAYE, Self Assessment and National Insurance at HMRC, were questioned about the Revenue's plans for the real time information system for PAYE.[107] Dame Lesley said that she believed the technology would "be the lesser of all the challenges", adding "I believe that we need to work with businesses for probably two years and have a plan incrementally to bring them on board this system, if we want to do it well." Questioned further about how this timeframe could be reconciled with DWP's plans to introduce the Universal Credit from October 2013, Dame Lesley said "We have a big job to do and DWP has a big, hard dependency on HMRC."[108] The exchange continued:

> **Q242 Matthew Hancock:** You said you want to do it eventually. How quickly do you think you will be able to fully integrate real-time information into the PAYE system?
>
> ***Sarah Walker:*** The idea is that the IT for real-time information should be in place by April 2012.
>
> **Q243 Matthew Hancock:** In HMRC as well as DWP?
>
> ***Sarah Walker:*** In HMRC. But we won't put all employers straight on to it at that point. There will be a period over which we will gradually bring employers on to it and make sure that it is working and testing it. The information will then be available and can be used by DWP and can be used by the PAYE system. There is then a phased period during which we will start to use that information to change tax codes. So although it will be coming in from employers, the timing with which we make use of it in PAYE will be flexible and phased in.
>
> **Q244 Mrs McGuire:** Does that mean that the DWP time frame is predicated on HMRC getting its act together? The Secretary of State says that he has a two-year time frame for introducing something. I am just getting the impression that that cannot be introduced unless HMRC gets the foundation stones laid and the building halfway built.
>
> ***Dame Lesley Strathie:*** I think it is important that I don't answer for DWP any longer.
>
> **Q245 Mrs McGuire:** But you have sown a seed of doubt in terms of the time scale.

Dame Lesley reassured the Committee that HMRC were planning to deliver to support the Universal Credit, and that it was being addressed as part of the Revenue's joint work programme with DWP.[109]

The self-employed

A number of organisations have been critical of the proposals regarding the treatment of self-employed people, and in particular the assumption that people starting out in self-employment earn an amount equal to the National Minimum Wage for the hours they work.[110]

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[106] HC Deb 11 November 2010 c451

[107] Public Accounts Committee, UNCORRECTED TRANSCRIPT OF ORAL EVIDENCE To be published as HC 502-ii. This is an uncorrected transcript of evidence taken in public and reported to the House. The transcript has been placed on the internet on the authority of the Committee, and copies have been made available by the Vote Office for the use of Members and others. Any public use of, or reference to, the contents should make clear that neither witnesses nor Members have had the opportunity to correct the record. The transcript is not yet an approved formal record of these proceedings.

[108] *Ibid.* Q237-241

[109] *Ibid.* Q245

The **National Association of Welfare Rights Advisers** comments:

> NAWRA has serious concerns about the proposals concerning self-employed particularly the assumption that claimants will have earnings equivalent to the minimum wage for the number of hours they are working. It is well accepted that small businesses can often run at a loss for the first year or two. To assume a minimum wage will cause real hardship and act as a massive disincentive to people using their initiative and setting up on their own. NAWRA believes a system is needed whereby self-employed claimants can submit an estimate of their income for the year and be able to adjust this easily as circumstances change.[111]

The **Low Incomes Tax Reform Group** observes:

> This proposal seems to work against policies of other Government departments, such as the Annual Investment Allowance, which encourage self-employment. We are concerned that those starting in business, or experiencing a difficult year, will not receive the support that they would have under the current tax credit system where income definitions are better aligned with the tax system. This would seriously diminish the work incentives in working tax credit.[112]

LITRG adds: "Further consideration must be given to how income information and working hours will be obtained for the self employed, as they will be outside of the PAYE real time data information."[113]

3.8 Passported benefits

People receiving certain social security benefits or tax credits may also be entitled to other forms of assistance by virtue of their receipt of a qualifying benefit or tax credit. The main "passported benefits" include Social Fund grants and loans, free school meals, and free prescriptions. There are however many other schemes where eligibility is conditional on receipt of particular benefits/tax credits, including schemes operated by the devolved administrations and local authorities.

No single Government department has responsibility for all passported benefits, and the rules on entitlement can vary from scheme to scheme.

The White Paper acknowledged that the move to Universal Credit will mean a complete overhaul for the rules on access to passported benefits:

> 14. With the merger of in- and out-of-work payments, the current criteria for access to a range of passported benefits (for example, free school meals and health benefits such as exemption from prescription charges) will no longer exist.
>
> 15. We will replace the current rules, which base entitlement on receipt of certain benefits, to a simpler and fairer system that bases entitlement on an income or earnings threshold. We, along with the other relevant government departments, will consider the appropriate level for these thresholds, but will aim to ensure that the benefits are awarded to broadly the same number of people as currently, whilst looking to graduate the thresholds to ensure individuals do not have a number of passported benefits reduced at the same time.

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110 See for example the submissions from The National Association of Welfare Rights Advisers, the Low Incomes Tax Reform Group, and Citizens Advice
111 UC26, *Written Evidence Submitted by National Association of Welfare Rights Advisers*
112 UC38, *Written Evidence Submitted by Low Incomes Tax Reform Group*, para 3.1.2
113 UC38, *Written Evidence Submitted by Low Incomes Tax Reform Group*, para 3.1.3

> 16. The Universal Credit will be a Great Britain-wide scheme, with national rules as with current out-of-work benefits like Jobseeker's Allowance. However, some elements of support relevant to the Universal Credit – such as passported benefits – could be within the remit of the devolved administrations. We will explore these issues further over the coming months.[114]

Resolving the passporting issue is a far from straightforward task. Securing agreement on how benefits and services are to be withdrawn as income increases will be difficult enough for those schemes which are the responsibility of central government, but if consistency is to be maintained across the United Kingdom agreement will have to be reached with each of the devolved administrations and with local authorities.

The White Paper suggested that passported benefits might be reduced in some kind of order of priority as income increases, but no further details were given.

In the past, passported benefits have not received great attention when reforms to the welfare system have been under consideration.[115] Responses to the July Green Paper emphasised the need to consider the impact of the withdrawal of "auxiliary" benefits on claimants' decisions to move off benefit and into work.[116]

In its submission to the Work and Pensions Committee, the Low Incomes Tax Reform Group commented:

> ...although the White Paper contains limited detail, it seems to suggest that there will remain a series of income levels at which passported benefits are lost and therefore cliff edges will continue to exist (although the actual income levels at which the benefits are lost will be staggered). As well as creating complexity by having different cut offs, we are concerned that the impact of passported benefits on Marginal Deduction Rates (MDR) has not been considered. In our experience, passported benefits can be responsible for increasing MDR significantly. If this continues to happen in Universal Credit, work will not necessarily pay once account is taken of the loss of these benefits.[117]

In its response, Citizens Advice said that it would welcome further consideration of the proposals for dealing with passported benefits set out in the Centre for Social Justice report, *Dynamic Benefits*.[118] This suggested that, in order to reduce the barrier to work, passported benefits would no longer be withdrawn beyond a certain earning or hours threshold. But if a household above the threshold chose to receive a passported benefit, a notional financial value would be imputed to them, which would taper away as income increased, avoiding a "cliff edge" problem.[119]

At the Work and Pensions oral evidence session on 9 February, the Secretary of State said that dealing with passported benefits was complicated, because it was necessary to get the agreement of different departments. Neil Couling, the Universal Credit Director General at DWP, added:

> What we are trying to avoid is a kind of bundling up. There are about five or six different main passported benefits. If we were to adopt the same trigger point for that, they would have a big disincentive effect for individuals and families considering work.

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114 *Ibid.* p48
115 See library standard note SN/SP/3802, *Passported benefits*, 16 November 2005
116 *Consultation responses to 21st Century Welfare*, Cm 7971, November 2010, p9
117 UC38, *Written Evidence Submitted by Low Incomes Tax Reform Group*, para 3.6.2
118 Centre for Social Justice, *Dynamic Benefits: Towards Welfare That Works*, September 2009
119 *Ibid.* section 16.6.1

> We are engaged in various discussions across Whitehall, and we are trying, effectively, to stagger the points of withdrawal, so that they act less as disincentives to work-if that makes sense.[120]

Mr Duncan Smith added that the Government had not yet reached an "absolute conclusion" on how to deal with passported benefits.[121]

[120] HC 743-ii 2010-11 Q154 (uncorrected transcript, see footnote 49)
[121] *Ibid.* Q155

4 Abolition of Council Tax Benefit

Background

Council Tax Benefit (CTB) is paid to people with a low income who are liable to pay Council Tax. It is paid whether or not the claimant is available for, or in, full-time paid work and it may be paid in addition to other benefits and tax credits.

CTB is administered and paid by local authorities although it is a national scheme. The rules governing eligibility for CTB are very similar to those governing Housing Benefit – although unlike Housing Benefit it can be claimed by owner occupiers with a low income. There are two types of CTB:

- main CTB – which is based on the claimant's liability to pay Council Tax and their assumed needs and resources (taking account of any partners and dependents); and

- alternative maximum CTB, also known as second adult rebate, which is based on the circumstances of certain other adults ("second adults") living with the claimant.

In Great Britain in November 2010:

- 5.8 million people were claiming Council Tax Benefit; 4.3 million of them were also claiming Housing Benefit.

- Two-thirds of Council Tax Benefit recipients were receiving a passported benefit (that is, an income related benefit such as Income Support, Pension Credit Guarantee, Income-based JSA or ESA).

- Half of Council Tax Benefit recipients aged under 60 have dependent children.

- The average Council Tax Benefit award is £15.88 per week

- 2.7 million of those receiving Council Tax Benefit were aged 60+, this is 46% of the total.

Council Tax Benefit Recipients: Nov 2010 (Great Britain)
Benefit status and age

	millions	%
All	**5.8**	**100%**
Non-passported	1.7	32%
of which: in employment	0.6	11%
Passported	3.9	68%
Income support	1.4	24%
IR-Jobseekers Allowance	0.5	9%
IB-Employment & Support Allowance	0.2	3%
Pension Credit (Guaranteed)	1.8	30%

All ages	**5.8**	**100%**
Under 25	0.3	5%
25 - 34	0.7	13%
35 - 44	0.9	16%
45 - 49	0.4	8%
50 - 54	0.4	7%
55 - 59	0.3	6%
60 - 64	0.5	8%
65 +	2.2	38%

Source: DWP Council Tax Benefit Statistics

In the October 2010 Spending Review the Government announced an intention to reduce expenditure on CTB by 10% coupled with localisation of the benefit from 2013-14 "while protecting the most vulnerable".[122] The 10% reduction is expected to result in annual savings of £0.5 billion.

Clause 34 of the Bill provides for the abolition of various benefits, including CTB. While provision to abolish these benefits is in line with their replacement by the Universal Credit, it is clear that CTB will not form part of Universal Credit. The Impact Assessment on Universal Credit explains:

> Council Tax Benefit will be abolished and Local Authorities will be given scope to take account of the priorities of their own communities when determining the amount of support for low-income households to meet their Council Tax bills. There is more work to be done on the detail of the new system and the Department for Work and Pensions (DWP) and the Department for Communities and Local Government (DCLG) will work closely together with local government and devolved administrations to flesh out the overall framework. In doing so the Government will aim to protect the most vulnerable, particularly pensioners, and not undermine the positive impact of Universal Credit on work incentives. In the absence at this stage of further detail on the workings of the new system, the analysis in this Impact Assessment includes Council Tax Benefit in its current form both in the baseline and as part of Universal Credit. The Department will look further at the impact of these proposals in subsequent iterations of the Impact Assessment.[123]

The Minister, Steve Webb, said that an Impact Assessment on the localisation of CTB would be published "when legislation is introduced"[124] however no Impact Assessment on this

[122] HM Treasury, *Spending Review 2010*, Cm 7942, October 2010, para 2.42
[123] *Universal Credit Impact Assessment*, para 10, p8
[124] HC Deb 4 November 2010 c927W

aspect of Government policy is currently available. The Secretary of State for Communities and Local Government, Eric Pickles, has said that full consultation on the system of local Council Tax Rebate schemes "will be undertaken in due course" with CLG as the lead Department. Mr Pickles describes the changes to CTB as complementing other measures, such as the New Homes Bonus and local retention of business rates, in giving "councils a greater stake in the economic future of their local area, so supporting the Government's wider agenda to enable stronger, balanced economic growth across the country".[125]

Comment

The Council Tax Benefit changes arguably go against one of the central aims of the Universal Credit, which is to increase the transparency of the financial benefits of work. Claimants may face a different means-test for CTB according to where they are living. This could make it more difficult to determine the actual financial benefit from taking a job or increasing working hours. The analyses of marginal deduction rates in the White Paper assume that help with Council Tax is being provided, but the situation could vary from one locality to another if local authorities adopt different rules.

Welfare rights organisations have argued that Council Tax Benefit should be included within the Universal Credit, to avoid the introduction of a second taper which would complicate the system, and could undermine work incentives.

The Institute of Fiscal Studies (IFS) has identified the following "downsides" associated with the Government's plans for CTB:

- the potential to create a "postcode lottery" in terms of entitlement to assistance with Council Tax payments;
- an increase in complexity and lack of transparency with 100+ authorities designing their own policies on entitlement;
- the possibility of authorities using CTB to persuade low-income households to live elsewhere; and
- having two levels of Government sharing control over tax and benefit redistribution.[126]

Age UK argues that "localising benefit alongside a 10 per cent reduction in expenditure could lead to uneven outcomes, hardship and increased complexity".[127] While understanding the Government's wishes to give local authorities greater control over CTB payments, Barnardo's believes that this should not be allowed to undermine Universal Credit's principles and that, as a minimum, the Government should ensure that even if eligibility is to be decided at a local level, payments should be made as part of the Universal Credit.[128] Citizens Advice argues that if agreement cannot be reached between the DWP and Department for Communities and Local Government on the inclusion of support for Council Tax within the single taper, the Government should rethink its decision to localise Council Tax Benefit.[129]

The Local Government Association (LGA) has identified financial risks for local authorities around increased numbers claiming CTB, an increase in the Council Tax burden and the need to take account of the demographic make-up of different areas in the distribution of CTB funding. In response, the LGA is calling for reforms to CTB to be considered alongside

[125] HC Deb 17 February 2011 92WS
[126] IFS, *Presentation on Cuts to Welfare Spending – take 2*, October 2010
[127] UC22, *Written Evidence Submitted by Age UK* to the Work and Pensions Select Committee
[128] UC59, *Written Evidence Submitted by Barnardo's*, para 18 to the Work and Pensions Select Committee
[129] UC54, *Written Evidence Submitted by Citizens Advice* to the Work and Pensions Select Committee

reforms to Council Tax as a whole “in order to provide the flexibility to manage this financial risk”.[130] In terms of resources, the LGA wants support for CTB beyond 2013 to “rise roughly in line with the total estimated Council Tax burden” and is seeking regular reviews of funding in order to trigger additional resources for CTB support if demand rises.[131]

Modelling of an across the board cut in CTB of 10% by the New Policy Institute (NPI) shows a disproportionate impact on authorities in areas of high deprivation – with the most affected losing more than four times as much per dwelling as the least affected.[132] If local authorities pass on the cuts to claimants, recipients of CTB in Richmond-upon-Thames could, according to the NPI, expect to lose an average of £128 per year. The modelling illustrates that, depending on how CTB is distributed, the cut could impact on people living in poverty in the most affluent areas as well as those in deprived areas.[133] The NPI favours a broader approach to Council Tax reform with CTB reform considered as part this.[134]

In the Work and Pensions Committee evidence session on 9 February, the Secretary of State said that he hoped the position regarding Council Tax Benefit would become clear at the time of the publication of the *Welfare Reform Bill*. Mr Duncan Smith said that he was in favour of localisation, provided it did not worsen work incentives. Pressed on whether individual local authorities would be able to change the rates of Council Tax Benefit, or if this would be set nationally, the Secretary of State said that these were matters under discussion.[135]

130 LGA, *Welfare Reform Bill Briefing*, 18 February 2011
131 *ibid*
132 New Policy Institute, Dan Paskins, *Council Tax Benefit: the effect of a 10% cut*, December 2010
133 *ibid*
134 New Policy Institute, *Council Tax: the answer?* 2003
135 HC 743-ii 2010-11 Q137 (uncorrected transcript, see footnote 49)

5 Conditionality and sanctions

5.1 Background

The Government's July 2010 Green Paper, *21st Century Welfare*, set out the principle that: "Individuals who are able to look for work or prepare for work should be required to do so as a condition for receiving benefit and those who fail to meet their responsibilities should face a sanction such as a benefit reduction".[136]

In the Green Paper, the Government proposed a move to a "personalised conditionality regime", with the key aim was "to make it much clearer that the commitment to work is the foundation of the benefits system for people of working age". This would be achieved by asking "everyone who is able to work, or to take steps to prepare for work, to sign a document setting out their obligations and the activity required to satisfy those obligations". The DWP also proposed a new range of sanctions for those who did not meet their obligations, including a possible permanent withdrawal of benefits for those "closest to the labour market", non-financial sanctions, and "the way the current safeguards against the risk of hardship operate".[137]

In response to the question posed by DWP in the Green Paper, "Do you think we should increase the obligations on benefit claimants who can work to take the steps necessary to seek and enter work?" the Department reported in its analysis of responses that:

> Four main themes emerged from the responses to this question:
>
> - it was entirely reasonable to increase the current conditions for the receipt of benefit in respect of those who can work;
> - no conditionality should be attached to those who cannot reasonably be expected to seek work;
> - the current regime of obligations was already too onerous; and
> - the current conditionality regime was ineffective and needed looking at again.[138]

A mix of views was cited by the DWP regarding further conditionality and sanctions. On the one hand, the TaxPayers' Alliance was quoted as saying "Claimants who are not making efforts to find work should lose part of their benefit income. It is important that the system contains sticks as well as carrots", while CIVITAS said "Refusal of job offers should lead to cancellation of cash benefits".[139]

On the other hand, the Social Security Advisory Committee said "There are already substantial obligations on benefit recipients under the current system and, despite assertions in the document, little evidence that sanctions are effective in increasing the numbers leaving benefit".[140]

The London Borough of Camden's position was as follows:

> We would also be concerned about the increased use of sanctions and possible permanent withdrawal of benefits for non-compliance. This is likely to push people

136 Cm 7913, p28 para 2
137 *Ibid.* p30, paras 6-7
138 *Consultation responses to 21st Century Welfare*, Cm 7971, November 2010, p19
139 *Ibid.* p20
140 *Ibid.*

> further away from both the benefits system and the labour market. Sometimes a perceived need to 'punish' people for non-compliant behaviour can take prevalence over what is actually best in terms of both that claimant, wider social issues and costs to the taxpayer.[141]

The Child Poverty Action Group said "Conditionality places a disproportionate focus on the responsibilities of claimants to seek work, without placing sufficient policy focus on the ability of the labour market to generate flexible, well remunerated jobs". On this point, the DWP responded by saying "The labour market is highly dynamic. Jobs are being created all the time. There are currently over 450,000 vacancies available at any one time, and Jobcentre Plus alone takes over 300,000 new vacancies every month". The DWP also cited the new "Work Programme" which would "provide more personalised back-to-work support including to long-term unemployed people and to those with more significant barriers to employment.[142]

The Government set out its position, stating:

> 4. We believe that, as a condition for receiving benefit, people should do everything that can reasonably be expected of them to find work or prepare for work in the future. In line with this, we will raise the current level of conditionality applied to some recipients. We will also introduce a 'claimant commitment' to ensure that everybody is completely clear as to the responsibilities they must meet in return for benefit payments.
>
> 5. Where people do not meet their responsibilities without good reason, their benefits should be reduced or stopped altogether. We will also enable advisers to require benefit recipients to undertake mandatory work where they think this is necessary to instil the habits and disciplines of regular employment.[143]

The Green Paper also asked for views on the question "Do you think that we should have a system of conditionality which aims to maximise the amount of work a person does, consistent with their personal circumstances?"

The DWP subsequently reported that:

> There was a general consensus that we should have a benefits system that actually encourages people, where capable and appropriate, to increase the hours that they work. People should have sufficient incentive to increase their earnings through more work.
>
> However, it was equally widely held that people should only have to work the number of hours consistent with their personal situation and therefore any conditionality needs to be tailored in line with individual circumstances.[144]

The Government responded by saying that "Under Universal Credit we will adopt a new approach to conditionality that will look not only to move people into work but also encourage them, where appropriate, to increase their earnings and hours until they move off benefit altogether". It also proposed a "conditionality threshold" to UC which would also apply to

141 *Ibid.* p21
142 *Ibid.* pp20–21, paras 3 and 6–7
143 *Ibid.* p21, para 4 and 5
144 Green paper responses, p22, paras 1–2

people in work; only people working above the threshold would be placed in the no-conditionality group.[145]

Chapter 3 of the November 2010 White Paper, *Universal Credit: welfare that works*[146], set out proposals to change to the rules on what is expected of benefit claimants, and on the sanctions which may be applied for non-compliance with the requirements. Implementation of the changes would start in advance of the introduction of the Universal Credit.

There proposals involve:

- increasing the level of "conditionality" for some claimants;
- a new "claimant commitment" to ensure people know what is expected of them;
- a strengthened sanctions regime; and
- "Mandatory Work Activity" for some claimants.

The White Paper proposed a new conditionality regime comprising four levels. The four levels – and the benefits claimants who would currently fall under each – are outlined below:

Conditionality level	Benefit claimed
"Full conditionality" Active job search; required to actively seek and be available for work	Jobseeker's Allowance, including joint claims where the youngest child has reached the age of five
"Work preparation" Required to take reasonable steps to prepare for work	Employment and Support Allowance recipients in the Work Related Activity Group, other than lone parents with a child under five
"Keeping in touch with the labour market" Required to attend Work Focused Interviews	Lone parents with a child over one but under five claiming Income Support or ESA; partners of benefit recipients
"No conditionality"	ESA recipients in the Support Group; carers; lone parents with a child under one claiming IS or ESA

In the case of couples, conditionality would apply to both partners individually.

The White Paper stated:

> In setting conditionality, advisers will ensure that the requirements they place on a recipient are reasonable for that person, taking into account their particular capabilities and circumstances. In line with this personalised approach, we will continue to give

145 *Ibid.* p23, paras 5 and 7
146 Cm 7957

> advisers the flexibility to target stronger conditionality on some jobseekers where they think this is necessary to help move them into work.[147]

With regard to the "claimant commitment", the White Paper stated:

> We will require every Income Support, Jobseeker's Allowance and Employment and Support Allowance recipient to have a claimant commitment. The commitment will set out our general expectations of recipients, and the requirements placed upon them; it will also be clear about the consequences for the recipient of failing to meet these agreed standards. This will be carried forward into Universal Credit.[148]

The Government believes that "Currently... some sanctions are set at too low a level and the consequences of failing to comply with requirements are not always clear."[149] The White Paper set out proposals for a new system of sanctions, with tougher penalties for those who "repeatedly fail to meet their responsibility to look for work." Claimants in this category who had "serially and materially breached conditions" could face losing their JSA for three years.[150]

Hardship payments would be available for claimants who have sanctioned, but the White Paper proposed that in some cases (i.e. excluding vulnerable people and their dependents), the payments should be in the form of loans "to the extent that is possible", so that "those who persistently fail to meet the requirements imposed upon them cannot rely on these alternative sources of support for the entire duration of their sanction". The DWP argued that this would "ensure a better balance in the system" and "help incentivise people to meet their commitments".[151]

The White Paper set out more detail about the "conditionality threshold":

> To begin with, we intend to set the threshold at broadly the same point at which people lose entitlement to the current out-of-work benefits. However, once Universal Credit is established we will be able to raise or lower this threshold and apply conditionality to a greater number of recipients.
>
> This will enable us to encourage people to increase their earnings and hours in a way that we have never been able to do before, helping people along a journey toward financial independence from the state.[152]

5.2 Responses

Welfare rights groups and others – including the Social Security Advisory Committee – have for many years expressed concerns about increasing conditionality and the use of sanctions in the benefits system.[153]

Responding to the White Paper, Alison Garnham of CPAG said "Sanctions are an expensive red herring with no real evidence they work",[154] while the chair of the National Association of Welfare Rights Advisers, Alan Markey, said "a growing reliance on punitive sanctions will

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147 *Ibid.* para 10, p27
148 *Ibid.* para 12, p28
149 *Ibid.* para 13, p28
150 *Ibid.* para 15, p29
151 *Ibid.* para 16, p29
152 *Ibid.* para 19, p31
153 See for example Library Research Paper 09/08, *Welfare Reform Bill 2008-09: social security provisions*, 23 January 2009, pp76-87
154 CPAG press release, *Welfare reforms must bring guaranteed reduction in child poverty*, 11 November 2010

inevitably increases the administrative burden, won't help the hardest-to-reach get back into work and hurts the most vulnerable claimants and families hardest".[155]

Citizens Advice is concerned particularly with the impact of tougher sanctions on JSA claimants with health conditions and disabilities[156], while Gingerbread, while welcoming proposals to "make work pay and to simplify the benefits system", said that it was "very concerned that single parents could face the threat of sanctions; most single parents want to work but find the odds heavily stacked against them, and the effect of financial sanctions would plunge children into unacceptable levels of poverty".[157]

5.3 The Bill: Universal Credit provisions

Conditionality

Clause 13 lays out the four "work-related requirements" which can be imposed on a claimant, which are set out in more detail in clauses 15 to 18. Clauses 19 to 22 set out which requirements apply to particular claimants.

Clause 14 details the "Claimant commitment", which can include any requirements under clauses 20 to 22. Under clause 4 (see above), in order to be entitled to UC a claimant must have accepted their commitment. The commitment may be updated and amended as necessary, and the claimant must have accepted the most up-to-date version of it. The manner of accepting it will also be prescribed, and "Regulations will accordingly set out that a claimant commitment must be accepted in such manner as the Secretary of State specifies will be electronically, by telephone or in writing".[158]

In addition to setting out any clause 15 to 18 requirements, under subsection (4)(c) the commitment can also include any other information considered by the Secretary of State to be appropriate. The Government states that "neither the Bill nor regulations will contain an exhaustive list of the information that a claimant commitment must include". It adds:

> However, subparagraph (b) allows for regulations to prescribe particular information that must be included. The intention is that regulations will prescribe that the claimant commitment must include crucial information such as the sanctions that will follow from non-compliance with the particular requirements that are imposed on the claimant, and also the general duty to report changes of circumstance which relate to benefit entitlement or payment. Such information will be included in regulations because it relates to administrative detail.[159]

The Delegated Powers Memorandum states that the form of the commitment "is left to the Secretary of State's discretion and will not be prescribed in legislation", adding that "in most cases, the aim will be for the claimant commitment to be in electronic form, although exceptions will be made in cases where claimants cannot reasonably access and use the internet".[160]

Clause 15 sets out the principle of the **"work-focused interview requirement"**, but the detail is to be set out in regulations. Subsection (3) sets out the "central purpose" of a work-focused interview, and states that the regulations "may" include discussion of the steps a claimant can take to increase (in the opinion of the Secretary of State) their chances of getting work, or increase the number of hours they work, or get a better-paid job. The clause

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155 NAWRA press release, *Benefit reforms risk making system even more complex*, 11 November 2010
156 Citizens Advice, *Citizens Advice response to the Welfare White Paper*, 11 November 2010
157 Gingerbread press release, *Gingerbread responds to welfare reform plan*, 11 November 2010
158 *Welfare Reform Bill 2011 Delegated Powers Memorandum*,, para 54
159 *Ibid*, para 53
160 *Ibid*, para 49

states that the requirement allows for one or more such interviews that relate to work or work preparation. The Delegated Powers Memorandum states:

> These powers will be used to make provision similar to that in regulation 55 of the Employment and Support Allowance Regulations 2008 (and made pursuant to section 12(7) of the WRA 07) which refers to: assessing the claimant's prospects for remaining in or obtaining work (or more paid work or better-paid work); assisting or encouraging the claimant to remain in or obtain work etc; identifying activities that the claimant may undertake that will make remaining in or obtaining work more likely; identifying training, education or rehabilitation opportunities for the claimant which may make it more likely that the claimant will remain in or obtain work or be able to do so; identifying current or future work opportunities, including self-employment opportunities, of the claimant that are relevant to the claimant's needs and abilities.[161]

Clause 16 details the **"work preparation requirement"**, namely action to increase a claimant's likelihood (in the opinion of the Secretary of State) of securing a job, or, if in work, increasing the number of hours they work or getting a better paid job. The amount of time to be devoted to a particular action can be specified, and the proposed actions set out in the clause include undertaking a work placement or work experience, participating in a training course or improving personal presentation (e.g. writing a CV), although regulations may set out other actions or provide more detail about the actions listed.

The work preparation requirement can include a "work-focused health-related assessment"; this copies the existing provision for ESA, found in the *Welfare Reform Act 2007*. The assessment can be carried out to assess "the extent to which the person's capability for work may be improved by taking steps in relation to their physical or mental condition, and such other matters relating to their physical or mental condition and the likelihood of their obtaining or remaining in work or being able to do so as may be prescribed". The assessment will be conducted by a "health care professional", as defined in subsection (6). The DWP adds that:

> Regulations will set out the relevant matters which are likely to be similar to those set out in regulation 48 of the Employment and Support Allowance Regulations 2008 (and made pursuant to section 11(7)(c) of the WRA 07), to include difficulties which are likely to be experienced as a result of the claimant's physical or mental condition in relation to obtaining or remaining in work and how these might be managed or alleviated; and the claimant's views on the impact of the claimant's physical or mental condition in relation to obtaining or remaining in work and any aspirations in relation to work in the light of that condition.[162]

Clause 17 concerns the **"work search requirement"**, namely that a claimant take "all reasonable action" and also "any particular action specified by the Secretary of State" (such as applying for a specific job or registering with a particular recruitment agency, according to the Explanatory Notes) to obtain paid work, more paid work or a better-paid job. Regulations will detail what actions a claimant should take, but subsection (3) states such actions may include in particular carrying out work searches, making applications, and seeking references, and the Secretary of State may specify the time to be devoted to a particular activity.

The Explanatory Notes highlight that "Typically claimants in this group will be required to look for any reasonable employment. However, subsection (4) enables limitations to be placed on the work certain claimants in certain circumstances must look for". Subsection (5) states that regulations made under subsection (4) may place limitations on factors such as the nature of

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[161] *Ibid*, para 55
[162] *Ibid*, para 59

work, its location, and level of remuneration, and that the limitations may be either indefinite or for a particular period. The DWP adds that "'work' will be defined in regulations as full time work, including self-employment, of at least 40 hours".[163]

Clause 18 sets out the **"work availability requirement"**, namely that a claimant is able and willing immediately (to be defined in regulations) for paid work, or more paid work, or better paid work. As with clause 17, regulations will determine limitations on the work a claimant must be available for, and the limitations can be indefinite or for a particular period. The Explanatory Notes state that the clause 18 limitations "would match any limitations imposed on the work search requirement under clause 17".[164]

Regulations will also determine what the term "a person being able and willing immediate" to take up work means.

Clauses 19 to 22 set out which requirements apply to particular claimants.

Clause 19 provides that a claimant is <u>not</u> to be subject to <u>any</u> work-related requirement if he or she:

- has limited capability for work and work-related activity (i.e. is in the ESA Support Group);
- has regular and substantial caring responsibilities for a severely disabled person;
- is the responsible carer for a child under the age of one; or
- is of a "prescribed description".

The last category may include some groups who can currently claim income support and who are not required to prepare for work, such as people serving on a jury[165] It will also include those deemed to be above the "conditionality threshold".

Subsection (3) provides that the regulations to determine whether or not someone is above the conditionality threshold can refer to hours worked, earnings or income, or the amount of UC payable (or a combination of these). For couples, this may be determined by looking at each partner's circumstances individually (e.g. the hours each of them work), or by looking at the couple together (e.g. by reference to their combined working hours).

Clause 20 sets out the groups on whom the Secretary of State may only impose the **work-focused interview requirement**. This will apply to those who are the responsible carer for a child aged over one year old and under an age to be set out in regulations (but not less than three years old); the DWP states that the "current intention" is that the upper age limit will be four years old.[166] Regulations may add additional categories of people to this group.

Clause 21 applies to those to whom neither clause 19 nor clause 20 applies; and who either have a "limited capability for work" or are of a "prescribed description". The latter must include those caring for a child aged three or four if they do not fall under clause 20. The Secretary of State may impose a **work preparation requirement** <u>and</u> a **work-focused interview requirement** on those people to whom clause 21 applies.

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[163] *Ibid*, para 62
[164] Bill 154-EN, para 76
[165] Bill 154-EN, para 65
[166] *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 66

Clause 22 applies to anyone who does not fall under clauses 19 to 21, and states that the Secretary of State "must" impose on a claimant falling under clause 22 a **work search requirement** and a **work availability requirement** (as is currently the case with JSA), and "may" impose a **work-focused interview requirement**, or a **work preparation requirement**, or both. Exceptions to the imposition of the a work search requirement and a work availability requirement can be made in regulations, such as when someone is undertaking full-time training, or where a claimant agrees to attend a rehabilitation programme for drug or alcohol addiction.[167]

In terms of the effect of moving from one group to another (e.g. following the birth of a child), the DWP explains:

> If a claimant moves from one group to another then any work-related requirements which may not be imposed on the group the claimant moves to automatically cease. For example, any work search, work availability and work preparation requirements would no longer apply if a claimant moves from the group subject to all work-related requirements to the group who may only be subject to work-focused interviews.[168]

Clause 23 provides for other "connected requirements", i.e. requirements linked to the four work-related requirements. The Secretary of State will be able to require a claimant to participate in an interview concerning a work-related requirement (to impose it, verify compliance or assist compliance), and may specify how, when and where the interview will be held. On the issue of verification, the clause allows the Secretary of State to require a claimant to provide information and evidence, and confirm compliance, that their requirements are being met, and to report relevant changes in their circumstances.

Clause 24 sets outs how the imposition of requirements will be conducted, specifically the circumstances in which certain requirements or actions by the Secretary of State must or must not be imposed, and to set parameters around requirements. If a requirement, or an action specified by the Secretary of State, is changed, and this is not reflected in the claimant commitment, then the Secretary of State may determine how to inform a claimant.

The clause also allows those who have either been a victim of, or threatened with, domestic violence "in prescribed circumstances" to have their requirement suspended for a period of 13 weeks, and prevents any additional requirements being imposed during that period. The DWP notes that "it is considered that it is more appropriate to set out the exact circumstances in which the exemption will apply in regulations; subsections (5) and (6) are intended to just make it expressly clear that exceptions will apply in certain cases of domestic violence". In terms of the likely content of the regulations, the Delegate Powers Memorandum states:

> Regulations will provide that where a claimant has been a victim of domestic violence within a prescribed period, likely to be in the region of 26 weeks, they may be exempt from any work-related requirements for 13 weeks. The regulations will set out that the exemption will only apply where the claimant is able to provide evidence of the violence and where they are no longer living with the perpetrator.[169]

Clause 25 allows for regulations to determine the minimum that a claimant must do to be treated as having compiled with a requirement, or having taken an action specified by the Secretary of State. The Delegated Powers Memorandum adds that it will also "provide for a particular way or manner of completing a requirement or action; and to make it clear what will

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167 *Ibid*, para 70
168 Bill 154-EN, para 77
169 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 75

amount to compliance in cases where there may otherwise be the potential for uncertainty".[170]

Sanctions

Clause 26 sets out the "higher-level sanctions" applicable to UC. These may apply to claimants falling under clause 22 (i.e. those subject to the full work search and work availability requirements) or to claimants who, because of either misconduct, or voluntarily and without good reason (both terms to be defined by regulations), no longer meet the conditionality threshold.

The sanctions would apply for:

- failing to comply with a work preparation requirement to take part in a prescribed type of work placement, such as Mandatory Work Activity;
- failing to comply with a work search requirement to apply for a particular vacancy when required to do so;
- failing to comply with a work availability requirement to take up an offer of paid work; and
- leaving paid work or reducing pay voluntarily or because of misconduct.

The higher-level sanctions would also apply to someone who for no good reason did not take up an offer of paid work, or because of misconduct or voluntarily with no good reason ceased paid work or lost work if it occurred *before* they applied for UC, and at the time that their UC award is made they are a clause 22 claimant.

The amount and duration of the sanction will also be set out in regulations. The DWP explains that "the intention is that the reduction amount will be broadly equivalent to the amount that will be sanctioned under the current benefits system, that is, an amount equivalent to JSA or ESA".[171] In terms of the duration, subsection (6)(b) specifies a maximum period of three years, while regulations can factor in the number of previous failures sanctionable under clause 26, and the period between them, in determining the sanction. The DWP envisages a "three strikes and you're out" approach:

> The current intention is that regulations will provide that: a first failure to comply with these requirements will lead to a reduction of universal credit for of 13 weeks; a second failure within a given period (likely to be within 12 months of the first failure) will lead to a reduction of universal credit for 26 weeks; a third, or subsequent, failure within a given period (likely to be within 12 months of the second failure) will lead to a reduction of universal credit for 3 years.[172]

Regulations may also provide for cases where there are no reductions under the sanctions framework, for sanctions to be carried over from an old claim for UC to a new claim, and for a sanction to be suspended or terminated. Paragraph 5 of **schedule 5** allows for the transferability of sanctions between JSA and ESA, and UC, and vice versa.

Clause 27 sets out the other sanctions that can apply to a claimant of UC if they fail to comply with a work-related requirement, or a connected requirement under clause 23 (and is not also sanctionable under clause 26). Regulations will determine the amount to be

[170] *Ibid*, para 76
[171] *Ibid*, para 81
[172] *Ibid*, para 83

reduced and the duration of the sanction. A clause 27 sanction can either last until a compliance condition is met, or for a fixed period not exceeding 26 weeks, or a combination of both, which the DWP states could mean “an open-ended period until the claimant meets the compliance conditions followed by a particular fixed period”.[173]

A compliance condition can be either to comply with an existing requirement, or to ensure future compliance (e.g. meet a new requirement). It can be revoked or varied by the Secretary of State, and will be notified to the claimant in “such manner as the Secretary of State may determine”.

As with clause 26, in terms of determining the duration regulations can factor in the number of previous failures sanctionable under clause 27, and the period between them. Similarly, regulations may also provide for cases where there are no reductions under the sanctions framework, for sanctions to be carried over from an old claim for UC to a new claim, and for a sanction to be suspended or terminated.

For those subject to sanctions, **clause 28** sets out the hardship payments UC claimants will be able to receive if they can prove they are or will be in hardship. The details will be determined by regulations. The Delegated Powers Memorandum explains:

> In reliance on the regulation-making powers in clause 28, regulations will specifically make provision as to:
>
> a) the circumstances in which a claimant is to be treated as being or not being in hardship. A claimant will be treated as being in hardship if, for example: (1) the resources which may be available to the claimant and their family fall short of the amount the claimant would receive as an additional payment if eligible for it (taking into account the amount of any resources which may be available to members of the claimant’s family from another person); and (2) there is a substantial risk that essential items, including food, clothing, heating and accommodation, will cease to be available to the claimant or their family, or will be available at a considerably reduced levels if the payment is not made;
>
> b) the requirements that a claimant must meet to receive an additional payment. The regulations will be similar to regulation 143 and 144 of the JSA regulations; claimants will only be eligible for additional payments if they provide sufficient information, including a statement of their circumstances. Claimants will also need to continue to meet their work-related requirements to be eligible for an additional payment;
>
> c) the rate of the additional payment. The current intention is that payments will be set as a relevant percentage of the amount of the sanction reduction to the claimant’s award amount. This is broadly similar to how the rate is currently set under JSA (see regulation 145 of the JSA Regulations- applicable amount in hardship cases);
>
> d) the period of the additional payment. As with JSA, where the claimant or a member of their family fall into certain vulnerable groups (the current definition is set out in regulation 140(1) of the JSA Regulations) they will be eligible for a payment from the outset, and for the duration, of the sanction. Where the additional payment is made on the basis that it is recoverable, the recoverable payment may be for a shorter period;
>
> e) whether additional payments are recoverable [i.e. loans]. Recoverable payments will be made only in cases where (1) a claimant is subject to all work-related requirements; and (2) the claimant is not considered to be in a vulnerable position on the basis of

[173] Bill 154-EN, para 98

> their own or another household member's circumstances. Payments that are recoverable will have been made expressly on the basis that they are to be repaid.[174]

Clause 102 amends the *Social Security Administration Act 1992* to allow for the recovery of hardship payments by inserting new clause 71ZG (see Library Research Paper 11/23, pp60-61).

5.4 The Bill: provisions for existing benefits before Universal Credit is introduced

Jobseeker's Allowance

Clause 44 amends the *Jobseekers Act 1995* to introduce a "claimant commitment" for those in receipt of JSA, so replacing the jobseeker's agreement. Subsection (2) amends the 1995 Act so that acceptance of a claimant commitment is one of the conditions for receiving JSA.

Clause 44 inserts a new section 9 into the 1995 Act. The commitment may include information in respect of the conditions mentioned in sections 1(2)(a) and (c), namely that the claimant is available for employment and is actively seeking employment. It may also include details of any work or work-related activity imposed under section 17A, or requirement to attend interviews with advisers and provision of evidence they are meeting the jobseekers conditions under section 8. It can also include details of sanctions if the requirements are not met "without good reason".

The claimant commitment should ensure the claimant will meet the conditions of entitlement set in the 1995 Act, namely that the claimant is available for employment and is actively seeking employment. If the employer officer or claimant does not believe this to be the case, the matter can be referred to the Secretary of State for him to determine the matter, and also whether it is reasonable to expect the claimant to act in accordance with the proposed claimant commitment.

Under new section 9(9), regulations can set out circumstances where a claimant is treated as meeting the claimant commitment. The DWP explains that "this might be necessary if the claimant has satisfied all the other criteria but is temporarily unable to formally accept the claimant commitment in the manner set out in regulations".[175] Subsection (10) defines acceptance of a claimant commitment as acceptance of the "most up-to-date" version by a prescribed manner.

Clause 44(4) inserts new section 10 into the 1995 Act to allow an employment officer to vary a claimant commitment, although the claimant must be informed of the proposed variation. Again, matters can be referred to the Secretary of State by either the employment officer or the claimant. The manner in which such a referral is handled is identical to the provision in new section 9.

Clause 45 amends section 8(1)(a) of the 1995 Act, entitled "Attendance, information and evidence", so as to allow a claimant to attend a JSA interview remotely, as well as at a job centre office.

Clause 46 includes amendments to the 1995 Act to replace existing sanctions provisions with new sanctions that resemble those proposed for the UC, and also a similar hardship payments system. The changes will take effect from the point at which they are brought into force, until such time that income-based JSA is replaced by UC – at which point, the sanctions provisions under clause 49 will be brought into force (for those in receipt of contributory JSA - see section 4.5 below).

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[174] *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 89

[175] Bill 154-EN, para 212

Clause 46 substitutes a new section 19 in the 1995 Act, setting out the "higher-level sanctions". Such sanctions will apply for the following, unless good reason can be shown (except in the case of losing a job through misconduct):

- losing a job through misconduct or leaving voluntarily;
- refusing or failing to apply for or accept a job of which an employment officer has informed the claimant;
- neglecting to avail themselves of a reasonable opportunity of employment, (for example, people who do not take an opportunity to return to work after being temporarily laid off); and
- failing to participate in prescribed schemes to assist them to obtain employment under section 17A(1) of [Jobseekers' Act] 1995, inserted by section 1 of WRA [Welfare Reform Act] 2009.[176]

New section 19(4) allows regulations to specify the amount of reduction and the duration of such a reduction, and in this respect new section 19(5) allows previous failures and the period between them to be taken into account. As with UC, the maximum time is three years, and the DWP state that it is intended to take a similar "three strikes and you're out" approach as they similarly propose with UC.[177]

New section 19(6) allows regulations to prescribe circumstances in which no sanctions will apply, and when sanctions can be carried over from a previous award for JSA to a new award (within prescribed time limits).

In cases where a member of a couple claiming JSA has been sanctioned, new section 19(7) will reduce the amount of JSA payable to the other member of the couple.

New section 19A introduces other sanctions to the 1995 Act, again taking its cue from the relevant provisions relating to UC. Failures sanctionable (unless good reason can be shown) under new clause 19A will be those which involve:

- failing to attend an interview or to provide information or evidence relating to the claimant's circumstances, availability for work and efforts to find work under section 8(1) or (1A) of JA 1995;
- failing to participate in schemes to assist them to obtain employment under section 17A, other than any schemes prescribed under the new section 19;
- refusing or failing to comply with a reasonable jobseeker's direction;
- neglecting to avail themselves of a reasonable opportunity to take part in a training scheme or employment programme;
- refusing or failing to apply for or accept a place on such a scheme; or
- giving up a place or failing to attend a training scheme or employment programme, or losing a place through misconduct [the good reason provision does not apply in this case].[178]

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[176] Bill 154-EN, para 222
[177] *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 217
[178] Bill 154-EN, para 228

New section 19A(4) allows regulations to specify the amount of reduction and the duration of such a reduction, and in this respect new section 19A(8) allows previous failures and the period between them to be taken into account. As with UC, a new section 19A sanction can either last until a compliance condition is met (i.e. open ended), or for a fixed period not exceeding 26 weeks, or a combination of both. The DWP states that "it is envisaged that second and third failures after a first will result in a longer-lasting reduction, up to a maximum of 26 weeks for a single failure, if they occur within a particular period after the previous failure".[179]

The new section 19B allows for regulations to specify circumstances in which a claimant's award is to be reduced if, under a previous JSA award as a single person or part of a joint-claim couple, they were disentitled for failing to comply with the JSA conditions of either being available for or actively seeking employment, or both. Regulations will detail the amount and period of the sanction, but new section 19B(5) will limit the period to a maximum of 13 weeks. Again, regulations will allow previous failures and the period between them to be taken into account.

New section 19C replaces the existing provisions regarding hardship payments in the 1995 Act, and will allow, as with UC, regulations to state whether such payments are recoverable. The DWP notes that (excluding the recovery element) "these provisions in effect replicate the current provision in relation to hardship payments but spell out in more detail the particular ways in which the powers may be exercised".[180]

Clause 46 also amends Schedule 1 of the 1995 Act so that, in determining when a particular act or omission was made, a person had good reason, rather than good cause, so aligning it with new sections 19 and 19A.

Clause 47 amends the regulation-making procedure so that regulations relating to the condition that a claimant must be actively seeking, and available for, employment are no longer subject to the affirmative procedure, but rather than the negative procedure. The DWP explains that "the amendment would ensure that the Parliamentary procedure in relation to these aspects of JSA will be consistent with the similar regulations that may be made in relation to universal credit".[181] It adds:

> Regulations such as this are generally advantageous to JSA claimants. The Department has increasingly found that having to use the affirmative procedure makes implementing the changes more onerous than it needs to be. The Department is satisfied that the negative procedure would still afford an appropriate level of Parliamentary Scrutiny.[182]

Clause 48 gives effect to **Schedule 7** which makes consequential amendment to the 1995 Act in the "interim period".

Employment and Support Allowance

Clause 53 amends the Welfare Reform Act 2007 to insert a new section 1B introducing a requirement for a "claimant commitment" as a condition of entitlement for ESA. The wording of new section 1B is almost identical to clause 14, which concerns the claimant commitment for UC, albeit without the requirement to include the commitments a claimant must comply with, as such commitments will not be included in ESA during the interim period. In addition, new section 1B will allow regulations to set out circumstances in which an ESA claimant may

[179] Bill 154-EN, para 230
[180] *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 217
[181] Bill 154-EN, para 241
[182] *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 231

be treated as having accepted a claimant commitment, while an amendment to Schedule 4 of the 2007 Act will allow regulations to set out when a claimant does not need to have accepted a claimant commitment in order to be entitled to ESA. New section 16(1)(za) will allow the claimant commitment functions to be contracted out.

Clause 54 clarifies that work-related activities in relation to ESA can include work experience or a work placement, by adding a new section 13(8) to the 2007 Act.

Clause 55 introduces hardship payments for those ESA claimants who have had their award reduced due to sanctions. The provisions are identical to those applicable to JSA under new section 19C for the 1995 Act (inserted by clause 46), except that, in the case of ESA, such payments will not be recoverable.

Income Support

Clause 58 introduces a claimant commitment for Income Support by amending the *Social Security Contributions and Benefits Act 1992*. Section 124 is amended so that acceptance of a claimant commitment is a prerequisite for being awarding IS, and new section 124A is inserted which mirrors clause 14 for UC. The provisions are very similar to that proposed for ESA under clause 53.

6 Impact of the Universal Credit

6.1 Caveat regarding assumptions and housing costs

In the Impact Assessment, the DWP modelled the UC, based on the design of the UC in the White Paper, and compared it to the existing benefits and tax credits system.

However, the DWP noted that “Some aspects of the policy design of Universal Credit are still to be finalised, for example childcare payments and the method by which Universal Credit will be paid”.[183] As such, it would appear that the DWP’s modelling analysis of the UC is based on some assumptions of policies of childcare costs, and it has not disclosed what those assumptions are. The policy on childcare payments, in particular, could have a significant bearing on the final assessment of the UC.

In addition, the calculations are “presented on a Before Housing Costs (BHC) basis, that is before housing costs are deducted from household income”.[184] Given the significance of Housing Benefit, it could be argued that taking an “After Housing Costs” view is more appropriate, but this is not provided by the DWP.

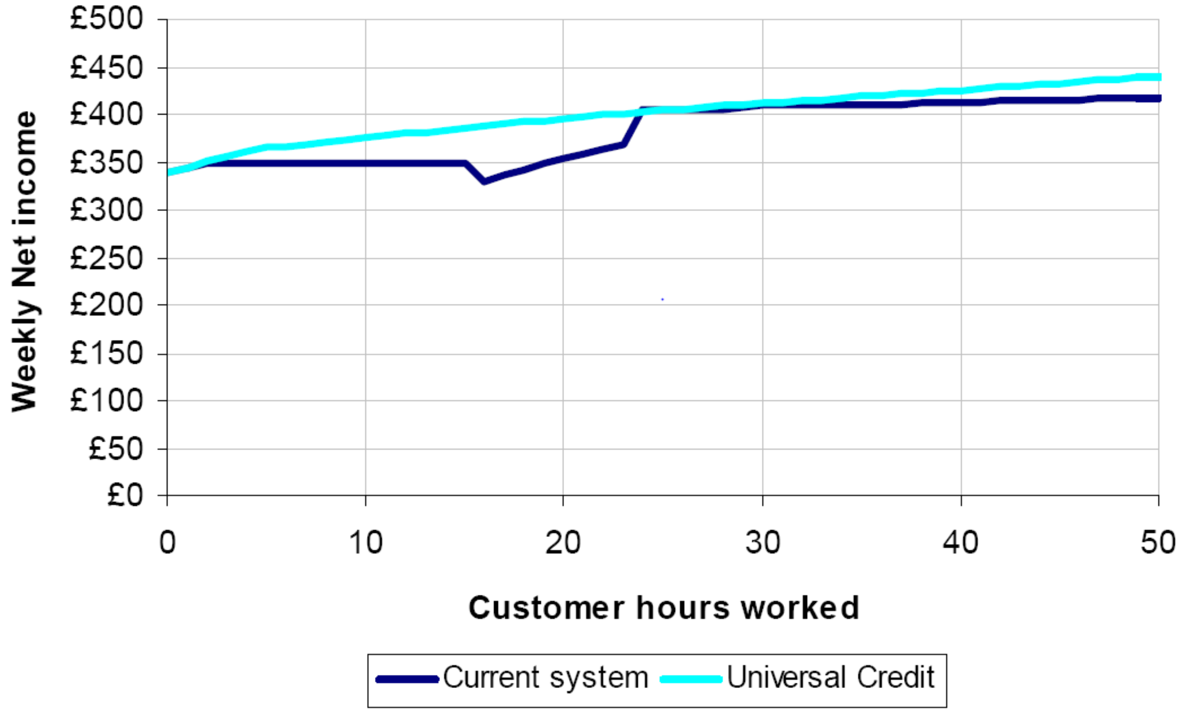
6.2 Universal Credit – comparison to current system

The DWP calculated the impact on work incentives of the introduction of UC, and compared this to existing benefits and tax credits. One example cited below is that of a couple with two children:

> Under Universal Credit the MDR [Marginal Deduction Rate] is more transparent and does not rise above 76.2 per cent. However, under the current system the picture is slightly more complicated:
>
> Once the claimant is earning above their disregard, Income Support is reduced pound for pound until the entitlement is extinguished or the claimant is working 16 hours a week. As a result the household faces an MDR of 100 per cent. Therefore, as the working partner increases the number of hours worked they see no increase in income up to 16 hours then a very small increase at 16 hours.
>
> At 16 hours entitlement to JSA/IS is lost. Therefore, there is a substantial increase in the MDR (401 per cent). At this point the household witnesses a small decrease in household income.
>
> After 21 hours the household begins to pay NI/Tax so the MDR increases again;
>
> At 24 hours the household qualifies for WTC and at the same point the HB/CTB taper kicks in so there is a sharp increase in MDR to 96 per cent.[185]

The comparison can also be shown in graphical form:[186]

[183] *Universal Credit Impact Assessment*, p8, paras 9 and 11
[184] *Ibid*, p8, paras 9 and 11
[185] *Ibid*, pp24–25, para 85
[186] *Ibid*, p25, chart 6



6.3 Winners and losers

In order to determine the level of benefits that a person will receive, it is necessary to consider the earnings disregard, the withdrawal rate (which will apply to all income above the earnings disregard), and the impact of other benefits.

The DWP calculate that "the net impact of the changes is to increase entitlements by around £2bn in steady-state, with most of this money going to households in the lowest two quintiles of the income distribution".[187] The DWP's forecast of the number of households better or worse off (or no change) under UC compared to the current system are shown below:

	Higher entitlement under UC	No change	Lower entitlement under UC
Households	2.7 million	3.5 million	1.7 million

Source: *Universal Credit Impact Assessment*, p10, Table 1

It is important to note, however, that the "baseline" for these and other analysis presented in the Impact Assessment incorporates the benefits and tax credit changes announced up to and including the 2010 Spending Review.[188] It is <u>not</u> a comparison of UC with the system as it currently stands.

In terms of the "winners" from the introduction of UC, the DWP forecasts that these will be:

- claimants who are under 25, who are childless and not disabled, are currently unable to claim WTC when they are in work", as UC will include in-work support;

[187] *Ibid*, p10, para 24
[188] *Ibid*, p7, para 8

- households who work part-time and receive Tax Credits (and other benefits) will gain from a lower withdrawal rate and are likely to have a higher earnings disregard;

- working households not currently receiving WTC but receiving other benefits will tend to have higher entitlements under Universal Credit, due to UC taper being lower than the combined taper on their existing benefits;

- households working less than 16 hours, and are either disabled or have children, will benefit from higher earnings disregards under UC, and UC will provide in-work support which at present they are not entitled to; and

- households in receipt of HB, CTB, WTC and CTC are likely to have a lower withdrawal rate under UC.

The DWP note that in most cases workless households experience no change in their entitlement in static financial terms “because they do not benefit from the earnings disregard, and their basic benefit rates are as in the current benefit and Tax Credit system”; as such, they may be expected to make up a large proportion of those who see no change in their entitlement under UC.

The DWP expects the main losers under UC to be:

- those in receipt of a large amount of WTC;

- those who do not receive HB/CTB;

- those who have a low disregard; and

- households with substantial amounts of capital.

The Centre for Economic and Social Inclusion noted that “there will be 1.7 million households with lower entitlements under Universal Credit. Of those, 1.2 million are found in the bottom two quintiles. As many as 400,000 households will see a reduction in incomes of £25 or more”.[189]

In addition, the DWP noted that “around 200,000 households who are currently not eligible for Tax Credits because their household income is above the eligibility threshold, also receive Council Tax Benefit in the current system. These households will not be eligible for Universal Credit”.[190]

In terms of the impact on income distribution and poverty, the DWP note that UC will not be based on hours as the current system of WTC is; WTC creates incentives to work around either 16 or 30 hours (depending on circumstances), as these are the points at which WTC becomes payable in full.

The DWP argue that working just over 16 or 30 hours “might not be the optimum choice for people if the support was more evenly distributed”. They add that “under Universal Credit, all hours of work are rewarded not just a few particular points. We would expect some individuals to adjust their hours as the incentives change so we may be overstating the actual number of households with lower entitlements in the long run”.[191]

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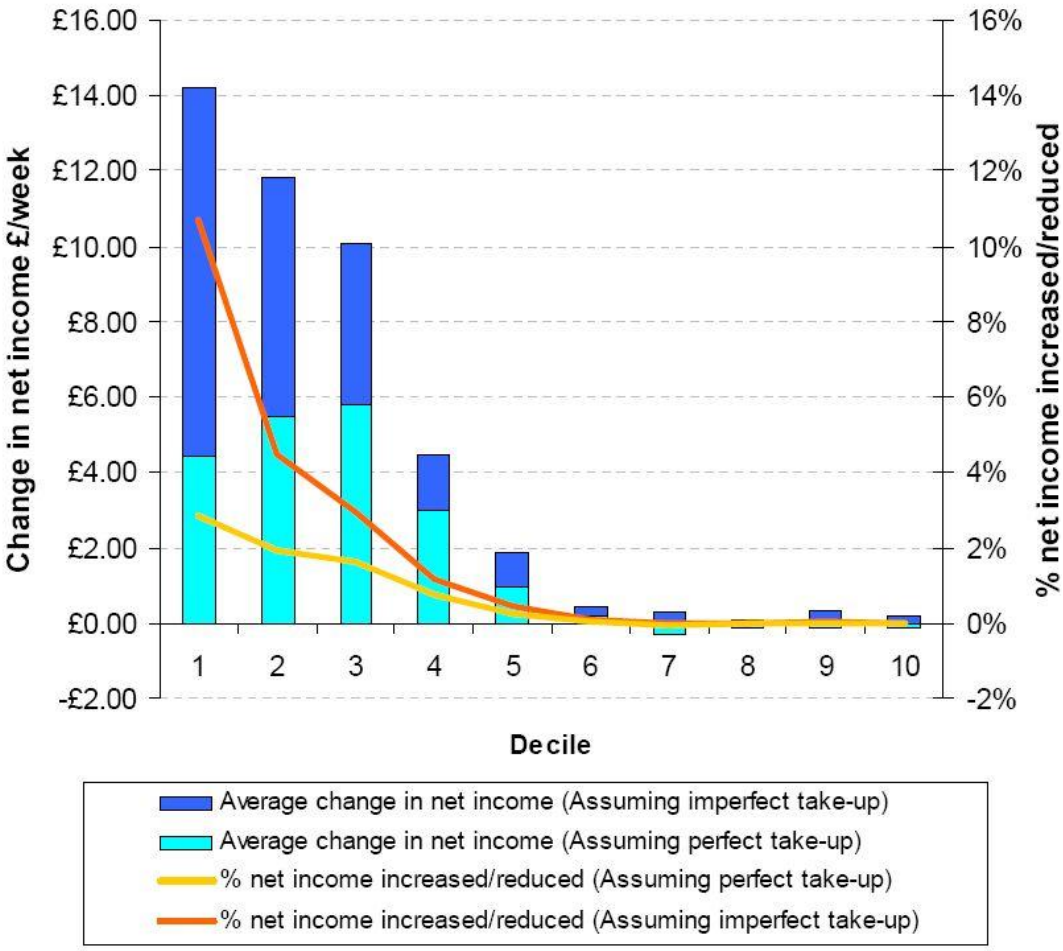
189 Centre for Economic and Social Inclusion, *Universal Credit: Inclusion briefing*, p2
190 *Universal Credit Impact Assessment*, pp13–14, paras 32–38
191 *Ibid*, p14, para 46

6.4 Distributional impact

DWP calculate that "the bottom two deciles of the income distribution will see increases in entitlement of around £4.40 and £5.40 a week" while "higher income deciles see small reductions in net income, with the average change in net income being less than a 50p a week".[192] The chart below shows the long-term distributional impact of entitlement changes by income decile. As it indicates, the gains to the lower income deciles could be greater if the introduction of UC increases take-up rates.



Source: DWP Policy Simulation Model (based on FRS 2008/9)

The DWP also calculated that the UC should lift approximately "200,000 children and 400,000 working age adults out of poverty". If assumptions are made that there will be improved take-up of UC, compared to existing benefits and tax credits, the DWP calculate that "on reasonable assumptions, the combined impact of take-up and entitlements might lift around 950,000 individuals out of poverty, including 350,000 children". The DWP argue that "the introduction of Universal Credit will significantly improve the take-up of unclaimed entitlements, a powerful tool in tackling poverty".[193]

[192] *Ibid*, p15, para 47
[193] *Ibid*, p16, paras 50–51

6.5 Participation Tax Rates (PTR)[194]

The Impact Assessment for the Bill is based on the "key components of the Universal Credit as outlined previously in the White Paper". As such, analysis of the UC is based on the proposals in the White Paper, although this is no guarantee that these proposals will not change prior to implementation; as the Impact Assessment notes, the DWP "will provide further iterations of this Assessment as the policy develops".

The DWP's analysis calculates that, under the assumption that those entering work are on the national minimum wage (NMW) of £5.93 per hour, "under Universal Credit there is a large reduction in the number of households facing PTRs of over 70 per cent". The table below provides further detail, showing the PTRs for first earners in a workless household, in terms of millions (assuming they earn the NMW):

	10 hours		**16 hours**		**25 hours**		**37 hours**	
	Current system	**UC**	**Current system**	**UC**	**Current system**	**UC**	**Current system**	**UC**
Under 60%	1.2	3.0	2.4	3.1	2.7	3.4	2.8	3.2
60 – 70%	1.3	0.9	0.5	0.8	0.5	0.6	0.7	0.7
70 – 80%	0.1	0.1	0.3	0.2	0.3	0.1	0.6	0.2
80 – 90%	0.6	*	0.4	*	0.5	*	0.1	*
Over 90%	0.6	*	0.4	0.1	0.1	*	*	*

Where * denotes fewer than 50,000 people. Source: *Universal Credit Impact Assessment*, p18, Table 5

DWP notes that, in most cases, people face lower PTRs because of both the earnings disregard and also the taper rate interacting together.

For second earners in a household, the impact of the UC in reducing their PTR is less than for first earners. The DWP explain that "second earners face higher PTRs because the earnings disregard is exhausted by the earnings of the main earner. Furthermore, two earner households are likely to have a higher income and therefore are less likely to face simultaneous tapers on more than one benefit or Tax Credit".[195]

The Impact Assessment comments:

> Although the number of workless households will reduce, it is possible that in some families, second earners may choose to reduce or rebalance their hours or leave work. In these cases, the improved ability of the main earner to support his or her family will increase the options available for families to strike their preferred work/life balance.[196]

[194] For an explanation of the PTR concept, see section 2.2
[195] *Universal Credit Impact Assessment*, p18, para 57
[196] *Ibid*, p18, para 57

6.6 Marginal Deduction Rates (MDR)[197]

The Impact Assessment notes the impact of the introduction of the taper:

> Universal Credit replaces the multiplicity of tapers for in-work support with a consistent taper of around 65 per cent, and removes the 100 per cent taper for out of work benefits; as a result Universal Credit will reduce the highest MDRs, as illustrated in tables 8 and 9 which compare the distribution of MDRs under the current and the new system. The tables illustrate the fact that, to all intents and purposes, no in-work households will face an MDR of above 76.2 per cent under the new Universal Credit system. One of the key impacts of Universal Credit is that around 700,000 people, who currently have MDRs above 80 per cent, will see their MDR reduced to 76.2 per cent or lower. Once Universal Credit is in place, the government will have the scope to adjust the taper rate to further increase work incentives.[198]

The following table shows how many millions of people in work will be in a particular MDR range, before and after the introduction of UC (broken down by whether they are above or below the tax threshold):

	Current system		**Universal Credit**		**Difference**	
Earning below or above tax threshold:	**below**	**above**	**below**	**above**	**below**	**above**
Up to 60%	0.4m	0.9m	0.1m	0.8m	-0.3m	-0.2m
60 – 70%	*	0.2m	0.5m	0.4m	+0.5m	+0.2m
70 – 80%	*	1.6m	0	2.0m	*	+0.4m
80 – 90%	0.1m	0.4m	0	*	-0.1m	-0.4m
Over 90%	0.1m	0.1m	*	*	-0.1m	-0.1m

Where * denotes fewer than 50,000 people. Source: *Universal Credit Impact Assessment*, pp 20 and 21, Tables 8 and 9

The DWP note that under UC “2.7 million households will receive higher entitlements and some of these households will see their MDRs increase as a result. For example, some households become entitled to some state support for the first time under Universal Credit; as a result the Universal Credit taper will be combined with tax/NI thus increasing their MDR”. So, for these households “the increase in MDRs is associated with an increase in their income”.[199]

6.7 Comments

There has been broad support from a number of organisations for the principles behind the UC, namely simplifying the benefits and tax credits system. Mike Brewer of the Institute for Fiscal Studies told the Work and Pensions Committee that:

> Certainly the present benefit and tax credit system are not always perfectly aligned with each other, particularly the difference between tax credits and benefits and how

[197] For an explanation of the MDR concept, see section 2.2
[198] *Universal Credit Impact Assessment*, p20, para 64
[199] *Ibid*, p20, para 65

> they treat lone parents and couples with children. So there is a sort of inconsistency at the moment that has to go away when you move to a more integrated system like Universal Credit.[200]

While supporting the intentions behind UC, organisations have been concerned about the policy detail. Citizens Advice were typical in saying "we support the principles behind the radical new Universal Credit ... but we are concerned that the details are still to come", citing childcare costs in particular (see section 3.2).[201]

Turning to the policy details of the UC that the DWP have set out, in his evidence, Stephen Brien, who led the Centre for Social Justice's review, said that the 65% taper rate put forward by the DWP was the "biggest place where the White Paper departs" from the CSJ's original proposals for the Universal Credit, adding "I think that it [the 65% rate] will have a fairly major impact on our ability to help people progress in work once they've entered work".[202]

The Joseph Rowntree Foundation noted that there would be losers, as well as winners, from the move to UC, and made reference to the proposed 65% taper rate:

> The rate at which benefits are withdrawn in Universal Credit, and interaction with income tax and NI, mean that some people are facing higher financial disincentives to earn than they did under the old system, and many important areas are still to be resolved. So, whilst the Universal Credit could help take people out of poverty by making them more likely to enter jobs (especially short-hours jobs), there is a risk that the system will not help them progress into sustainable work. And we know from our research that poorly-paid, insecure work does not provide lasting routes out of poverty.[203]

The Resolution Foundation commented that low-to-middle income families might not necessarily be better off under UC:

> The Resolution Foundation has warned of the possible negative impact on low-to-middle income working households. It has calculated that a couple with one full-time worker and two children will keep only 24 pence in the pound for earnings between around £8,000 and £32,000 a year. The same family would currently keep 10 pence in the pound for earnings between £11,000 and £17,000, rising to 30 pence in the pound for earnings up to £30,000.[204]

In addition, doubts have been raised about how effective the taper rate will be in encouraging people to work more, because of the nature of the labour market. Patrick Nolan, Chief Economist at Reform, told the Work and Pensions Committee:

> I keep going back to that labour market context, because often we assume that people can work for one hour and then they might get another hour's work, and that's the way a lot of the modelling is done. But in reality, we know that people jump around between different states. People will jump into so many hours of work; they might work for five hours and then suddenly they'll leap up to 40 hours' work. We know that the labour market operates in quite a lumpy way. So this is why some of the fine tuning of incentives isn't actually necessarily the best approach.[205]

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[200] HC743-i 2010–11, Q2 (uncorrected transcript, see footnote 93)
[201] Citizens Advice, *Citizens Advice response to the Welfare Reform Bill*, 18 February 2011
[202] HC743-i 2010–11, Q8 (uncorrected transcript, see footnote 93)
[203] Joseph Rowntree Foundation, *Response to the Welfare Reform Bill*, 18 February 2011
[204] Centre for Economic and Social Inclusion, *Universal Credit: Inclusion briefing*, p5
[205] HC743-i 2010–11, Q28 (uncorrected transcript, see footnote 93)

The Joseph Rowntree Foundation also noted the importance of the labour market, stating that:

> a flexible and sensitive welfare system is only one element in any anti-poverty strategy. Jobs need to pay enough, training needs to be available to allow for progression and we must remember the need for flexible and affordable child-care that enables parents to work. To make a real difference, we need to tackle poverty in a holistic and comprehensive manner.[206]

On the proposed earnings disregard levels, the Low Incomes Tax Reform Group made reference to the “couples penalty”, whereby two people living as a couple receive less benefit than a couple living separately: “The White Paper shows a higher proposed disregard for lone parents than for couples. It is difficult to establish at this stage, without full details, exactly what impact the proposals will have on the couple penalty, but we are unconvinced that it has been expunged from the new system”.[207] In evidence to the Work and Pensions Committee, the Secretary of State said that the UC means that the Government “will have eroded, not eradicated elements of the couple penalty”.[208]

[206] Joseph Rowntree Foundation, *Response to the Welfare Reform Bill*, 18 February 2011

[207] Work and Pensions Committee, *Written evidence submitted by the Low Incomes Tax Reform Group*, December 2010, para 3.16.2

[208] HC743-i 2010–11, Q127 (uncorrected transcript, see footnote 49)

7 Implications for Pension Credit of Universal Credit

7.1 Background

Pension Credit was introduced on 6 October 2003, replacing the "Minimum Income Guarantee" as the main means-tested support for pensioners.[209] Minimum Income Guarantee" was the name the Labour Government gave to what was still, formally, part of Income Support for people aged 60 or over.[210]

Pension Credit currently has two elements: the Guarantee Credit and the Savings Credit. People who satisfy the relevant conditions can qualify for both:[211]

- the Guarantee Credit provides a minimum level of income for people who have reached the "qualifying age" for Pension Credit (see below). How much they get depends on how much other money they have (such as other pensions, earnings and savings). The Guarantee Credit bridges the gap between this other money and their "appropriate amount". The appropriate amount is made up of a "standard minimum guarantee" (£137.35 for a single person and £209.70 for a couple in 2011/12)[212] and additional amounts, which can apply if the claimant or their partner has a severe disability, looks after a severely disabled person, or is liable for certain housing costs, like mortgage interest payments;[213]

- the Savings Credit is an additional amount for people aged 65 and over who have made some provision for their retirement (such as savings or a second pension) which brings their income above a set level (the savings credit threshold).[214] The maximum amount of Savings Credit is £20.52 for a single person and £27.09 for a couple in 2011/12.[215]

The qualifying age for Pension Credit is the State Pension age (SPA) for women.[216] Under current legislation, the SPA for women is rising from 60 to 65 over the period 2010 to 2020.[217] The equalised SPA is then scheduled to rise to 66 between 2024 and 2026, to 67 between 2034 and 2036, and to 68 between 2044 and 2046.[218] However, provisions in the *Pensions Bill 2011-12* would bring forward the increase, so that the SPA for both men and women will begin rising from 65 in December 2018 to reach 66 by April 2020.[219]

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209 *State Pension Credit Act 2002*

210 *Income Support (General) Regulations 1987*, SI 1987/1967, Schedule 1B. This was amended from October 2003 to remove the "persons aged 60 or over" category (SI 2002/3019).

211 Except that people under 65 only qualify for the Guarantee Credit

212 *State Pension Credit Regulations 2002* (SI 2002 No. 1792), reg 6; as amended by *Social Security Benefits Up-rating Order 2011,* reg 27 (2) (a) and (b)

213 *State Pension Credit Regulations 2002* (SI 2002 No. 1792), reg 6

214 *State Pension Credit Act 2002*, s 3. The age at which people can qualify for Savings Credit will rise from December 2018 in line with the State Pension age.

215 Department for Work and Pensions, *More help for pensioners as basic State Pension set to rise in 2011*, Press Release, 8 December 2010

216 *State Pension Credit Act 2002*, s1

217 *Pensions Act 1995*, section 126 and Schedule 4. This is discussed in more detail in Library Standard Note, State Pension age (SN/BT 2234)

218 *Pensions Act 2007*, s13

219 *Pensions Bill 2010-11* [HL Bill 37]*,* clause 1

The table below shows the number of Pension Credit claimants and average amounts paid in May 2010:

Pension Credit claimants - May 2010

	Guarantee Credit only	Savings Credit only	Both Guarantee & Savings Credit	All
Number (000s)	954	577	1,202	2,734
Average amount of Pension Credit £pw	90.73	14.01	51.75	57.39

DWP WPLS http://research.dwp.gov.uk/asd/index.php?page=tabtool

7.2 The Bill

Qualifying age

As explained above, the "qualifying age" for Pension Credit is linked to the State Pension age for women. Under current legislation, only one partner needs to have reached the qualifying age in order for a couple to be able to claim.[220] **Clause 32** and **Schedule 2** (paragraph 64) of the Bill provides that in future both will need to have done so:

> 145 Paragraph amends the *State Pension Credit Act 2002* so that a member of a couple who has attained the qualifying age for state pension credit may not receive state pension credit if the other member of the couple has not attained that qualifying age. This is to ensure that all claimants who have not attained the qualifying age for state pension credit are required to claim universal credit and, if appropriate, be subject to work-related conditions of entitlement. [221]

Comment

Citizens Advice says it would be helpful to have clarification on how the older member of the couple in such cases would be treated. For example, would they be subject to the work-related conditionality of Universal Credit and would they attract a pensioner premium?

Housing Credit

Guarantee Credit currently includes an additional amount to cover certain owner-occupier housing costs (such as mortgage interest).[222] However, those who are tenants in the social or private rented sector claim for help with their housing costs through Housing Benefit (HB), which is administered by local authorities.

Both Pension Credit and HB are means-tested, so income and capital of the claimant (and their partner if they have one) may be taken into account in calculating entitlement.[223] However, there are differences in the way entitlement is assessed. For example:

- there is no upper capital limit in Pension Credit. Instead, where capital falls to be taken into account, £1 of income is assumed for every £500 above £10,000.[224] On the

[220] *State Pension Credit Act 2002*, s1; Pension Service*, Pension Credit – Do I qualify and how much could I get?,* April 2010, page 2

[221] Bill 154–EN, para 145

[222] *State Pension Credit Act 2002*, s2(3); *State Pension Credit Regulations 2002* (SI 2002 No. 1792), reg 6 and schedule 2

[223] *State Pension Credit Act 2002*, s15

[224] *State Pension Credit Regulations 2002* (2002 No. 1792), reg15. The categories of capital that fall to be disregarded is set out in schedule V of the regulations

other hand, there is a £16,000 capital limit in HB. Although Guarantee Credit recipients are passported to maximum HB, people in receipt of Savings Credit only are not eligible if they have savings in excess of the HB capital limit; [225]

- Pension Credit customers aged 65 or over who have been given an “assessed income period” (AIP) do not need to report changes to pensions, annuities, equity release payments or capital as they happen. Instead, these types of income and capital are normally fixed during the AIP, with automatic uprating applied.[226] Claimants aged 75 and over are generally given an indefinite AIP.[227] There is no AIP in HB.[228]

HB is to be abolished under clause 34 of the Bill.[229] Accordingly, **clause 35** and **Schedule 4** provide for a new “housing costs” credit in Pension Credit:

> 152. State pension credit is currently made up of two elements: the guarantee credit and the savings credit. *Schedule 4* amends SPCA 2002 to create a new credit to cover housing costs. This will provide support for people who have reached the qualifying age for state pension credit (for couples where both members have reached the qualifying age) once housing benefit is no longer available following the introduction of universal credit.[230]

As is now the case with HB, it is to be possible to be eligible for Housing Credit without being entitled to Guarantee Credit or Savings Credit, or to receive more than one element if the relevant conditions are satisfied.[231]

Schedule 4(4) of the Bill will insert a new section 3A into the *State Pension Credit Act 2002*. Subsection 3 of section 3A will allow the Secretary of State to provide in regulations the manner in which Housing Credit entitlement will be calculated. The Government’s intention is that claimants will be entitled to “broadly the same amount of support under the Housing Credit as they would have been entitled to by way of Housing Benefit”.[232] DWP explains:

> The primary power therefore needs to be wide enough so that the details of the calculation of benefit may be prescribed in secondary legislation in the same manner as currently provided in regulations relating to housing benefit. The level of detail is such that it is considered preferable to keep it from the face of primary legislation and instead include it within secondary legislation.[233]

The calculation for Housing Credit will be specific to it and will not be the same as the income rules for the other elements of Pension Credit.[234] The Bill also makes provision for “assessed income periods” not to apply to the Housing Credit in certain circumstances.[235] DWP explains:

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225 *Housing Benefit (Persons who have attained the qualifying age for State Pension Credit) Regulations 2006* (SI 2006/214), regs 26, 27 and 43
226 *State Pension Credit Act 2002*, s6 and 9 and *State Pension Credit Regulations 2002,* reg 10
227 *Pensions Act 2008,* s105
228 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 158
229 *Welfare Reform Bill 2010-11,* Clause 34(1)(d)
230 Bill 154–EN, para 152
231 *Ibid*, para 153
232 *Ibid*, para 154-5
233 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 153
234 Bill 154–EN, para 154
235 *Welfare Reform Bill 2010-11,* Schedule 4, para 5

> This power is needed in order to replicate the current position in respect of housing benefit, which does not have an assessed income period. Were housing costs to fluctuate then the Secretary of State may wish to take into account a person's actual income for the purposes of assessing the amount of housing credit to be awarded, rather than an assumed income. Also, the applicability of an assessed income period on the housing credit element may be different if a person is in addition entitled to only the guarantee credit or is also entitled to the savings credit.[236]

Furthermore, **clause 74** of the Bill allows a capital limit to apply to Pension Credit. The Explanatory Notes say:

> This enables replication of the current position in respect of Housing Benefit, where a capital limit applies. It also enables a capital limit to be applied to the other elements of State Pension Credit.[237]

Comment

In its evidence to the Work and Pensions Committee's inquiry on the Universal Credit White Paper, Age UK said it supported the proposal to integrate support for rent in Pension Credit (assuming levels of support were not reduced) on the grounds that "greater integration of benefits for older people could make the process of claiming simpler and improve take up". However, it also argued that there should be a review of the marginal withdrawal rates faced by for older people:

> 7.2 Currently older people can face marginal withdrawal rates of over 90 per cent due to the interaction between Pension Credit, HB, and CTB. In the interest of fairness and consistency we would expect that the maximum taper rates for older people to be reviewed. High marginal deduction rates mean that those with modest incomes in retirement can feel they are not rewarded for having worked and saved.[238]

7.3 Issues to be addressed

The Bill abolishes other benefits claimed by some people of Pension Credit qualifying age, including Child Tax Credit (CTC) and Working Tax Credit (WTC).[239] In December 2010, there were some 47,000 in-work households with an adult aged 60 or over receiving CTC (with or without WTC). This included 3,000 single adults and 44,000 couples where the eldest adult was 60 or over. A further 41,000 out-of-work households where the Child Benefit claimant was 60 or over were receiving benefits for dependent children.[240]

For people of working age, CTC and WTC are to be incorporated into the Universal Credit.[241] For pensioners, the Government has proposed introducing a further element in Pension Credit to provide income-related help for dependent children.[242] Citizens Advice notes that the Bill does not make specific provision for this, although it could be made in secondary legislation. It suggests that the approach taken should be examined carefully, to ensure pensioners caring for dependent children (grandchildren, for example) do not lose out. For example, some pensioner households who do not qualify for Pension Credit do qualify for Child Tax Credit. The Government has said that no-one will experience "a reduction in the

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236 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 158
237 *Ibid*, para 292
238 Work and Pensions Committee, White Paper on Universal Credit - written evidence: UC22, Written Evidence Submitted by Age UK
239 *Welfare Reform Bill 2010-11,* clause 34
240 *HMRC Child and Working Tax Credit Statistics*, December 2010, Table 3.1. Data is for provisional awards
241 Bill 154–EN, para 10
242 Department for Work and Pensions, *Universal credit: welfare that works*, para 48

benefit they receive as a result of the introduction of Universal Credit".[243] However, this is a commitment to transitional protection only, at the point of change.[244]

Another question relates to support for Pension Credit recipients who continue in paid work. In the White Paper, the Government said that as pensioners would no longer be able to access help from WTC, it was "considering an option of allowing those pensioners who choose to extend their working lives to claim Universal Credit, rather than Pension Credit".[245] However, the Bill makes provision for a clear cut-off point: with one of the basic conditions of entitlement to Universal Credit being that a person "has not reached the qualifying age" for Pension Credit.[246] There is power to make exceptions to this general rule.[247] However, the only example given of where this power might be used for couples of which one is above the qualifying age for Pension Credit and the other below. In this case, regulations could "provide that the couple would still be entitled to universal credit, despite one member not meeting the upper age limit condition of entitlement".[248]

Age UK has suggested that the Government should review the earnings disregards in Pension Credit.[249] The Work and Pensions Committee called for an increase in its 2008/09 report, *Tackling Pensioner Poverty*:

> 334. We have previously called for the £5 earnings disregard for Pension Credit to be increased. The current rules are a barrier to pensioners working, and are contrary to the Department's stated objectives. We find it regrettable that the disregard has remained at the same level for over 20 years and is now equivalent to less than one hour's work at the minimum wage.
>
> 335.We welcome the Department's announcement that it will trial raising the earnings disregard for lone parents on income support to £50. We call for the earnings disregard for pensioners in receipt of Pension Credit to also be increased to £50.[250]

In its response, the Labour Government said Pension Credit "was primarily a safety net entitlement which targets help where it is needed most and is not intended for people who do substantial amounts of work". However, it would "keep the policy and disregard that operates within Pension Credit under review".[251]

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243 *Ibid*, Executive Summary, para 8

244 See, for example, Work and Pensions Committee, White Paper on Universal Credit - uncorrected evidence, 26 January 2011, HC 743-1i 2010-11 (uncorrected transcript, see footnote 93)

245 Department for Work and Pensions, *Universal credit: welfare that works*, para 49

246 *Welfare Reform Bill 2010-11,* Clause 4

247 *Welfare Reform Bill 2010-11,* Clause 4(2)

248 *Welfare Reform Bill 2011 Delegated Powers Memorandum*, para 22

249 Work and Pensions Committee, *White Paper on Universal Credit - written evidence:* UC22, Written Evidence submitted by Age UK

250 Work and Pensions Committee, *Tackling pensioner poverty*, 30 July 2009, HC 411-i 2008–09, pp77–89

251 Work and Pensions Committee, *Tackling Pensioner Poverty: Government Response to the Fifth Report from the Committee*, 19 October 2009, HC 1029 2008–09

8 The Social Fund

The Bill provides for the abolition of Social Fund Community Care Grants and Crisis Loans (other than "alignment" loans currently available to applicants pending payment of benefits). Instead, funding is to be made available to local authorities in England to enable them to provide new locally-administered assistance to vulnerable groups, under existing powers. Funding will also be made available to the devolved administrations in Scotland and in Wales, which will decide the most appropriate arrangements for assistance. The Government intends for the new arrangements to be in place from April 2013.

Budgeting Loans and alignment loans are to be replaced by a new nationally administered advance of benefit facility.

The Bill also amends the rules for the Budgeting Loan scheme to allow (until the scheme is wound up) loans to be made for maternity and funeral expenses. This is linked in part with the abolition of the Sure Start Maternity Grant for second and subsequent children.

8.1 Background

The Social Fund was fully introduced from April 1988. Part of it covers payments including the Sure Start Maternity Grant, Funeral Payments, Winter Fuel Payments and Cold Weather Payments, which are paid according to provisions set down in regulations. The other part is the discretionary Social Fund, which is cash limited and provides grants and loans. The discretionary Social Fund comprises:

- **Community Care Grants (CCGs)**: non-repayable payments for people getting means-tested income replacement benefits, to help people move back to or stay in the community, to ease exceptional pressures, or for certain travel expenses;

- **Budgeting Loans (BLs)**: interest-free loans for people who have been on certain means-means-tested benefits for at least six months, intended to help with occasional or "lumpy" items of expenditure; and

- **Crisis Loans (CLs)**: interest-free loans for people facing an unforeseen emergency or disaster, where the have no other funds and where they would otherwise face serious damage or serious risk to their health or safety.

The discretionary Social Fund has been the subject of criticism ever since its inception, and has been the subject of a number of critical select committee reports.[252] The Labour Government introduced a number of reforms during its time in office, but did not significantly alter the structure of the discretionary Social Fund. In a critical report on the Social Fund was published on 23 May 2007[253], the Work and Pensions Committee noted the Treasury Committee's call for an 'open debate' on reform of the Social Fund and added:

> It is our impression that Social Fund policy is currently in limbo, pending wider Government work on financial inclusion. Given the severe operational and resource issues which we have described in this report, we recommend that the DWP must now address the performance of the Fund as a matter of urgency, and launch a formal consultation exercise on how it can be improved.[254]

[252] For details see Library Research Paper 09/08, pp65-69
[253] *The Social Fund*, HC 464 2006-07
[254] *Ibid.* para 104; original emphasis

The Labour Government identified a number of problems with the Social Fund, including:

- Confusion about qualifying arrangements and eligibility criteria
- Uncertainty and confusion about the rules and processes for receiving an award, and about the amount of help likely to be offered, limiting the scope for the Social Fund to help people budget effectively
- The "passive" nature of the Social Fund, with little attempt to link support to other forms of help and advice to improve financial management skills or address underlying problems
- Increasing evidence of Social Fund dependency among some groups, particularly in relation to Crisis Loans
- Uncertainty among claimants about their Social Fund debts and borrowing capability, and difficulties in accessing information about amounts owed, making it harder for people to take personal responsibility for their debt
- Increased demand on the Social Fund as a result of the economic downturn, with Crisis Loan applications increasing from 1,448,000 in 2006-07 to 3,645,000 in 2009-10.[255]

In response increased demands on the Social Fund, the 2009 Budget announced additional allocations of £125 million in 2009-10 and £145 million in 2010-11 for the loans scheme.

In December 2008 the DWP published a consultation paper which included controversial proposals to allow third sector organisations to take over the provision of credit to Social Fund "customers" in particular areas, and the *Welfare Reform Act 2009* included a number of measures relating to the Social Fund:

- Powers to enable payments in advance of benefit claimants' first benefit payment (to ease pressure on the Crisis Loans system).
- Enabling people applying for Community Care Grants to receive goods and services rather than cash awards.
- A power to enable outside organisations to offer social loans instead of the Social Fund (although the Government said it would only proceed with such arrangements if any when the time was right).

Further proposals were set out in a Green paper, *Social Fund reform: debt, credit and low income households*, published in March 2010.[256] The Green Paper proposed a number of "early changes" to the Social Fund including interviews for claimants making repeat applications for Crisis Loans and "signposting" claimants to other sources of help and guidance. It also set out a number of proposals for the medium term:

> ...we want to go further over the medium term to ensure that the system meets the needs of its customers in the future. We are consulting on ideas to:

[255] DWP, *The Social Fund: A new approach: Response Document*, February 2009
[256] Cm 7750

- provide more straightforward and simple access to one-off or occasional loans, to deal with immediate problems through a quicker and more streamlined application process. This will enable more certainty and clarity for customers;
- align this with stronger support and conditions if customers make repeat applications for loans or grants, in order to address their more deep-seated financial problems. For example, we would like to hear views on proposals for a requirement to take up a full financial health check, so we can see whether the claimant is receiving all the benefits they are entitled to, to ensure that they are being directed to financial advice, to look at any debt they may have, and to see that they are taking up any additional help with, for example, housing issues or to return to work;
- consider which organisations might be best placed to provide this more personalised interaction and wider support to meet the needs of our most vulnerable customers, and at which stage it should be provided in the interaction we have with them. We would like to hear views on whether more intensive support might best be delivered by Jobcentre Plus, local authorities or third sector organisations, or possibly a combination of providers;
- require those customers who make repeat applications to develop and agree action plans with advisers, similar to those being made in jobseeker arrangements;
- look at ways in which we can refer the minority of our customers who frequently use Crisis Loans who have very complex needs to other services, or require them to take up more holistic support; and
- simplify the grants scheme and support those people leaving care or fleeing domestic violence with a regulated resettlement grant.[257]

The consultation ended on 7 June 2010. Nothing further happened due to the General Election.

8.2 Localising the Social Fund

On 11 November 2010 the new Government published the White Paper, *Universal Credit: welfare that works*, setting out plans for a "Universal Credit" to replace most in work and out of work benefits for people of working age. Chapter 6 of the White Paper announced reforms to the Social Fund, linked to the introduction of Universal Credit:

> 9. The Social Fund has been part of the benefits system since 1988. The Fund was designed to help people meet exceptional costs that were difficult to budget for out of mainstream benefits. However, the Fund has not kept pace with wider welfare reform. This has led to complex administration and parts of the scheme are poorly targeted and open to abuse. For example, Crisis Loan awards have almost tripled since 2006, with little evidence of an underlying increase in need. To ensure that the right support is offered to those in genuine need, we intend to reform the Social Fund.
>
> 10. Reform will be in two parts. Firstly, those elements that lend themselves to simple automated delivery will be incorporated into Universal Credits. Budgeting Loans will become an advance-of-benefit facility available in certain circumstances.
>
> Sure Start Maternity Grants and Cold Weather Payments will be paid automatically when the qualifying criteria are met.

[257] Cm 7750, pp8-9

> 11. Secondly, we will reform and devolve those elements of the Fund that require more intensive scrutiny and discretion.
>
> 12. It is difficult in a centrally administered system for staff to exercise a high degree of discretion. For example, in the case of Crisis Loans, where it is necessary to determine if there is a severe risk to the applicant's health or safety. These services can be more effectively run locally where they are linked to other support services.
>
> 13. The current system of Community Care Grants and Crisis Loans will therefore be reformed. In England, Local Authorities will be responsible for administering much of the reformed system – ensuring this support is tailored to local circumstances and targeted only at genuine need. Local Authorities will be consulted on the design of the new system. If there are new administrative burdens on Local Authorities they will be funded by the Department for Work and Pensions in the usual way. However, we expect Local Authorities to utilise existing delivery mechanism and structures where possible. The Devolved Administrations will determine the most appropriate arrangements for Scotland and Wales.[258]

In his written submission to the Work and Pensions Committee inquiry into the White Paper on Universal Credit, the **Social Fund Commissioner** commented:

> I support in principle the conclusion that help may be better targeted if delivered locally. However, there is no detail in the White Paper to show how this would work in practice. There appear to be two options. Funding could be given to Local Authorities to use at their complete discretion; alternatively, national criteria could be drawn up to ensure a consistency in approach to the exercise of discretion, whilst still allowing for outcomes that reflect local circumstances.
>
> One of the fundamental principles in relation to any welfare benefits scheme, whether delivered centrally or locally, is the need for consistency of approach in relation to the application of the scheme so there is fairness between different groups of citizens. Outcomes may differ across localities or communities where this is appropriate to reflect local needs and circumstances. But any difference in outcome should relate to the needs of individuals using the local service, rather than where the individual lives or the needs or preferences of the organisations delivering that service.[259]

The **RNIB** submission commented:

> 5.2 The White Paper proposes (in England) to transfer aspects of the Social Fund to local government, which will administer "much of" a reformed system of crisis loans and community care grants. It is not clear exactly what this means, but the DWP and its predecessors have made discreet overtures to local government in the past regarding a transfer of problematic aspects of the Social Fund and have been rebuffed. The current climate of major change has doubtless been seen as an opportunity at last to pass this unwanted parcel. Local authorities would thus inherit a difficult rationing task, with limited resources both for payments to applicants and for administration. Moreover, if there were no ring-fencing, this service would be exposed to the effects of local government spending cuts. We believe that the Social Fund should stay where it is.[260]

The memorandum submitted by **Association of Charity Officers** (a representative organisation for about 140 charities including national, local, occupational and general

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[258] *Universal Credit: welfare that works*, Cm 7957, 11 November 2010 para 18, p47
[259] UC 39 Social Fund Commissioner
[260] UC 01 Royal National Institute of Blind People

charities which make grants to individuals in need) listed a number of concerns regarding the proposals to transfer responsibility for Crisis Loans and Community Care Grants to local authorities:

> 1. Assessment Criteria
>
> Will English local authorities adopt common principles/criteria taken from what is currently a national system, or will they be able to set up separate individual systems with no common reference points?
>
> The Welsh and Scottish Assemblies will decide on their own arrangements and the same question applies.
>
> 2. Accountability
>
> How can decision makers be held accountable and what transparency will there be?
>
> Will there still be a right of independent review (a fundamental right in a discretionary system)? We hope applicants and decision makers will continue to benefit from the wealth of expertise within the Independent Review Service.
>
> 3. Customer Response
>
> Will there still be targets for decision times (currently 9 days for CCGs)?
>
> When local authorities took over the administration of housing benefits from the DWP, some authorities had delays of many months in processing claims over a period of several years. Jobcentre Plus currently passes backlogs in one office to other office(s) to deal with, which has greatly reduced waiting times but this facility would not exist in the proposed system.
>
> 4. Service Delivery
>
> What are the "existing delivery mechanism and structures" which authorities are expected to utilise where possible?
>
> 5. National Distribution
>
> Will geographical distribution of the budget be reviewed (currently mostly based on actual expenditure in the mid-1980s)?
>
> 6. Security of Funding
>
> Will funds be effectively ringfenced?
>
> 7. Previous legislation
>
> What effect will the White Paper's proposal have on provisions in the last round of welfare reform legislation, for example payment as of right of a resettlement grant for rehousing in certain circumstances. Many CCGs are given for needs such as being rehoused into an unfurnished property, which have no particular local dimension.
>
> 8. Effective Consultation

> We are told that there will be a consultation on the Social Fund but how can there be time for this when the next Welfare Reform Bill, based on this White Paper, is due to be published in January?[261]

Age UK's submission voiced similar concerns:

> Age UK believes the Government should be cautious about localising financial benefits and take forward reforms only when there is clear evidence that a local system would provide better support. Although the current payments are discretionary they are awarded on the basis of national guidance and subject to an independent review procedure. It is essential that under any reformed system crisis payments are available quickly for people with emergency needs, the availability and procedures for applying for help are clear and well publicised, and any money transferred to local authorities for cash payments is not subsumed into other local budgets.[262]

The **Disability Alliance** (an umbrella group representing over 250 organisations across the UK) was concerned that devolving responsibility for Community Care Grants and Crisis Loans to local authority risked exacerbating existing problems with the CCG scheme highlighted recently by the Public Accounts Committee, including an uneven distribution of funding, variations in success rates for applicants with similar needs across the country, poor standards of decision making, and unacceptably high administrative costs.[263] The Disability Alliance submission states:

> 3.2.5 DA believes that devolving CCGs and CL's to local councils would reinforce these problems. Access to help could become an even more significant postcode lottery if each local authority has its own version of CCGs and CLs and criteria for awards.
>
> 3.2.6 We believe this proposal requires further development and scrutiny – and are particularly keen to know if there will be a right of independent appeal (and where from) if refused a CCG/CL as this may be harder to achieve under a more localised system.[264]

Abolition of the Social Fund

The Government intends to proceed with the localisation plans set out in the White Paper, and the Bill therefore provides for the abolition of the Social Fund.

Clause 69 repeals provisions in the *Social Security Benefits and Contributions Act 1992* which provide the power to make Community Care Grants, Crisis Loans and Budgeting Loans. It also abolishes the office of the Social Fund Commissioner and the Independent Review Service, and provides for the transfer of monies from the Social Fund to the Consolidated Fund, as the Social Fund is wound down. **Schedule 8** makes consequential amendments.

Clause 98 amends existing regulation-making powers to enable advance of benefit payments ("payments on account") to be made in certain circumstances, in place of Budgeting Loans and "alignment" Crisis Loans.

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[261] UC 04 Association of Charity Officers
[262] UC 22 Age UK
[263] Public Accounts Committee, *The Community Care Grant*, HC 573 2010-11, 16 December 2010
[264] UC 50 Disability Alliance

The Impact Assessment for this Part of the Bill sets out the background to, and rationale for, the change as follows:

> In order to maximise the effects of the money allocated to the discretionary Social Fund (SF) the provision will be transferred to local authorities to manage and align with existing services. Applications to and awards from the current Crisis Loan (CL) system have been increasing since it moved from being a face to face service to a telephone service. For example, from November 2003 to December 2006 awards remained steady at around 11,000 per month. However, after this they increased month on month reaching a peak of 34,000 in March 2010. It is difficult to properly assess customer requirements using a remote delivery system and it is difficult to analyse if the awards are targeting the most vulnerable customers. If this pattern of CL awards continues then over the SR period significant financial shortfalls will occur, meaning that large parts of the SF (such as budgeting loans) will no longer be able to be funded. Moving delivery of the legal requirement to provide assistance to those facing immediate threats to health or safety to a local level will mean that the Local Authorities (LA) will be able to incorporate assessments into existing systems (such as social services) so provision is directed to the most serious of cases. This approach also links to the Coalition Government's agenda to transfer decision making and funds from central administration to local organisations where appropriate.
>
> The Community Care Grant (CCG) was introduced to support the increase of care in the community, however societal needs have developed since then and it is difficult for Jobcentre Plus to identify the most vulnerable customers. Government intervention is necessary in order to maximise the impact of funds currently allocated to CLs and CCGs on the most vulnerable people in society. These will be abolished and the new assistance will be the responsibility of local agencies to deliver, which will enable a more effective assessment of need and make better links with other services and funds where appropriate.[265]

The Government has also launched a "call for evidence" inviting comments from local authorities and other interested organisations on its plans for locally-based provision in England to replace Community Care Grants and Crisis Loans for general living expenses.[266]

The paper sets out the case for reform as follows:

> 2.2 The remote administration of the benefit system no longer supports the application of the high levels of discretion that are needed to assess eligibility to Community Care Grants and Crisis Loans for general living expenses. This has led to criticism of the quality of decision-making and the poor targeting of support in the current scheme from both the National Audit Office and the Public Accounts Committee. It is also reflected in the high volumes of decisions that are reviewed and overturned by the Independent Review Service.
>
> 2.3 The Government is committed to improving the delivery of support to the most vulnerable people. We firmly believe that the abolition of the discretionary elements of the Social Fund and their replacement with a combination of modernised national service and new locally-based and designed discretionary provision will deliver a more responsive, better targeted and relevant service.

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[265] *Social Fund localisation Impact Assessment*, p1

[266] *Local support to replace Community Care Grants and Crisis Loans for living expenses – a call for evidence*, February 2011

The intention is for the new locally-based assistance to be in place from April 2013. Further details are given:

> 3.2 In line with the decentralisation and localism agendas, the Government is committed to removing burdens and controls from local government. There will therefore be no new statutory duty requiring local authorities to deliver the service. The new assistance will be delivered in England using existing powers in the Local Government Act 2000. However, to support the transition the Secretary of State will write to local authorities to set out the Government's policy expectations for the new funding.
>
> 3.3 We recognise that the design, set up and delivery of the new assistance will place an additional burden on local authorities and we are committed to ensuring that this is funded in full by central government. Funding will transfer from the Department for Work and Pensions to local authorities in England and the national governments in Scotland and Wales. In keeping with the Government's commitment to removing burdens from local authorities, the funding will not be ring-fenced, enabling local authorities and the devolved administrations maximum flexibility to deliver services as they see fit according to local needs
>
> 3.4 To enable local authorities to deliver an effective and efficient local service, the Government will take powers in the Welfare Reform Bill to allow the Department for Work and Pensions to share benefits data with local authorities, should they require it to assess eligibility to the new assistance.

The call for evidence states that the Government does not expect local authorities to recreate the current Social Fund, but that local authorities will be given "the funding and flexibility to re-design the emergency provision for vulnerable groups according to local circumstances, in order to meet severe hardship in the way they think best". The Government anticipates that local authorities will want to build upon existing programmes such as Supporting People, and partnerships such as furniture reuse services and food banks. Some examples of existing partnership working at local level are given.

A separate Impact Assessment is available for the provisions in the Bill on payments on account.[267] This sets out the rationale for the provisions relating to payments on account as follows:

> The need to make amendments to the payment on account provisions proposed here is a consequence of wider changes being made to the welfare system.
>
> A claimant without other available sources of income or finance may have immediate short-term needs that arise whilst awaiting payment of a new claim to benefit or during payment of an award. At present, to resolve this problem, claimants can either request an interim payment or apply for a Social Fund Crisis Loan. Payments of this type are referred to here as alignment payments.
>
> Proposed changes to the Social Fund mean that Crisis Loans for alignment payments will no longer be available. The introduction of Universal Credit is likely to reduce the demand for alignment payments for claimants currently switching between benefits. However, as Universal Credit will be payable to those both in and out of work and allow for the transition between the two, there is still likely to be a need for a facility to address the issue.

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[267] *Payments on account of benefits Impact Assessment*

> Reform of the wider welfare system under the Universal Credit proposals provides an opportunity to simplify how alignment payments are dealt with for the claimant and make them more efficient to administer. Payment on account will effectively allow for an advance of benefit that will be repaid, in most circumstances, in instalments from future benefit entitlement.[268]

8.3 Budgeting loans: other changes pending abolition of the Social Fund

Clause 70 amends existing provisions governing the Budgeting Loans scheme to enable loans to be made for maternity and funeral expenses.

Clause 71 provides for directions to specify an upper limit for an award of a Budgeting Loan.

Clause 70 is related in part to the Government's decision to abolish the Sure Start Maternity Grant for second and subsequent children, which was announced in the June 210 Budget. In recognition of the fact that some families would be in need of financial support when a second or subsequent child is born, the Government announced on 6 December that the *Welfare Reform Bill* would include provisions to extend the scope of the Budgeting Loans scheme to cover loans for maternity items.[269]

However, as the Social Security Advisory Committee and the House of Lords Merits of Statutory Instruments Committee point out, while the changes to the Sure Start Maternity Grant come into force in April 2011, the change to the Budgeting Loan rules is not expected to take effect before early 2012, leaving low income families with no alternative source of help in the interim.

Further details are given in Library standard note SN/SP/5860, *Restriction of the Sure Start Maternity Grant*, 10 February 2011

8.4 External provider social loans and community care grants

The *Welfare Reform Act 2009* includes provisions for loans to be made by external lenders and for the DWP to be able to contract with suppliers to provide specific items to people instead of cash awards of Community Care Grant.[270] These provisions were not however commenced, and the current Government does not intend to use them, given its plans to abolish the Social Fund. **Clause 72**, therefore, repeals these provisions.

[268] *Payments on account of benefits Impact Assessment*, p1
[269] HC Deb 6 December 2010 c10WS
[270] For background see Library Research Paper 09/08, pp69-76