

Aberdeen City & Shire Advice Forum is a local network for people working in advice services to share information and experiences.
The Forum meets quarterly throughout the year.

Monday 16th November 2020 - Issue.27

Domestic Abuse Awareness Raising Tool

The Scottish Government have created a online Domestic Abuse Awareness Raising Tool for professionals.

This online tool is a learning resource for professionals. It's an awareness-raising resource and serves as an introduction to domestic abuse and coercive control. The tool provides an overview of the main considerations when responding to domestic abuse, however it does not replace specialist domestic abuse training.

It takes around 40 minutes to complete so isn't long but worthwhile.

You can access it here: www.daart.scot

Home Energy Scotland webinar: How saving water helps save money on energy bills

Around 17% of the average heating bill relates to heating water. As we are all home more due to coronavirus restrictions, our water and energy use will be affected meaning our energy bills could increase.

This online workshop provides practical advice on how to save water and money, including using water wisely when taking a shower, washing your clothes, or making a cup of tea. On top of that, there's the value of not wasting such a valuable resource and contributing to the broader good of helping to manage supply, now and into the future.

This workshop is open to all, colleagues, family and friends could benefit too. Once you have registered, Home Energy Scotland will email you a link to join the session that is being held using Zoom. **Thurs, 26 November 11am** – register for your free place now

If you aren't able to attend the session, for new dates and more information, contact Jacqueline.mackenzie@sc.homeenergyscotland.org

Details and booking [HERE](#)

Following Ministerial approval, Attendance Allowance and DLA65+ will start to issue Renewal Claim Pack's to customers again from Monday 19 October 2020.

Customers will have 20 weeks to complete the Claim Pack and return to us prior to their award expiring. For example, the claim packs issued on Monday will be going to customer's who's awards **expire on 08 March 2021**.

Awards that were due to expire **before 8 March 2021** have been automatically extended and will remain in payment until they are subject to a review at a later date.

Larger families have always faced a disproportionate risk of poverty.

Two recent welfare reforms (the household benefit cap, which limits the benefit income a household can receive, and the two-child limit, which restricts eligibility for child-benefits to two children) are expected to exacerbate this risk even further.

These reforms also break with precedent in the social security system by severing the link between assessed need and entitlement to support.

Despite the significance of these changes, there are important gaps in our understanding of
i) how the reforms are affecting patterns of poverty;
ii) how families themselves are responding to the changes, and
iii) whether they are affecting wider well-being.

There is some early analysis of these policies but the available evidence is small-scale and incomplete.

While the policies are already affecting an increasing numbers of families, they have yet to be formally evaluated.

www.welfarereform-largerfamilies.org.uk/

Available in all good record shops
#Euro2020





Social Security Scotland

Tèarainteachd Shòisealta Alba

The new Scottish Child Payment – which is unique to Scotland - is to open early for applications from Monday 9 November.

Social Security Scotland will be taking applications ahead of its introduction on Monday 15 February 2021 to help manage the expected demand.

The new benefit, which will give eligible families on low incomes with children under 16 an extra £10 per week for each child, is planned to be fully rolled out to children under the age of 16 by the end of 2022, subject to data on qualifying benefits being received from DWP.

Ministers have prioritised the early introduction for families with a child under six and despite the impact and disruption of Covid-19, are able to start payments from early 2021.

Scotland is the only part of the UK where this additional payment for families with young children will be available. The payment could support up to 194,000 children this financial year and the payment will be made every four weeks.

The Scottish Government committed to introduce this new payment in June 2019 as part of the Tackling Child Poverty Delivery Plan.

Background

People can apply for Scottish Child Payment from 9 November 2020 by visiting mygov.scot/benefits or calling 0800 182 2222.

For those who apply before Monday 15 February, their payment will be calculated from Monday 15 February. For those who apply after Monday 15 February, their payment will be calculated from the date they apply.

Social Security Scotland delivers a number of benefits for families. This includes Best Start Grant Pregnancy and Baby Payment, Early Learning Payment, School Age Payment and Best Start Foods. Applications can be made for Scottish Child Payment and all of these using a single straightforward form.

Scottish Child Payment together with the three Best Start Grant payments and Best Start Foods could give families up to £5,200 by the time their first child turns six.

Scottish Child Payment is a new benefit and it is in addition to the UK wide Child Benefit. We want people to get all the money they are entitled to whether it is delivered through Social Security Scotland, DWP or Local Authorities.

Scottish Child Payment is £40 every 4 weeks per child under six. It starts on Monday 15 February 2021 so children have to be under six on this date to be eligible.

Payments start from late Feb but we're taking applications now to manage demand. <http://mygov.scot/scottish-child-payment/>



Scottish Child Payment



Do you have clients who have difficulty reading and would like to get information on our benefits in Easy Read?

We have Easy Read factsheets available on our website to download, print and provide to those who need it. <https://socialsecurity.gov.scot>



Our factsheets are available in Easy Read.



The number of people on universal credit has increased by more than 90 per cent since the beginning of the coronavirus (COVID-19) pandemic, according to new DWP statistics.



In *Universal Credit Statistics: 29 April 2013 to 8 October 2020*, published today, the DWP confirms that the number of people on universal credit was 5.7 million on 8 October 2020 (up 2 per cent on 10 September 2020), and that there has been a 90 per cent (2.7 million) increase in the number of people on the benefit from 3 million on 12 March 2020, the last count date before the pandemic.

The DWP also highlights that -

- nearly 65 per cent of the 5.7 million people on universal credit on 8 October 2020 have been claiming for more than six months, including the people that made a claim in the first month after the beginning of lockdown;
- around 35 per cent of people on universal credit have been claiming for more than one year; and
- more than 700,000 claimants moved to the 'over six months' category between September 2020 and October 2020.
- Elsewhere, the statistics show that -
- 96 per cent of new claims and 98 per cent of all claims received their full payment in full and on time for the assessment period covering 9 July 2020, compared with 88 per cent and 96 per cent respectively in March 2020; and
- of the 5.7 million people on universal credit at 8 October 2020, 39 per cent were in the 'searching for work' conditionality regime and 38 per cent were in employment.

For more information, see [Universal Credit Statistics: 29 April 2013 to 8 October 2020](#)

Carer's Allowance and Job Seeker's Allowance claimants will now get extended covid support

It means that until May 2021, unpaid carers will still be able to claim Carer's Allowance if they have a temporary break in caring because they or the person they care for has coronavirus, or if either person has to isolate because of COVID-19.

Furthermore, providing emotional support will continue to count towards the Carer's Allowance threshold of providing care for at least 35 hours per week.

Minister for Disabled People Justin Tomlinson MP said: "Unpaid carers are the unsung heroes in our society, providing vital support to family members and friends.

"We recognise the extra challenges unpaid carers are facing during the pandemic, and their safety remains a priority.



The Immigration Act 2020 has arrived.

The new legislation — the full title of which is the **Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020** — passed into law today, 11 November 2020.

The Act is much shorter than any of the other Immigration Acts but makes wide-ranging changes to how EU citizens will be treated by immigration law. The government's stated intention was to pass an Act ending free movement by repealing the domestic legislation which gives effect to EU law immigration rights, paving the way for its new Points-Based Immigration System. The Act also addresses the special situation of Irish citizens.

Read **FreeMovement's** article [here](#)

Help the Citizens Rights Project to reach vulnerable citizens before it is too late

EU/EEA/Swiss citizens living in the UK [and their family members] need to apply to the EU Settlement Scheme by 30/06/2021 to continue working and living in the UK. This includes children, non-EU family members, EU/EEA/Swiss citizens married to a British national, students, elderly and holders of a Permanent Residence Card.

If you provide support to vulnerable people, some of them might need to apply and may be facing barriers to do it. Applications for vulnerable people tend to be complex and take longer to deal with, so identifying those who need to apply is an urgent matter.

There is FREE MULTILINGUAL SUPPORT AVAILABLE. You can contact the Citizens' Rights Project at info@citizensrightsproject.org or 07518 926137.

We can answer questions and/or help with applications. We can also provide language support and offer free referrals to other organisations. We are certified to provide EUSS advice by OISC [Ref no, N201900077].



EU citizens urged to take action during EU transition

With just 50 days until the end of the EU Transition Period, EU benefit claimants living in the UK are being urged to apply to the EU Settlement Scheme.

For EU citizens living in the UK by **31 December 2020**, that means they can continue to receive benefits on the same terms as they do now.

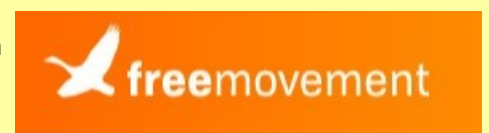
People need evidence they were living in the UK by **31 December 2020**, and to apply to the EU Settlement Scheme in order to be covered by these provisions.

For those thinking of moving to the UK on or after **1 January 2021**, the benefit rules will change.

Welcome to episode 82 of the Free Movement immigration update podcast. This month we mostly focus on a host of changes to the Immigration Rules introduced in October and mainly coming into force in December.

There are also some big cases on long residence, removal windows, deportation law and fairness in sponsored worker cases, and we're also going to talk about EU citizens and naturalisation.

[Immigration update podcast, episode 82](#)



Scrap benefit sanctions for the mentally ill, report says

Report finds that benefits conditionality is counter-productive and causes immense distress for the mentally ill.

The **report** co-produced with the social security and mental health organisations including Poverty Alliance, Inclusion Scotland and Mind calls for a radical shake up of the social security system.



Why is change needed? The current provision of social security and employment support in Scotland and the wider UK do not effectively recognise mental health.

Key concerns are:

- The use of sanctions is ineffective and can exacerbate mental health problems.
- Welfare conditionality gives little or no consideration to mental health problems and should not have been reinstated during the Covid-19 pandemic.
- Claimants with mental health problems are not effectively supported by existing employment services.

Mental health, welfare conditionality & employment support: Policy recommendations & key findings -

www.povertyalliance.org/wp-content/uploads/2020/10/Mental-health-welfare-and-employment-recomendations-and-findings.pdf

Secretary of State for Work and Pensions operated unlawful policy for years of refusing Universal Credit claims from disabled students: R (Kausar and JL) v Secretary of State for Work and Pensions (CO/987/2020, 7 October 2020)



A new decision of the High Court has demonstrated that between 2013 and 2020, thousands of disabled students entitled to Universal Credit for essential living costs were unlawfully barred from claiming benefit. That happened because the Government had misunderstood the law about how to assess such claims, and adopted an unlawful policy of rejecting them without conducting Work Capability Assessments

On Friday 31 July 2020, the Secretary of State, who had previously denied acting unlawfully, told the Court she would not be defending this claim. She subsequently admitted breaching regulation 14(b) of the Universal Credit Regulations 2013 ('the 2013 Regulations'), and therefore acting unlawfully, by:

- failing to determine whether the Claimants had limited capability for work; and
- failing to conduct a WCA before deciding the Claimants' entitlement to UC.

On 6 October 2020 Fordham J declared, with the agreement of the parties, that the Secretary of State had acted unlawfully. He quashed the Government's decisions which had refused the Claimants' benefit claims. A copy of the High Court's Order can be found [here](#).

Significantly, on Monday 3 August 2020 – ie the working day immediately after she conceded the judicial review claim – the SSWP **amended the 2013 Regulations**. The amendment provides that for disabled students making UC claims on or after 5 August 2020, decision-makers are no longer required to refer claimants for a WCA where they are in receipt of attendance allowance, disability allowance or PIP and have not previously been determined to have limited capability for work.

What disabled students should do now

If you are a disabled student affected by either the old or new Regulations, we recommend that you contact a benefits adviser.

For students incorrectly refused UC in the past (before 5 August 2020), it may be possible to ask the Secretary of State to revise her decision; indeed, hopefully the Secretary of State will urgently review past incorrect decisions on her own initiative.

For disabled students who need UC in future, it may still be possible to be referred for a work capability assessment by claiming contribution-based Employment and Support Allowance, or by asking to be credited with national insurance contributions. Those routes may lead claimants to be referred for a WCA, resulting in a determination that they have limited capability for work.

Further, there may be scope for legal challenge to the amending Regulations.

dpac.uk.net/2020/11/brilliant-news-for-disabled-students-and-universal-credit-claims/

Food poverty in the UK: The causes, figures and solutions

The UK's rate of food poverty is among the worst in Europe. As the pandemic makes it harder for people to afford to eat, we explain what you need to know about the country's growing hunger crisis

People living in food poverty either don't have enough money to buy sufficient nutritious food, struggle to get it because it is not easily accessible in their community, or both.

It can be a long-term issue in someone's life or can affect someone for a shorter period of time because of a sudden change in their personal circumstances.

Food insecurity leaves many people reliant on emergency parcels from food banks and means that for many children, their **free school meal** could be the only guaranteed hot food they eat in a day. It pushes families into crisis during the school holidays because they cannot afford to pay for the food their children would have received during term time.

That can also mean parents **eat less or skip meals entirely** to make sure there is enough for their children to eat. Some people find they can only afford unhealthy food lacking nutrition, widening health inequalities between wealthy and disadvantaged people in the UK. A **Lords' report published earlier this year** said that low-income families are left with "little or no choice" about diet, forced to eat unhealthy food or simply go without. Others don't live in a home with facilities for cooking or storing meals.

www.bigissue.com/latest/food-poverty-in-the-uk-the-causes-figures-and-solutions/



The November edition of TFN magazine is out now!

This month we look at how the voluntary sector goes about its work, eight months into the Covid pandemic.



We take a look at the changing nature of work – such as home and flexi-working – and how charity retail has coped. In the spotlight are organisations that have embraced change during the crisis and we talk to people in the sector who have changed roles during the pandemic.

Changes to the rules for some monthly workers who receive two wages in one Monthly Assessment Period

....following the Court of Appeal decision in Johnson that found the UC Regulations to be irrational and therefore unlawful.

Regulations effective from 16th November 2020 should ensure that working UC claimants no longer lose out financially by having two monthly wage payments taken into account in one UC Monthly Assessment Period.

What's the problem that needed sorting?

Up to these amending Regulations the problem was that certain monthly paid claimants had a Monthly Assessment Period that meant that in some assessment periods, the UC assessment took two wages into account and the next one took none. This caused budgeting problems, but for some it also meant a financial loss – ie those with dependent children or who (or their partner has) a limited capability for work. This is because only one work allowance can be applied in an assessment period (even where there are two wages), and no work allowance can be applied in an assessment period where there are no earnings.

What do the amended regulations say?

Regulation 61 of the UC Regulations 2013 has been replaced - and a new paragraph included - which says that for people paid on a regular monthly basis, where more than one wage is reported via the Real Time Information system (RTI) in the same assessment period, the DWP may determine that one of those payments is taken into account in a different assessment period in order to maintain a regular pattern.

Who will benefit from the amended regulations?

This will benefit those claimants whose employer is an RTI employer and:

- Whose monthly wage payment dates fall so close to the beginning of their assessment date that when a wage is paid early - because it would otherwise fall on a non banking day - two wages fall within one Monthly Assessment Period.
- Who are paid early for example before Christmas.
- Whose earnings are paid on the last day of the calendar month, and their UC Monthly Assessment period ends before this ie 28th, 29th or 30th of the month.

It does not apply to:

- Claimants who are paid weekly, fortnightly, or 4 weekly.
- Claimants who have two wages in one Monthly Assessment Period because their employer has reported one of their wages late (but Regulation 61 already allows an adjustment to be made in such cases).

How will the regulations be implemented in practice?

On 11th November 2020 - responding to a question on Twitter - which asked whether this will happen automatically or whether the claimant will need to ask the DWP to act, Mr Couling stated:

"Bit of both. Not able to discern salary pattern from Real Time Information data, so fully automated solution a way off. We have a list of cases where this has happened, which we will use, but it's bound to be incomplete and will get new claims too. So will also need to rely on folk coming forward."

So it is likely that some claimants will need to request that the DWP apply these new Regulations.

Note: If these adjustments do not happen automatically, then before requesting the adjustment the claimant should check that they will actually be better off if this happens. Some claimants who have no work allowance and who receive only a moderate amount of UC can be better off where two wages are taken into account in one period and none in the next.

The regulations are not mandatory – the phrase used is “the Secretary of State may....”, so whilst this suggests that the DWP can use it's discretion not to apply the Regulations, it is felt that they will do so where asked.

When will claimants begin to see the benefit?

The general rule when Regulations are amended is that the new legislation takes effect from the beginning of a claimant's Monthly Assessment Period after the one during which the change in Regulations took effect, unless the first date of that MAP is the same as the date the legislative change takes effect.

This ensures that the claimant is not affected by that change from a date before the change in law took effect.

So, for example, in this case where the change in law is taking effect from 16th November 2020, and a claimant has a Monthly Assessment period running from 23rd of one month to the 22nd of the next. Their UC assessment would not be affected by the change when their UC award is assessed on 22nd November, but the assessment on 22nd December would take the new rules into account.

Amending Regulations available [here](#)

The case law that forced this change - the Johnson case - is available [here](#).

Source - www.housingsystems.co.uk/News/News/id/127

Recoverability of a benefit overpayment - failure to disclose a material fact - new caselaw

Claimant entitled to assume decision made on benefit award would be communicated to other relevant benefit offices / Department for Communities could not rely on House of Lords' judgment in Hinchy



Note: although Northern Ireland cases do not strictly set binding precedent outside the region, this case considers issues that are equally relevant in Great Britain, and therefore the case may be persuasive in appropriate cases.

A Northern Ireland Social Security Commissioner's decision – C009/20-21(ESA) – ruled that the appellant did not have to repay an overpayment of Income Related ESA as he could not have been said to have failed to disclose a material fact to the Department for Social Development (the Northern Ireland version of the DWP). The ruling is that, due to the progress of technology, a claimant can assume that branches of the Department of Social Development transfer information between themselves, and therefore where one branch makes a decision on a benefit award it is valid for a claimant to assume that other relevant branches of the Department will be informed of that decision.

NOTE also that this caselaw will not be helpful for Universal Credit overpayments as under UC regulations all overpayments are recoverable, however caused.

Background

The DWP should notify a claimant of the main types of changes in circumstances they should report. A claimant has a specific duty to disclose a change in circumstances they know about to the office that handles the claim, if they have been clearly told by the DWP that they have a duty to disclose such a change. Even if the claimant has not been notified by the DWP of the duty to report a change, if the claimant could reasonably be expected to know that the change may impact their award, they still have a duty to report that fact.

But, if the DWP already know about the fact and the claimant is aware they know, it can be argued that the claimant cannot be said to have failed to disclose a fact – as the DWP already has that knowledge. (R(SB)15/87)

In basic terms, person A cannot fail to disclose something to party B if party B already knows that fact and A knows they know.

The case

The case concerned an ESA claimant whose benefit included a Severe Disability Premium by virtue of living alone, having no-one in receipt of Carers Allowance / Carer Element of UC for looking after him, and crucially being on the middle rate care component of DLA.

When his DLA ended, he did not disclose this fact to the ESA section. When this eventually came to light he was faced with an overpayment bill in excess of £6000. He argued that he had not failed to disclose a material fact because he had no legal duty to disclose the fact that his DLA had stopped to the ESA section.

The outcome was that the Commissioner determined that the appellant had not failed to disclose a material fact because he was entitled to assume that all relevant sections of the Department had already received the information, and a claimant cannot be said to fail to disclose a fact to a party who is already aware of that fact (following R(SB)15/87). In other words he knew (or could reasonably assume) that the ESA section knew.

This argument contradicts a higher (House of Lords) decision, [Hinchy v Secretary of State for Work and Pensions \[2005\] UKHL 16](#), which was that a claimant cannot be said to have discharged their duty to disclose by relying on the Department's systems for transferring information between sections. However, the Commissioner in this case stated that the reason why the Hinchy judgement did not apply was that it had been determined at a time when communication processes between sections of the Department were much less automated and computerised, so it would not have been reasonable for a claimant to assume that information would automatically transfer between sections.

(As an aside, the Commissioner does not seem to have been 100% confident of this argument as he followed up his assertion with the phrase "even if I am wrong about that...").

Although the appeal was won based on this fact alone, in the appeal, the representative also argued that, had that argument not won, then the Tribunal should have found that the overpayment was not recoverable because the appellant was not informed of his duty to report the change specifically to the ESA section, so he didn't have a legal duty to disclose the fact - a decision made by a different part of the Department - to them.

The Commissioner commented that as it could not be indisputably proven that the Department had issued an ESA40 leaflet to the appellant instructing him to notify particular changes of circumstances to the ESA section, it could not be reliably shown that he had a specific duty to disclose the fact that his DLA had ended to the ESA section. This principle has already been confirmed in [R\(IB\) 4/07](#).

The appellant therefore only had a general duty to the Department as a whole – and as the change in circumstances was that his award of DLA had stopped ie a decision made by the DLA section - the Department were already aware of that change.

When might this case be useful?

To reiterate, although it is binding on Northern Ireland decisions, it is only persuasive in England, Wales and Scotland and therefore the DWP will probably decide that the Hinchy determination continues to take precedence in considering whether a claimant can rely on one DWP department passing information to another.

IMPORTANT: A claimant should always report a change in their circumstances to all relevant benefit departments. They cannot rely on this caselaw to have any resulting overpayment deemed as non-recoverable.

However it could be useful where a claimant has been told they must repay an overpayment but that overpayment arose from a decision on one DWP benefit impacting another.

Examples of overpayment cases where this caselaw might help.

REMEMBER: This case is only relevant to DWP 'legacy benefits' ie IR-ESA, IB-JSA and IS.

Loss of SDP due to claimant's qualifying benefit ending or being downgraded (as in this case)

Loss of a disability premium due to a qualifying benefit ending.

Source - www.housingsystems.co.uk/News/News/id/128

Decision in full - [C009/20-21\(ESA\)](#)

Government issues new Treasury Direction in relation to the extension of the Coronavirus Job Retention Scheme

Direction made further to the Chancellor's announcement that the CJRS is extended to the end of March 2021

The government has issued a new Treasury Direction in relation to the extension of the Coronavirus Job Retention Scheme (CJRS).

Further to the [Chancellor's announcement on 5 November 2020](#) that the CJRS is extended to the end of March 2021, the [new Treasury Direction](#) is made under [section 71](#) and [section 76](#) of the *Coronavirus Act 2020*, and -

- sets out the scheme applying for the period beginning on 1 November 2020 and ending on 31 January 2021;
- sets out that HMRC are responsible for the payment and management of amounts to be paid under the extended scheme; and
- withdraws the Coronavirus Job Retention Scheme Bonus, because its purpose has been superseded by the CJRS's extension.

NB - the new Direction states that -

"The scheme applying after 31 January 2021 will be set out in a further direction made by the Treasury in exercise of the powers conferred by sections 71 and 76 of the Coronavirus Act 2020."

For more information, see [Treasury Direction made under Sections 71 and 76 of the Coronavirus Act 2020](#)

Supervision Standard - edition 6

The latest issue of the Supervision Standard, the AiB newsletter focusing on trustee accounts, adjudications and supervision and bankruptcy restrictions and suspected offences, has now been published for November 2020.



This edition includes:

- Statutory Debt Solutions statistics
- Trustee Account update & helpful tips
- Adjudication and Supervision update & reminders
- Bankruptcy Restrictions update & reminders

Read the new Supervision Standard [here](#).

COVID-19's impact on household incomes, savings and debt

Coping with the crunch - www.resolutionfoundation.org/events/coping-with-the-crunch/

Live interactive webinar. Register to receive access link

The spring lockdown caused the biggest short-term income shock since the mid-1970s, with better off households seeing their savings rise while lower income families took on more debt. But this pandemic has now had eight months to run, with more difficult months ahead as the Government tightens restrictions across the country. Policy makers need a detailed understanding of the very different financial impact on households, as they try to ensure their support matches the challenges families face in the next phase of the crisis.

How has rising unemployment affected household incomes, savings and debt over the past eight months? Has the impact varied? What has happened to the living standards of hundreds of thousands of new Universal Credit claimants since joining the scheme? And what can the Government do to help those most affected get through the next phase of the crisis? To mark the launch of a new Living Standards report, the Resolution Foundation are hosting an interactive webinar to debate and answer these questions. We will hear from former Prime Minister Gordon Brown on how policy can support living standards. Viewers will be able to submit questions to the panel before and during the event.

Having trouble signing up? Register [here](#)

www.eventbrite.co.uk/e/coping-with-the-crunch-registration-127440264261