

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 21st December 2020 - Issue.32



Consultation on Adult Disability Payment (ADP) Regulations Closes 15 Mar 2021

The Scottish Government is consulting on the draft regulations for Adult Disability Payment. Adult Disability Payment is a new Scottish benefit which will replace Personal Independence Payment and be delivered by Social Security Scotland.

This form of assistance is provided to disabled individuals between the ages of 16 and state pension age to mitigate the additional costs of living with a disability or health condition.

Give us your views - [Begin consultation](#)

House of Commons Work and Pensions Committee

The two-child limit: Government Response to the Committee's Third Report of Session 2019

Ordered by the House of Commons to be printed 9 December 2020

committees.parliament.uk/publications/3950/documents/39808/default/



ACVO NEWS

News from Aberdeen's third sector

December 16th 2020



TFN's December edition is out now - read it [here!](#)

This month's edition is our biggest ever, and hosts a range of features, including a look at how a Scots charity is carrying on Alan Turing's legacy, how face masks are helping people out of poverty, a look at SCVO's new HR Service and a focus on how international civil society has led a citizen-based fightback against Covid.

And, in the spirit of A Christmas Carol and It's a Wonderful Life, we have also asked TFN's team of writers to imagine what this most difficult of years would have been like without the voluntary sector.

There's loads more – including TFN's ever-popular guide to ethical Christmas gifts.

10 TIPS TO REDUCE COVID-19 ANXIETY



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|---|---|---|---|
|  | Focus on things you can control, such as your thoughts and behaviors. |  | Control how often you check the latest news. |
|  | Keep the big picture in mind. Humankind will survive this. |  | Model peaceful behavior for those around you. |
|  | Remember that the size of news coverage may not equal the size of a threat. |  | Evaluate your own health behaviors and be a model for others, including children. |
|  | Let wisdom and logic guide you. |  | Feeling too isolated? Maintain digital connections with people. |
|  | Turn to reputable sources for your news. |  | Don't let fear influence your decisions, such as hoarding supplies. |

The DWP has re-introduced the 'Failure to Attend' (FTA) process for personal independence payment (PIP) claimants who miss their telephone assessment without good reason.

Department adds that it will 'always contact' anyone who does not attend, and support will continue where there is a good reason

At the start of the coronavirus (COVID-19) pandemic in March 2020, the DWP introduced telephone (as opposed to face-to-face) health assessments and, at the same time, made a change to the FTA process whereby claimants who missed an assessment did not need to show good cause for not attending but were instead returned to the Assessment Provider for another telephone assessment.

However, in an email to the PIP Stakeholder Group yesterday - posted in the rightsnet discussion forum by AgeUK - the DWP advised that -

'Now that telephone assessments are more established, we are re-introducing FTA. From week commencing 14 December 2020, letters inviting claimants for an assessment will make it clear that it is necessary to attend a telephone assessment. PIP claimants who fail to attend a consultation with an Assessment Provider without good reason will have their claim disallowed. A disallowance decision is subject to the usual process of mandatory reconsideration and appeal. Claimants can also submit a new claim if they wish.'

Pointing out that this 'return to business-as-usual' policy will align PIP with other benefits, including employment support allowance and universal credit, the DWP adds -

'A range of factors, including people's physical and mental health, are always taken into full consideration when deciding good reason and the assessment providers and our decision makers have been provided with additional guidance on the kinds of issues that are particular to telephone assessments – including consideration of technical issues (eg mobile phone battery/signal) and environmental factors (eg caring responsibilities and noisy home environments). I can assure you that we will always contact anyone who does not attend a telephone assessment and that people's support will continue wherever there is a good reason for not attending.'

Pension Credit toolkit

Last updated 16 December 2020

Use this collection of materials to help older people understand how they could get Pension Credit.

Details

This toolkit is for anyone who works with pensioners. Use it to help older people understand how they may get extra money every week by:

- increasing understanding in your organisation
- helping your customers find out if they could get Pension Credit

The toolkit contains:

- guidance to help you understand Pension Credit
- information to help you support someone applying for Pension Credit
- common reasons why pensioners don't claim
- ideas for events and dealing with the media
- useful contacts

www.gov.uk/government/publications/pension-credit-toolkit

The simplicity of Universal Credit

Paul Spicker

16th December 2020

I've just finished giving evidence to the Commons Scottish Affairs Committee about welfare in Scotland – the video is [here](#), I'll post the link to the transcript when it's up. The main point I stressed in the hearing is that we no longer have either a minimum threshold for income, or an effective safety net. The first part is true because there are reasons for benefits not to be paid in full: the repayment of advances, notional income and overpayment recovery. The second part is true because people may find themselves with no support: that can apply because of the five week wait, the 3 week wait for legacy benefits, sanctions, self employment status, immigration status or the treatment of capital.

I have to admit that I'm completely flummoxed by the repeated claims from politicians that Universal Credit is 'simple'. This seems to mean, that the UC works by comparison with the legacy benefits; but many of the complexities of legacy benefits, such as managing overpayments, conditionality and assessments, are recent introductions.

Universal Credit is complicated by design. It brings together disparate benefits within a common framework of rules. Pre-existing rules relating to worklessness, incapacity, and housing largely remain, and that means that UC is really a group of benefits clumped together under a shared masthead – a 'portmanteau' benefit. Lumping benefits together doesn't make them simpler. First, there are the complexities of its design. People can't tell when they're entitled, how much for, or when entitlement stops. The amounts of benefit can change suddenly and unpredictably. Second, there is the reliance on technology to fix the problems – tough for those who don't have the facilities, tougher still when they're locked down and free sources are cut off. And then, third, there are all the rules – multiple, finely discriminating rules, which turn the process into an obstacle course. Examples are the rules for partners, reporting changes across multiple dimensions, capital rules and managing overpayments. There are too many rules, and too many moving parts.

Professor Paul Spicker is a writer and commentator on social policy. His published work includes twenty books, several shorter works and 90 academic papers. A range of work is available on [open access](#) on this website

Fratila and Tanase v SSWP [2020] EWCA Civ 1741

The Court of Appeal has handed down a significant victory for CPAG and its clients meaning that individuals with Per-Settled Status can no longer be denied entitlement to benefit.

A short stay has been applied until 26th of February 2021 but from that date all EEA nationals with Pre-Settled status will be considered to have a relevant right to reside and entitlement for means-tested benefits.

Those whom were denied benefits on the basis of not having a right to reside whilst holding Pre-Settled Status should look to appeal refusals made within the appeals/revisions time limit (13 months) and should seek advice to do so.

<https://cpag.org.uk/news-blogs/news-listings/court-appeal-finds-eu-nationals-legally-resident-uk-were-unlawfully>

Full judgement [HERE](#)

Mapping of Free/Legal Aid Immigration Advice & Representation in Grampian

Provider and level of immigration advice	Types of cases	Financial requirements	Language support	How to access and make referrals
<p>Citizen's Advice Bureau (Aberdeen City & Aberdeenshire)</p> <p>OISC Level 1</p>	<p>EU (Pre-) Settled Status applications, including complex applications.</p> <p>Advice on visa applications and non-complex immigration issues.</p> <p>Some bureaux can make internal referrals to an immigration solicitor, speaking to clients via Skype (limited capacity)</p>	<p>None.</p> <p>Advice is free for everyone and is not means tested.</p>	<p>Interpreting support available for EU nationals applying for Settled Status.</p> <p>Multi-lingual volunteers and staff members can sometimes support.</p>	<p>See CAS website (www.cas.org.uk/bureaux) for opening and drop-in times for the 5 City and Shire Bureaux (which are all independent charities).</p> <p>For vulnerable individuals appointments can be made.</p>
<p>Ethnic Minorities Law Centre (EMLC)</p> <p>OISC Levels 1-3</p>	<p>Advice and representation on immigration, asylum matters, EU settlement, human trafficking, domestic abuse, cases linked to accessing benefits, and forced marriage.</p> <p>Representation extends to Tribunal representation including appeals.</p>	<p>Individuals must meet legal aid requirements to qualify for free advice and representation.</p> <p>For those who don't qualify, costs are fixed and significantly lower than standard private rates.</p>	<p>Interpreting support available for legal aid cases, though covering the cost of interpreting at the first appointment is very challenging.</p>	<p>Email admin@emlc.org.uk for a referral form or individuals can contact direct on the same address or calling 0141 204 2888</p>
Provider and level of immigration advice	Types of cases	Financial requirements	Language support	How to access and make referrals
<p>RGU Law Clinic</p> <p>OISC Level 1-3</p>	<p>Advice on immigration/ asylum matters (including EU settled and pre-settled status) up to and including OISC level 3. Work carried out by student volunteers under the supervision of Law School staff.</p>	<p>Individuals must have savings of under £2,000 and earn less than £25,000 per annum</p>	<p>Nothing formal, some multi-lingual students</p>	<p>Email thelawclinic@rgu.ac.uk or call 01224 262394.</p> <p>Limited capacity during summer and Christmas breaks.</p>
<p>Legal Services Agency Helpline</p>	<p>Legal Services Agency (based in Glasgow) have a specialist department dedicated to women and young people requiring immigration/ asylum advice and representation. They have a helpline that any agency from anywhere in Scotland can use for second tier advice.</p>	<p>None (second tier telephone advice)</p>	<p>None (second tier telephone advice)</p>	<p>Telephone advice line operates on a Tuesday, 2- 4pm. 0141 353 3354 or Freephone 0800 316 8450. Second tier queries can also be sent by email.</p>
<p>Private firms offering immigration advice & legal aid:</p> <p>Stewart and Watson (Peterhead); Drummond & Miller (Edinburgh); Katani and Company (Glasgow); Latta & Co (Glasgow); Livingstone Brown (Glasgow); DMO Olabamiji (Glasgow).</p>	<p>Depending on the firm.</p>	<p>Individuals must meet legal aid requirements to qualify for free advice and representation</p>	<p>Depending on the firm. Interpreting costs can be covered by legal aid, though covering the cost of interpreting at the first appointment is very challenging.</p>	<p>Search online for further details of these companies.</p> <p>Further firms available by searching on the SLAB website</p>

DISABILITY BENEFITS CONSORTIUM

The DWP's Senior Responsible Officer for Universal Credit Neil Couling has set out the process for severe disability premium (SDP) transitional protection following the removal of the [SDP gateway](#) from 27 January 2021.

An update on the SDP Gateway

16th December 2020

The SDP "Gateway" – which stops "natural migration" to Universal Credit (UC) by claimants currently entitled to the Severe Disability Premium in their Employment & Support Allowance, Jobseeker's Allowance or Income Support – is due to end on 27 January 2021. We have been in touch with the DWP to establish what will replace it and have received the reply below.

Please note that the transitional protection (TP) referred to in the letter compensates for the loss of the SDP – not the Enhanced Disability Premium (or anything else). TP will not apply to "natural migration" (UC claims where a "legacy benefit" claimant has had a change of circumstances) where an SDP is not part of the legacy benefit payment.

"Managed migration" (also known as "move to UC") remains small-scale, confined to the Harrogate area and currently paused. This is where legacy benefit claimants are invited to claim UC even though their circumstances have not changed. The final paragraph of the DWP letter also requires comment. Actual losses, as UC replaces legacy benefits, will be prevented in cash terms where full TP is in payment (which will be a feature of "managed migration"). However, after TP has gradually disappeared from the system, UC for disabled people will be significantly less generous (overall and within a broad pattern of gainers and losers) than the legacy benefits it has replaced.

This is why the DBC has developed proposals ("Mending the Holes") for restoring lost disability elements to the new system – see, most recently, our submission to the Chancellor's Comprehensive Spending Review: [Supporting disabled people, in and out of work. DBC Submission to the Comprehensive Spending Review 2020](#)

Read the letter below from the DWP's Neil Couling, Senior Responsible Owner for Universal Credit

Severe Disability Premium Gateway

I wanted to take an opportunity to share with you an update on work which has already occurred surrounding the Severe Disability Premium (SDP) Gateway and transitional protection within Universal Credit (UC).

As you will be aware, the SDP Gateway has been in place since 16 January 2019. It was introduced to prevent those people entitled to the SDP as part of their legacy benefit from claiming UC. Then, in response to a High Court judgment in May 2019, DWP agreed to remove the SDP Gateway from 27 January 2021. From this date, anyone who is entitled to SDP and who moves to UC will be considered for SDP transitional protection in the same way as those already on UC.

SDP transitional payments are part of the wider transitional protection framework. The aim is to create fairness between those former SDP recipients who have moved, or who will move to UC via natural migration, and those who will move to UC later under managed migration (referred to as 'Move to UC'), as well as to create a single, consistent system of transitional protection.

Following the removal of the SDP Gateway, when people make a claim to UC DWP will check to see if they were receiving the SDP in their previous legacy benefit award and, where the claimant would still satisfy the qualifying conditions for SDP, they will automatically be considered for a SDP transitional payment.

Following the introduction of necessary legislation in July 2019, The UC (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019, we successfully identified former SDP recipients who had already moved to UC prior to the introduction of the SDP Gateway and where eligible, have provided them with ongoing monthly payments and a lump sum arrears payment covering the period since they moved to UC. I am pleased to say that, as at September 2020, we had paid over 16,000 people 'transitional protection'.

Since 8 October 2020, we have converted existing SDP transitional payments to a UC transitional element. This means that payments will be made through the UC system rather than manually and be subject to the same rules as other transitional payments. It had always been the intention to convert SDP transitional payments in this way as soon as we had developed the capability to do so safely and effectively.

When the SDP transitional payment is converted to a transitional element, the transitional element will be subject to erosion and cessation in the same way as transitional protection for those people who are moved to UC under managed migration. This will ensure that these claimants have the same rules applied to them as new claimants who move to UC with SDP after the Gateway is removed.

It is important to reflect that not replicating the SDP and other premiums in UC, has allowed us to target additional support to a wider group and create a more streamlined system. Overall, disabled people are some of the biggest beneficiaries of UC, with around 1 million disabled households receiving on average around £100 per month more on UC than they would have received on the legacy benefits.

I hope you have found this update useful.
Neil Couling, Universal Credit SRO

[www.rightsnet.org.uk/pdfs/UC_\(2020.12.11\)_NC_to_Geoff_Fimister_DBC_-_SDP_Gateway.pdf](http://www.rightsnet.org.uk/pdfs/UC_(2020.12.11)_NC_to_Geoff_Fimister_DBC_-_SDP_Gateway.pdf)

Furlough and loan schemes update

This week the Chancellor announced that the [furlough scheme has been extended](#) until the end of April 2021 with the Government continuing to contribute 80% towards wages. This is intended to give businesses and employees across the UK certainty into the New Year.

Advice on what the Brexit Transition will mean for benefits and state pensions

There are new rules: [check the living in guides for your host country](#) for important information on benefits, pensions, passports, healthcare, driving licences and pets. They also give advice on how to register for the necessary residency status in each host country and how to register for updates on the Brexit transition. Please share this information via your channels.

UK points-based immigration system

There are new rules: free movement will end from 1 January 2021 and the UK will introduce a points-based immigration system.

The new system will treat EU and non-EU citizens equally. Anyone coming to the UK to work, excluding Irish citizens, will need to apply for permission in advance.

[Find out more](#)

LG v Secretary of State for Work and Pensions (PIP): [2020] UKUT 343 (AAC)

Published 21 December 2020

Read the full decision in [CPIP/2851/2019](#).

Judicial Summary

Guidance given about the approach First-tier Tribunals should take in the case of a claimant who has a history of having undertaken some walking at airports when travelling to and from the United Kingdom in the context of the higher rate of the mobility component of Disability Living Allowance, is also relevant to possible satisfaction of the descriptors linked to Personal Independence Payment mobility activity 2.

XTC v Secretary of State for Work and Pensions (DLA): [2020] UKUT 342 (AAC)

Published 21 December 2020

Read the full decision in [CDLA/2600/2019](#).

Judicial Summary

Disability Living Allowance – Severe Behavioural Problems - section 73(3) Social Security Contributions and Benefits Act 1992 and regulation 12(6) of Social Security (Disability Living Allowance) Regulations 1991 - meaning of “**extreme**”; meaning of “**regularly**”, guidance on proper approach to regulation 12(6).

Correspondence

The Rt Hon Thérèse Coffey MP, Secretary of State for Work and Pensions letter to SSAC: The Social Security, Child Benefit and Child Tax Credit (Amendment) (EU Exit) Regulations 2020

Published 21 December 2020

The Social Security, Child Benefit and Child Tax Credit (Amendment) (EU Exit) Regulations 2020

I write to share my statutory instrument that gives effect to the government's future immigration system with regards to social security. I ask that you consider in the emergency process, recognising that the instrument will be laid in the week commencing 7 December. DWP's interest related to clause two. The remainder of the instrument is led by HMRC.

Under the new system, EEA migrants arriving from 1 January 2021 will typically have no recourse to public funds for five years. However, nationals of EEA member states that are signatories to the European Convention on Social and Medical Assistance (ECSMA) and the European Social Charter (ESC) (25 in total) could still be able to claim Universal Credit, despite the no recourse to public funds condition and contrary to manifesto commitments.

Domestic legislations, under the Social Security (Immigration and Asylum) Consequential Provisions Regulations 2000 (2000 Regs) allows claimants from ECSMA countries to access UC. This is despite UC not being listed as a benefit to which signatories to the agreement are entitled. We are therefore seeking your approval to amend this legislation to remove UC from the 2000 regulations as an accessible benefit for ECSMA countries.

Separately, the 2000 regulations provide access to certain disability and carer's benefits to workers from non-EU countries that have Association Agreements (AAs) with the EU. As a result of the UK's exit, the UK is transitioning these AAs into bilateral agreements and for these agreements equal treatment, and therefore access to these benefits, will continue. However, AAs which are not transitioned by the end of the Transition Period will no longer apply to the UK. We are therefore amending the regulations to make clear that nationals of countries where the AA has not been transitioned will not be able to access the relevant disability and carers benefits from 1 January 2021.

The Rt Hon Thérèse Coffey MP
Secretary of State for Work and Pensions

Guidance

A11/2020: Changes to Housing Benefit for claimants in receipt of Severe Disability Premium

Updated 21 December 2020

Introduction

1. From 27 January 2021, regulations come into force to remove the Severe Disability Premium (SDP) Gateway. From this date, no new Housing Benefit (HB) claims may be taken for claimants in receipt of SDP. These claimants will now be allowed to claim Universal Credit (UC) and considered for the new Transitional Element.
2. Regulation 7 of the Universal Credit (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019 (SI 1152/2019) revokes regulation 4A (restriction on claims for universal credit by persons entitled to a severe disability premium) of the Universal Credit (Transitional Provisions) Regulations 2014. This change removes the Gateway conditions for SDP cases.
3. SI 1152/2019 makes no changes to HB regulations.

Background

4. Since 16 January 2019 claimants who are receiving SDP or have received it within the last month and remain entitled to it, have been unable to move to UC even if they have a relevant change in their circumstances. Further information on the HB (SDP) Gateway can be found in circular HB A1/2019

Changes to the Gateway

5. From 27 January 2021, claimants who are currently in receipt of SDP or who have been entitled to a SDP in the previous month will be able to claim UC.
6. UC are removing both the Gateway and the additional questions to establish if the claimant is in receipt of SDP and allowing them to progress with their UC claim.
7. This means that only people living in temporary or specified accommodation will be allowed to make new claims for working age HB.

Existing HB claimants

8. SI 1152/2019 do not apply to existing claimants who have remained on working age HB because their award includes a SDP and they can remain on HB until they have a change of circumstances which triggers a new claim to UC.

www.gov.uk/government/publications/housing-benefit-adjudication-circulars-2020/a112020-changes-to-housing-benefit-for-claimants-in-receipt-of-severe-disability-premium

Memo ADM 28/20

UC: CLAIMANTS WHO REACH SPC QUALIFYING AGE

The DWP has issued new guidance in relation to the run-on of universal credit in the assessment period that a claimant reaches state pension age.

Furlough scheme extended again until end of April

How will the furlough extension work?

The furlough scheme's been extended by a month, but will otherwise remain unchanged UK-wide - here are the key need-to-knows:

- The furlough scheme will now run until 30 April across the UK. It had been due to run until the end of March with a review scheduled for January.
- Employees on furlough will continue to get 80% of their salary for hours not worked, up to £2,500/month. The state will pay 80% of salaries for hours not worked until the end of April. Employers will only be required to pay wages, National Insurance Contributions (NICs) and pension contributions for hours worked, plus NICs and pensions for hours not worked.
- Employers across the UK can use the scheme – even if they haven't before. It's open to small, medium and large employers, and those which are charitable or not-for-profit – and crucially your employer doesn't previously need to have used the furlough scheme.
- You DON'T need to have been furloughed before to take part. However, you do need to have been on your employer's PAYE payroll on 30 October 2020 to be eligible. (To be precise, your employer must have made a Real Time Information payroll submission on your behalf on or before 30 October 2020). You can no longer submit furlough claims for claim periods ending on or before 31 October 2020. Claims for furlough days in December 2020 must be made by 14 January 2021.
- You CAN work part-time while on furlough. Your employer can either put you on furlough full-time, or you can work part-time and be furloughed for the hours you don't work. Your employer will have to cover your wages at the normal rate for any hours you do work.
- You can't work for your employer during the hours you're furloughed. This includes your normal work obligations and anything beyond your usual remit. However, you can work for another employer while furloughed (if your contract allows this) or volunteer elsewhere.
- Employees on all types of contract can take part. This includes those on zero-hours contracts and fixed-term contracts, as well as agency workers (including those employed by umbrella companies) and supply teachers.
- Shielders unable to work because they're deemed 'clinically extremely vulnerable' to coronavirus can be furloughed. It's the employer's decision whether to furlough you though. If you've asked and they won't, check if you're eligible for statutory sick pay.

The new Job Support Scheme – which had been due to start in December after furlough was initially expected to end – was "postponed" when it was announced in November that furlough would be extended for three months until the end of March 2021. We've asked the Treasury if it is still "postponed" and will update this story when we know more.

What about self-employed income support?

There was no announcement today of any change to the Self-Employment Income Support Scheme (SEISS), though we're double-checking with the Treasury whether any further announcement is expected.

The fourth grant of the Self-Employment Income Support Scheme is already expected to cover February to April 2021, though we still don't know what it'll be worth, when applications open or how eligibility criteria may differ. See our Coronavirus Self-Employed & Small Limited Company Help guide for full info on how SEISS works and other support available.

www.moneysavingexpert.com/news/2020/12/furlough-payments-to-continue-until-may-2021-and-help-for-busine/

Timing your Universal Credit claim when you stop working

Last updated: 15 Dec 2020

Watch our [new video](#) providing really useful information on timing a universal credit claim when someone stops working.