

# BenefitsBulletin

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.



Mon 08th March 2021 - Issue.37 (Fortnightly)



## DATES FOR YOUR DIARY

- ⇒ Human Trafficking and Modern Day Slavery Training - Tuesday 16th of March, 10am
- ⇒ Energy Action Scotland Conference - 17th and 19th March 2021.
- ⇒ EUSS Awareness session - Wednesday 17th March, 3pm
- ⇒ AMI Lunch and Learn event - Wed 31 March, 12.30
- ⇒ Instant Neighbour Friday Night Lockdown Quiz - Friday 26th March, 7:30pm
- ⇒ No Recourse North East meeting - Tuesday 13th April, 10am

Further details within this bulletin.

## Awareness raising sessions for those working in the third sector

Assistance in applying to the EU Settlement Scheme.

**COSLA** and the **International Organisation for Migration (IOM)**

The aim of this session is to provide support on how you can identify those who may need additional support to apply to the **EUSS**, and how you can utilise the services offered by the IOM to address any complex issues.

We are running the session on **Wednesday 17<sup>th</sup> March, 15:00 – 16:00.**

This session will include an initial presentation from COSLA and the IOM, and will be followed by a Q&A session. If you would like to attend, please let me know by **COP Monday 15<sup>th</sup> March.**

Can you please share awareness of this throughout your organisation. If you are unable to attend, please let me know and our IOM caseworker can arrange a session with your workplace.

Cameron Heenan Policy Officer Tel: 0131 474 9330  
E: [cameron@cosla.gov.uk](mailto:cameron@cosla.gov.uk)



## AMI Lunch and Learn event

The date for the next AMI Lunch and Learn event has been scheduled to take place on **Wednesday 31 March at 12.30pm**. As usual it will run for around an hour (90 mins max).

Judy Barber, from the charity **Surviving Economic Abuse**, will be speaking about the work they do. No doubt many of you will have dealt with clients that have encountered problems of domestic and economic abuse and will be well aware that these can be some of the most difficult clients to help, so I'm delighted that Judy will be sharing some of her expertise with us.

There will be another speaker too – possibly myself, though if anybody else would like to fill that slot then please don't hesitate to let me know!

If you would like to attend this event then please save the date in your diary and email me on [kevin.mapstone@amifinancialsolutions.com](mailto:kevin.mapstone@amifinancialsolutions.com) to book your place. You will then be sent a link to a Microsoft Teams meeting just prior to the day.

I look forward to hearing from you and please feel free to forward this email on to any other debt advice colleagues that may also wish to join.

Kind regards,

Kevin Mapstone, Insolvency Practitioner, **AMI Financial Solutions Ltd**



No Recourse  
North East

Next Meeting via 'Teams'  
**13th April 2021 @ 10am**

## Just Citizens survey



**Just Citizens** survey about migrants' access to education and health services here in Scotland

Your participation in this survey will be anonymous - **Migrant Health, Wellbeing and Education survey**

## Budget Announcements

- Extension of furlough and support for the self-employed. The **Coronavirus Job Retention Scheme** will be extended until the end of September. Employees will continue to receive 80% of their current salary for hours not worked.
- The **Self-Employment Income Support Scheme** (SEISS) will continue with a fourth and a fifth grant. More than 600,000 people, many of whom became self-employed in 2019-20, may now be able to claim direct cash grants under SEISS.
- **Universal Credit uplift.** The Government also confirmed a temporary 6-month extension to the £20 uplift and a one off payment worth £500 for Working Tax Credit claimants. (WTC claimants will receive a one off payment of £500 instead) (para 2.19 and 2.20)
- **New Claim & Benefit Transfer Advances in UC.** From next month new claimants will be able to spread Universal Credit advances repayments over a 24-month period (para 2.23) and the maximum rate of deductions from Universal Credit will be reduced for all to 25%(para 2.23) . Reducing the maximum deduction rate to 25% of a claimant's standard allowance will allow more than 350,000 families with significant debts to retain more of their monthly award for their day-to-day needs
- The **Minimum Income Floor** suspension has been extended to the end of July 2021(para 2.22)
- The **Shared Accommodation Rate** has 2 changes (para 2.28) :
  - ⇒ Care leavers under the age of 25 and those who have spent at least three months in a homeless hostel, who would otherwise have the shared accommodation rate of the Local Housing Allowance applied, will be able to claim the higher, one-bedroom rate from June 2021.
  - ⇒ And the exemption for people who had experienced homelessness was only for 25-34 year old, this has now been extended to under 25's
- The **Surplus Earning** de minimus will remain at £2500 instead of dropping to £300 until April 2022 (para 2.21) .
- **Statutory Sick Pay.** In response to COVID-19, the Government introduced a rebate scheme for Statutory Sick Pay (SSP) that would reimburse small and medium sized employers for up to two week's SSP costs in respect of any of their eligible employees who was unable to work due to being sick or having to self-isolate or, where they were not furloughed, to shield due to COVID-19. The scheme will continue to operate beyond April, in line with other support schemes.



### Budget 2021

#### Carers UK reaction to Budget 2021

The Chancellor failed to mention social care in the Budget 2021 statement.

[www.carersuk.org/news-and-campaigns/press-release-rss/6716-carers-uk-reaction-to-budget-2021-2](http://www.carersuk.org/news-and-campaigns/press-release-rss/6716-carers-uk-reaction-to-budget-2021-2)

#### Government urged to think again about its 'unacceptable' decision to cut the incomes of millions of families by more than £1,000-a-year in six months' time

rightsnet

Budget announcement of extension to the universal credit uplift serves only to 'kick the can down the road' leaving millions facing a financial cliff edge in the autumn

In last Wednesday's Budget 2021, the **Chancellor Rishi Sunak announced** that -

'To support low-income households, the universal credit uplift of £20 a week will continue for a further six months, well beyond the end of this national lockdown [and] we'll provide working tax credit claimants with equivalent support for the next six months.'

However in response, and while welcoming the fact that claimants will not face a cut next month as feared, Alistair Cromwell, Acting Chief Executive of Citizens Advice, said that the six-month extension serves only to '**kick the can down the road**', leaving millions facing a financial cliff edge in the autumn.

In addition, while the Chancellor also announced that the Coronavirus Job Retention Scheme will be **extended to the end of September 2021**, the chair of the Work and Pensions Select Committee Stephen Timms said that it will be **very hard to justify cutting benefits** at the very moment the furlough scheme is due to end and many jobs will be at risk.

NB - among other reactions to the Budget, Shelter said that it's a **missed opportunity to build back better**, while Age UK and the Care and Support Alliance said that they are **deeply disappointed** that no immediate or longer-term support for social care, so badly battered by the pandemic, was announced.

[www.rightsnet.org.uk/welfare-rights/news/item/government-urged-to-think-again-about-its-unacceptable-decision-to-cut-the-incomes-of-millions-of-families-by-more-than-1000-a-year-in-six-months-time](http://www.rightsnet.org.uk/welfare-rights/news/item/government-urged-to-think-again-about-its-unacceptable-decision-to-cut-the-incomes-of-millions-of-families-by-more-than-1000-a-year-in-six-months-time)



Social Security Scotland  
Tèarainteachd Shòisealta Alba



The Scottish Government  
Riaghaltas na h-Alba

## £4 million Home Heating Support Fund launched

A £4 million support fund has been launched to help Scots struggling with their energy bills during the coronavirus lockdown.

The **Scottish Government** scheme, which will be administered by national advice service **Advice Direct Scotland**, is designed to prevent households falling into fuel poverty.

The Home Heating Support Fund is open until March 31 and applications can only be made on behalf of individuals by 'referral partners' through [homeheatingadvice.scot](https://homeheatingadvice.scot).

This includes local authorities and third sector organisations, with payments then made directly to energy suppliers on behalf of their customers.

From tomorrow, individuals who are not able to access a nationwide referral partner can contact Advice Direct Scotland for free on 0808 800 9060 or visit the [website](#). Their expert debt advisers will assess eligibility and apply for funding on the individual's behalf if appropriate.

[www.scottishhousingnews.com/article/4-million-home-heating-support-fund-launched](https://www.scottishhousingnews.com/article/4-million-home-heating-support-fund-launched)



## Blue badges, assisted vehicles and other entitlements linked to Scottish disability benefit entitlement

- Accessible Vehicle and Equipment Scheme - [vimeo.com/513412981/5456b9d1ad](https://vimeo.com/513412981/5456b9d1ad)
- Passported Benefits - [vimeo.com/513949149/cddd7084b9](https://vimeo.com/513949149/cddd7084b9)

## Universal Credit Scottish choices: evaluation

Summarises the evidence for the effectiveness for the flexibilities the Scottish Government can offer to Universal Credit to allow twice monthly payments, and direct payment of rent to landlords drawing on management information, populations surveys and commissioned qualitative research.

This report presents findings of the evaluation of Universal Credit Scottish choices. It combines management information, information from population surveys, and research conducted by Ipsos MORI Scotland on behalf of the Scottish Government.

Scottish choices are flexibilities implemented by the Department for Work and Pensions (DWP) on behalf of the Scottish Government. The two current Scottish choices options allow people on Universal Credit in Scotland to:

- Opt to have their housing element (if they are entitled to this) paid directly to their landlord by the DWP (the 'Direct Payments to Landlord' option), and/or
- Opt to receive their Universal Credit Payments twice a month, rather than as one monthly payment (the 'More Frequent Payments' option).

[www.gov.scot/publications/evaluation-universal-credit-scottish-choices/](https://www.gov.scot/publications/evaluation-universal-credit-scottish-choices/)

## First families receive Scottish Child Payments

Date published: 3 March 2021

Thousands of families are now receiving their first Scottish Child Payment. As of Sunday 28 February **52,000 applications had been approved**.

The new benefit to tackle child poverty, which is unique to Scotland, will give qualifying parents and carers £40 every four weeks for each child under six.

[www.socialsecurity.gov.scot/news-events/news/first-families-receive-scottish-child-payments](https://www.socialsecurity.gov.scot/news-events/news/first-families-receive-scottish-child-payments)

## UK benefits if you're going or living abroad

Find out which UK benefits you might be able to get while you're abroad and how to claim them if you're eligible.

The UK has social security agreements with some countries that:

allow you to claim some benefits while you're there mean that your National Insurance contributions can count towards your eligibility for that country's benefits

It's easier to organise benefits before you leave.

[www.gov.uk/uk-benefits-abroad](http://www.gov.uk/uk-benefits-abroad)

## PIP assessment recordings to be allowed

23 February 2021

The Department for Work and Pensions (DWP) has agreed that Disabled people will be allowed to record their assessments for Personal Independence Payments (PIP).

[Article](#) curtesy od [Disability Rights UK](#)



## The Social Security (Industrial Injuries Benefit and Personal Independence Payment) (Telephone and Video Assessment) (Miscellaneous Amendments) (Scotland) Regulations 2021

### Policy notes:

The regulations are required to amend the PIP and IIDB regulations to provide a statutory basis to the practice of undertaking assessments through alternative channels such as video or, in the case of IIDB, telephone.

Since March 2020, the DWP have undertaken health assessments to determine eligibility for PIP remotely to comply with restrictions imposed as a result of Covid-19. The DWP have undertaken telephone assessments in this period and are currently carrying out a proof of concept exercise in relation to the use of video assessments. The DWP have not undertaken any assessments for IIDB in this period. These amendments will provide a legislative basis for the continued use of telephone assessments and future use of video assessments. DWP are seeking to introduce video assessments once the relevant amendments are made. This will bring DWP practice closer to the Scottish Government's proposed approach to the delivery of disability benefits.

[SSI.No.97/2021](#)

## Universal Credit statistics, 29 April 2013 to 14 January 2021

Published 23 February 2021

These are the latest statistics for:

- people on Universal Credit up to 14 January 2021 (until the next monthly release on 23 March 2021)
- claims made and starts up to 14 January 2021 (until the next quarterly release on 18 May 2021)
- households including payments for Universal Credit up to 12 November 2020 (until the next quarterly release on 18 May 2021)

For the latest statistics after these dates, follow the links on the [Universal Credit statistics collection page](#).

The headline statistics for Universal Credit are:

- 6.0 million [people on Universal Credit](#) at 14 January 2021. This is a 98% increase since 12 March 2020
- 4.9 million [households on Universal Credit](#) for monthly assessment periods covering the 12 November 2020, of which 85% (4.2 million) received a payment
- 91% of new claims and 97% of all claims received their payment in full and on time for the assessment period covering 8 October 2020, compared with 86% and 95% respectively in March 2020
- 4.5 million [claims made for Universal Credit](#) between 13 March 2020 and 14 January 2021
- 4.3 million [starts to Universal Credit](#) between 13 March 2020 and 14 January 2021

## HB Personal Allowances for some pension age claimants are reducing from April 2021

- From £191.15 down to £177.10 for single claimants who reach pension age on or after 1 April 2021;
- From £286.05 down to £270.30, for couples who both reach pension age on or after 1 April 2021

This is due to the phasing out of Savings Credit, higher allowances were given so that pensioners didn't miss out, but now that new claims for Savings Credit cannot be made they are no longer needed.

Don't forget, if a pensioner has even 1p entitlement to Pension Credit, they will be passported to Maximum HB anyway, so the personal allowances are irrelevant!"

See [HB Circular A3/2021](#) and [SI.No.188/2021](#)



## Amendments to regulations setting out how a week's pay is to be calculated for purposes of calculating statutory payments for furloughed workers

rightsnet

### New statutory instrument makes amendments in consequence of Coronavirus Job Retention Scheme being extended to 30 April 2021

New legislation has been issued that makes amendments to regulations setting out how a week's pay is to be calculated for the purposes of calculating statutory payments for workers who are furloughed under the Coronavirus Job Retention Scheme (CJRS).

In force from 31 March 2021, the *Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) (Amendment) Regulations 2021* (SI.No.177/2021) make amendments to the *Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) Regulations 2020* in consequence of the extension of the CJRS scheme to 30 April 2021.

NB - the *Employment Rights Act 1996 (Coronavirus, Calculation of a Week's Pay) Regulations 2020* ([SI.No.814/2020](#)) set out how a week's pay is to be calculated in the case of an employee who has been furloughed under the CJRS, for the purposes of calculating -

- any statutory remuneration for time off to look for employment or arrange training;
- any statutory notice payment;
- any statutory sum resulting from a failure to provide a written statement of reasons for dismissal;
- any statutory sum resulting from a failure to comply with an order for reinstatement or re-engagement;
- any statutory compensation for unfair dismissal; and
- any statutory redundancy payment.

[SI.No.177/2021](#) is available from [legislation.gov.uk](https://legislation.gov.uk) / [Article](#) courtesy of [Rightsnet](#)

## 10,000 Work Coaches boost Britain's jobs army

The jobs frontline has now been boosted by 10,000 additional Work Coaches to help Britons back into work.

More Work Coaches means more jobseekers across the country will get personalised support to help them find their next role, or upskill for expanding sectors.

This milestone signals that not only are there more Work Coaches to help get people back into work than ever before, but that the government remains on track to meet its pledge of 13,500 new Work Coaches by the end of March 2021.

[www.gov.uk/government/news/10-000-work-coaches-boost-britain-s-jobs-army](https://www.gov.uk/government/news/10-000-work-coaches-boost-britain-s-jobs-army)



## Access to Work

The Access to Work grant scheme could provide support to enable people with disabilities or health conditions start a new job or stay in work.

The support offered is based on individual needs, and could include a grant to assist with additional costs of practical support in the workplace or for those working from home.

To check eligibility and how to apply visit the [Job Help website](#).

Also available is the [Access to Work easy read factsheet](#) or you can visit the [DWP YouTube sign channel](#) for British Sign Language videos about Access to Work.



## DWP confirms it is restarting pilot of integrated assessment service for ESA, PIP and universal credit from April 2021

24 February 2021

Responding to a written question in Parliament yesterday [Minister Justin Tomlinson confirmed](#):

*We had started to test a single digital platform in a small number of assessment centres but this was paused due to the impact of COVID-19. We have been reviewing our delivery plans and expect the IT development to form part the work of the new Departmental Transformation Area (DTA). The DTA will provide a safe environment to test, adapt and learn from new ideas and processes before rolling out at a greater scale, and ultimately nationally. The first site in the DTA will be in London and is scheduled to start from April 2021. This approach recognises that our claimants include some of the most vulnerable in society and it is critical that we carefully develop the new integrated health assessment service.*

**The Minister for Disabled People, Health and Work (Justin Tomlinson)**

The Department has published the latest update on progress on making backdated payments to personal independence payment claimants who are affected by the MH and RJ decisions of the upper tribunal. The release is published at:

[www.gov.uk/government/collections/pip-administrative-exercise-progress-on-cases-cleared](https://www.gov.uk/government/collections/pip-administrative-exercise-progress-on-cases-cleared)

The MH decision changed how overwhelming psychological distress is considered when assessing someone's ability to plan and follow a journey. The RJ decision changed how we decide whether someone can carry out an activity safely and if they need supervision. We started the administrative exercise on 25 June 2018 and a frequently asked questions document is available in the Library of the House and at:

[depositedpapers.parliament.uk/depositedpaper/2282003/files](https://depositedpapers.parliament.uk/depositedpaper/2282003/files)

As at 17 January 2021, we have assessed 890,000 cases against the MH decision and 990,000 cases against the RJ decision. Around 6,600 arrears payments, totalling around £32 million, have been made.

It should be noted that in supporting the Government's response to the coronavirus pandemic, the exercise was paused from April to October 2020.

We will release a further update by the end of 2021.

[[HCWS796](#)]

**Guidance****New one-off £500 payment for working households receiving tax credits**

**Published: 3 March 2021**

Find out more about the coronavirus (COVID-19) support scheme for working households receiving tax credits, your eligibility and how to tell us if your contact or bank details have changed.

[www.gov.uk/guidance/new-one-off-500-payment-for-working-households-receiving-tax-credits](https://www.gov.uk/guidance/new-one-off-500-payment-for-working-households-receiving-tax-credits)

**Guidance****Families with more than 2 children: claiming benefits**

**Last updated: 5 March 2021**

Information about Universal Credit for families with more than 2 children.

[www.gov.uk/guidance/claiming-benefits-for-2-or-more-children](https://www.gov.uk/guidance/claiming-benefits-for-2-or-more-children)

**Guidance****Universal Credit and tax credits**

**Last updated: 5 March 2021**

An overview of how people who are claiming tax credits might be affected by Universal Credit.

[www.gov.uk/government/publications/universal-credit-and-tax-credits](https://www.gov.uk/government/publications/universal-credit-and-tax-credits)

**Women retirees win £2.7bn for under-paid pensions**

About 200,000 women could be in line for payouts averaging £13,500 to top-up the underpayment of their state pension for up to two decades.

The underpayment relates to the "old" state pension system - affecting those who reached pension age before 6 April 2016 - which had special provisions for married women.

Under these old rules, married women who had a poor pension in their own right could claim a 60% basic state pension based on their husband's record of contributions

However, some of these pension were not automatically increased at a certain point.

<https://www.bbc.co.uk/news/business-56275415>

**State Pension correction exercise update**

We became aware of issues with State Pension underpayments in 2020 and took immediate action to investigate the extent of the problem.

This is an issue that dates back many years across successive governments. Rectifying these cases is a priority for the department and we will do it as quickly as possible.

Where underpayments are identified, the department will contact the individual to inform them of the changes to their State Pension amount and of any arrears payment they will receive in accordance with the law.

[More information](#)



<http://citizensrightsproject.org>



CitzRights



EURightsProject



citzrights

Company limited by guarantee in Scotland, company number SC561815  
Regulated by the OISC Ref No. N201900077  
St Margaret's House | 151 London Rd | Edinburgh | EH7 6AE

Frustrating news came through this week that the UK Supreme Court has granted permission to appeal EWCA's *Fratila* ruling, this was the judgement that allowed Pre-Settled Status as a qualifying right of residence to apply for means tested benefits. The court has further stayed the decision to prevent applications being submitted until a decision from the court has been reached.



The appeal is set to be heard on the **18<sup>th</sup> and 19<sup>th</sup> of May**.

Professor Charlotte O'Brien, from the EU Rights Hub, has written a blog piece on what this means.

[www.eurighthub.york.ac.uk/blog/shock-and-law-court-of-appeal-pulls-rug-from-under-the-governments-rules-on-eu-pre-settled-status](http://www.eurighthub.york.ac.uk/blog/shock-and-law-court-of-appeal-pulls-rug-from-under-the-governments-rules-on-eu-pre-settled-status)

CPAG have previously provided advice regarding for supporting individuals that the original Court of Appeal decision affected, this remains competent advice at present. It is encouraged that specialist advice is sought for affected clients.

[cpag.org.uk/sites/default/files/files/resource/Fratila-advice-for-claimants-18-12-2020-v.2.pdf](http://cpag.org.uk/sites/default/files/files/resource/Fratila-advice-for-claimants-18-12-2020-v.2.pdf)

Keep an eye on the [CPAG webpage](#) on this case as it will be updated accordingly on advice from their legal team.

On behalf of **No Recourse, North East Partnership**

[www.acvo.org.uk/working-with/no-recourse-north-east](http://www.acvo.org.uk/working-with/no-recourse-north-east)

#### THE COURT ORDERS:

1. The appeal is allowed.
2. The legislative provisions identified in the Schedule to this Order, all inserted into existing regulations by the Social Security (Income-related Benefits) (Updating and Amendment) (EU Exit) Regulations 2019 ("the 2019 Regulations"), are QUASHED.

New guidance has been issued in relation to the DWP staying decisions where the claimant has no right to reside other than pre-settled status.

[ADM Memo 2/21](#) and [DMG Memo 1/21](#)

## Human Trafficking and Modern Day Slavery Training

**Tuesday 16<sup>th</sup> of March 10am** (training will last approximately 1.5 hours)

Poverty, homelessness, poor mental health, isolation, addiction, the effects of COVID-19, make people more vulnerable to trafficking and are all too often the experience of those who are being exploited or have been a victim of trafficking.

We know that there are many more people in our villages, towns and cities that are and have been exploited, they are hidden in plain sight and are often accessing services such as food banks, homeless hostels, drop in centres or other statutory services. Our training and support aims to reach the most vulnerable who are being or have been exploited, bringing recovery and the first steps to lasting freedom.

We work with statutory and third sector partners to:

- strengthen awareness of human trafficking and the national referral mechanism
- identify potential victims of human trafficking
- ensure victims get the support they need in order to begin rebuilding their lives

The Training provided will help agencies gain a foundational knowledge base on how to spot the signs of trafficking, awareness of the National Referral Mechanism and how to refer into the support systems in Scotland.

**To register for this event please follow the instructions on Eventbrite**

<https://www.eventbrite.co.uk/e/human-trafficking-and-modern-slavery-training-tickets-143215937725>

This training is being offered by Searchlight Scotland.

*Searchlight Scotland was founded in 2018 with a drive and hope to see societies most vulnerable receive trauma informed care and support in order for them to live the life that they deserve.*







## Articles

### COVID-19 temporary transformation of the UK social security system

First Published February 8, 2021

This commentary discusses the implications of the changes made to the social security system by the UK government in response to the COVID-19 pandemic. Until the COVID-19 pandemic, the UK government did not veer from its programme of welfare reform. However, emergency legislation made significant concessions including: an increase in the value of the UK's main means-tested benefit Universal Credit, more favourable eligibility rules for the self-employed, a reduced conditionality regime, and an increase in the level of housing support.

This paper argues that although the UK government's COVID-19 social security response was necessary, it did not go far enough. A temporary lifting of some prejudicial elements of the social security system was welcome but this still leaves an overly complex system characterised by unacceptable delays in payment, inadequate support for many vulnerable groups, and inconsistent experiences for recipients of different benefits.

Read the full article [HERE](#)

### Decades of failure leaves half of disabled benefits claimants in poverty

Published: 24 February 2021

Decades of reforms and political promises have failed to help disabled people, with 42 per cent of all people in homes relying on disability benefits now in poverty, according to new analysis published today by The Social Market Foundation and Scope.

It calculated that almost half of all people in poverty are either disabled or live with someone who is disabled, using data provided by the Social Metrics Commission.

[www.smf.co.uk/decades-of-failure-leaves-half-of-disabled-benefits-claimants-in-poverty/](http://www.smf.co.uk/decades-of-failure-leaves-half-of-disabled-benefits-claimants-in-poverty/)

### Food poverty crisis after one year of Covid

The pandemic has magnified existing inequalities, leaving many families struggling for life's basics

Food poverty in the UK is at crisis levels – with a year of Covid magnifying the toxic legacy of austerity.

[tfn.scot/news/food-poverty-crisis-after-one-year-of-covid](https://tfn.scot/news/food-poverty-crisis-after-one-year-of-covid)

### FCA launches guidance for firms on the fair treatment of vulnerable customers

First published: 23/02/2021

**The Financial Conduct Authority (FCA) has published final guidance clarifying its expectations of firms on the fair treatment of vulnerable customers.**

The [guidance](#) aims to drive improvements in the way firms treat vulnerable consumers so that they are consistently able to achieve outcomes that are as good as everybody else.

People can find themselves in vulnerable circumstances at any time. The FCA's recent [Financial Lives research](#) shows that 27.7 million adults in the UK now have characteristics of vulnerability such as poor health, experiencing negative life events, low financial resilience or low capability. Not all people with these characteristics will suffer harm, but they may limit people's ability to make reasonable decisions or put them at greater risk of mis-selling.

[www.fca.org.uk/news/press-releases/fca-launches-guidance-firms-fair-treatment-vulnerable-customers](http://www.fca.org.uk/news/press-releases/fca-launches-guidance-firms-fair-treatment-vulnerable-customers)

### Carers UK joins forces with Virgin



### Media to support one million unpaid carers

24 February 2021

Carers UK is today entering into a new five year strategic partnership with the telecommunications company Virgin Media, which aims to create meaningful connections for one million unpaid carers across the UK.

Carers UK and Virgin Media will use technology and innovation to address the loneliness experienced by eight in ten unpaid carers in the UK. Together, both organisations want to make life better for one million carers by creating connections to each other and to their communities by the end of 2025.

The £2 million strategic charity partnership forms part of Virgin Media's new Meaningful Connections Plan which sets out the role it will play in communities across the UK.

Full article [HERE](#)







## Articles

### What British politicians won't admit – we need to transform the welfare state



Nearly 80 years on from its creation, the benefits system has been exposed by Covid to be broken beyond repair

[www.theguardian.com/commentisfree/2021/feb/21/politicians-admit-transform-welfare-state-covid-benefits-system](http://www.theguardian.com/commentisfree/2021/feb/21/politicians-admit-transform-welfare-state-covid-benefits-system)

### Support services play a crucial role in the benefits system but are currently at risk of being overwhelmed

Debates about the withdrawal of crisis social security measures have focused on the financial implications for benefit claimants. Attention is also needed on what this means for welfare support services

Read article [HERE](#)

### Charity calls for national shopping service for Scotland

[Food Train](#) says such a service would provide consistency across the country

Food Train is calling for the creation of a government-funded national shopping service to end the postcode lottery of support for older people across Scotland.

The charity, which works to improve food security and tackle malnutrition and social isolation among over-65s by helping them to eat well and live well in their own homes, has made a series of manifesto asks ahead of May's Scottish Parliament elections.

[tfn.scot/news/charity-calls-for-national-shopping-service-for-scotland](http://tfn.scot/news/charity-calls-for-national-shopping-service-for-scotland)

This training is a positive resource for any front-line practitioners that are working with people who are older. It is a free e-learning resource and there is a specific course relating to working in Scotland. Please address any queries by contacting the provider directly.

[Training - Centre For Age Gender and Social Justice \(dewischoice.org.uk\)](http://Training - Centre For Age Gender and Social Justice (dewischoice.org.uk))

### New Economics Foundation Explain How the UK Benefits System Was Hollowed Out Over 10 Years

Sunday 28 February, 2021

NEW ECONOMICS FOUNDATION - If we'd stuck with the social security we had a decade ago, 1.5 million fewer people would be living in poverty...

Our social security system looks very different to how it did 10 years ago. While a few changes have been for the better, overall our social safety net has got significantly weaker in terms of level of support provided. Cuts have reduced the ability of the system to support incomes during the current economic downturn, by taking £14bn out of the welfare system since 2010/11, falling to £7bn if the uplift is maintained.

[www.abccorg.net/item/3628-new-economics-foundation-explain-how-the-uk-benefits-system-was-hollowed-out-over-10-years](http://www.abccorg.net/item/3628-new-economics-foundation-explain-how-the-uk-benefits-system-was-hollowed-out-over-10-years)

### 21.7 million people will be living in hardship by May despite the Universal Credit and Working Tax Credit £20 uplift

March 1, 2021

In a recent report conducted by The New Economics Foundation one in three people will be living in hardship by May despite the universal Credit Working Tax Credit £20 uplift hopefully being extended.

The New Economics Foundation also reports that 21.7 million people will still not have a decent standard of living even if the uplift is extended.

The report goes on to say that 12.9 million of the people in financial difficulty will be receiving less than 75% of the Minimum Income Standard which is defined as being £19,200 for a single person and £37,400 for a family of four, taking into account if the £20 uplift is removed.

[thepoorsideof.life/2021/03/01/21-7-million-people-will-be-living-in-hardship-by-may-despite-the-universal-credit-and-working-tax-credit-20-uplift/](http://thepoorsideof.life/2021/03/01/21-7-million-people-will-be-living-in-hardship-by-may-despite-the-universal-credit-and-working-tax-credit-20-uplift/)

**More, please, for those with less: why we need to go further on the Universal Credit uplift**



[blogs.lse.ac.uk/politicsandpolicy/covid-realities-uc/](http://blogs.lse.ac.uk/politicsandpolicy/covid-realities-uc/)



## Welfare benefit reforms “devastating” to health and wellbeing conclude cross party group of MPs

26 February 2021

The effect of the Welfare Reform & Work Act 2016 has been ‘devastating’ to the health and wellbeing of people on low incomes, a new report by MPs of the All Party Parliamentary Group (APPG) on Health in All Policies has concluded.

The MPs found overwhelming evidence showing how the Act has pushed many low income households into poverty and financial hardship, disproportionately affecting children and disabled people.

The analysis also reveals how the treatment of those people reliant on social security by the DWP often leaves them feeling worthless and even “dehumanised”.

The report considers five specific measures within the Welfare Reform & Work Act 2016:

- the benefit cap;
- the benefit freeze;
- the two-child limit;
- the abolition of the work-related activity component of employment and support allowance (ESA); and
- the extension of conditionality to ‘responsible carers’.

The MPs conclude that although the Government achieved their aim of cutting welfare spending by introducing these measures – working age spending on social security has shrunk by £34 billion since 2010 – there has been minimal impact on helping to get people into work who wouldn’t have got into work without these measures.

The APPG said that there is a growing evidence base of the direct and negative impacts of different aspects of the social security system on the mental and physical health of claimants and their families, in addition to the indirect impacts mediated by poverty as a result of having inadequate income from work and/or social security support.

In addition to quantitative evidence it looked at qualitative studies which pointed to a process of ‘dehumanising’ claimants that eroded their self-esteem and confidence, making them feel worthless. In some cases, the whole experience had proved too much for some claimants and they have taken their own lives.

The MPs stress that it is important to note the knock-on impact that this ill health will have on health services and for social protection to be recognised as mitigating against socio-economic health risk factors.

As a result, the APPG makes 16 recommendations including:

- For the Equality and Human Rights Commission to undertake an investigation into the deaths of vulnerable claimants, by suicide and other causes between 2008 and 2020;
- For the DWP to develop systems and practices across the Department for Work and Pensions which identify and support vulnerable claimants at all stages of their application and claim;
- Making the social safety net sufficient for people not in full-time work to receive a minimum income for healthy living;
- Making permanent the £1,000-a-year increase in the standard allowance for Universal Credit;
- Removing sanctions and reduce conditionalities in benefit payments;
- Eradicating benefit caps and lifting the two-child limit;
- Providing tapering levels of benefits to avoid cliff edges;
- Ending the five-week wait for Universal Credit and providing cash grants for low-income households;
- Giving sufficient Government support to food aid providers and charities;
- For the DWP to change their culture from one that is perceived to ‘dehumanise’ claimants to one that trusts, supports and enables claimants;
- For the DWP to ensure that any future social security policy measures are subject to comprehensive and cumulative impact assessments (IAs) which are published prior to their scrutiny in Parliament, and for such IAs to include an assessment on the potential health effects of such measures;
- For the DWP in conjunction with the DHSC to commission research into the scale of mental health issues arising from all social security system measures since 2012, including the potential mental health effects arising from the Covid-19 pandemic from new social security claimants;
- For the DWP in conjunction with the DHSC to commission research into the medium to long term health effects of different scenarios: no change; maintaining £20 a week Universal Credit uplift and extending to legacy support; maintaining £20 a week Universal Credit uplift and extending to legacy support, eradicating the benefit cap, two child limit and sanctions;
- For the academic, charity and DPOs sectors to collaborate on a citizens’ assembly for a new social security system, as part of a cross party commission for a new welfare state which builds back fairer.

**The full APPG report** is available from [debbieabraams.org.uk](http://debbieabraams.org.uk).





## Articles

### Latest arrangements for free school meals confirmed

22 February 2021

Following the announcement by First Minister, Nicola Sturgeon, on Tuesday, February 16, Aberdeenshire Council can confirm the **following arrangements** regarding Free School Meals.

### Community Learning and Development (CLD) staff share stories of redeployment during pandemic

The following four case studies were provided by CLD staff who were redeployed and retrained in new roles while restrictions were in place. These individuals dedicated their time and expertise to services that needed additional support during the pandemic, while still completing their core CLD duties.

<https://online.aberdeenshire.gov.uk/apps/news/release.aspx?newsid=8089>



### Budgeting, jobs, money and young people – a guide to beating financial stress

**THE BIG ISSUE**

Making money, working, budgeting and spending: here are smart tips every young person needs to sort out their financial worries

Low pay, unemployment, job insecurity, the gig economy, debt and insecure housing have multiplied those fears. And not knowing what to do when **facing redundancy** and lockdown piled **stress and mental ill health** on top. So the need to find new jobs, security, and smarter ways to budget and handle money are more urgent than ever. This is why The Big Issue launched our RORA Jobs and Training Toolkit. It has hundreds of thousands of jobs, free training courses, a weekly newsletter and a free three-month subscription to The Big Issue. It's free and easy to sign up **here**.

[www.bigissue.com/latest/finance/budgeting-jobs-money-young-people/](http://www.bigissue.com/latest/finance/budgeting-jobs-money-young-people/)



Low Incomes Tax Reform Group  
A voice for the unrepresented

### Budget March 2021: What does it mean for people on low incomes?

[www.litrq.org.uk/latest-news/news/210305-budget-march-2021-what-does-it-mean-people-low](http://www.litrq.org.uk/latest-news/news/210305-budget-march-2021-what-does-it-mean-people-low)

### New Hong Kong British National (Overseas) Visa

This is an overview of a new type of visa available from 31 January 2021 to people from Hong Kong with British National (Overseas) (BN(O)) status who want to come and live and work in the UK.

[medium.com/adviser/new-hong-kong-british-national-overseas-visa-cf7cc17f8126](https://medium.com/adviser/new-hong-kong-british-national-overseas-visa-cf7cc17f8126)



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## IT'S THE BIG FRIDAY NIGHT IN LOCKDOWN ZOOM QUIZ !

with Quizmaster Alan Millar

Friday 26 March 7.30pm

£5pp donation to our **Paypal** account secures your place!  
Sign up as an individual or as a team of up to 4 members.

Make sure to enter "March Quiz" as the reference.

Entry code will be sent by email.

Prizes & Raffle too !

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If you are interested in taking part in the above quiz please contact Office Manager Dot Goldie on Tel **01224 489955** or Email: [dot.goldie@instantneighbour.co.uk](mailto:dot.goldie@instantneighbour.co.uk)





## Energy Action Scotland Conference

### Fuel Poverty and the road to recovery

This year our conference will be taking place online between **17<sup>th</sup> and 19<sup>th</sup> March 2021**.

There are six free sessions running over three days. You will find further details for each session in the links below.

**Please note** that if you wish to attend more than one session you must book into them individually.

- ⇒ [Fuel Poverty: are we making progress?](#)
- ⇒ [Vulnerability: how do we protect people in need?](#)
- ⇒ [Funding: how can we accelerate change and identify what needs to be done?](#)
- ⇒ [NetZero: how will we deliver a fair and inclusive transition?](#)
- ⇒ [Wellbeing: is fuel poverty widening health inequalities and damaging the health of the nation?](#)
- ⇒ [Political Hustings: what priority will fuel poverty have in the next Scottish Parliament?](#)



## Energy Action Scotland Fuel Poverty Awards

### Exceptional People, Exceptional Times

We have launched our Energy Action Scotland Fuel Poverty Awards.

This year we want to recognise and share the contribution made by exceptional **individuals**. We want to hear about the colleague, the volunteer, the community member, the neighbour, or the family member who went above and beyond to help vulnerable people and communities during Covid-19.

You will find full details on our [website](#).



### FCA provides update on support for consumers impacted by coronavirus

First published: 05/03/2021

Our [mortgages tailored support guidance](#) sets out our expectation that firms should not enforce mortgage repossession, except in exceptional circumstances, before 1 April 2021.

We are publishing updated draft guidance for firms from 1 April, to ensure that mortgage customers whose homes may be repossessed are treated fairly and appropriately, particularly where there are risks of harm to customers who are vulnerable as a result of coronavirus (Covid-19).

[www.fca.org.uk/news/statements/fca-provides-update-support-consumers-impacted-coronavirus](http://www.fca.org.uk/news/statements/fca-provides-update-support-consumers-impacted-coronavirus)

### Selection of Funding available from Grants Online

- [Funding of up to £5,000 Available to Tackle Problems within Families \(UK\)](#)
- [Funding to Support Disadvantaged Young People and Offenders \(UK\)](#)
- [The Weir Charitable Trust \(Scotland\)](#)
- [The Classical Association Grants \(UK\)](#)
- [Royal Society of Chemistry – Outreach Fund \(UK\)](#)
- [Magic Little Grants 2021 Are Now Open for Applications \(England, Scotland and Wales\)](#)
- [Grants to Support Work which Improves Financial Well-being \(UK\)](#)
- [Funding for Youth Groups in Rural Areas \(Scotland\)](#)
- [£4.8 Million Bursary Fund for Lower Income University Students \(UK\)](#)

These and other grants are available at -

[www.grantsonline.org.uk/region-news/scotland/](http://www.grantsonline.org.uk/region-news/scotland/)

# Separating Fact from Fiction – Employment Support During the Covid-19 Pandemic



With lockdown measures set to remain in place over the next few months, there has been lots of confusion and mis-information on social media surrounding employment support currently available.

The government have introduced several different schemes and grants designed to ease the financial impact of the coronavirus pandemic, including the Self-Employment Income Support Scheme (SEISS), The Job Retention Scheme and The Self-Isolation Support Grant.

Many businesses and individuals have already benefited from such schemes including the nearly 'ten million people [who] were furloughed between the start of the [Job Retention Scheme] in 2020 and mid-December 2020'.

We've separated the facts from the fiction surrounding employment support available in Scotland as a result of Covid-19 to let you know what help and support is currently out there.

- **Self-Employment Income Support Scheme (SEISS)**

Two grants (November 2020 and February 2021) have been made available by the government to support self-employed individuals who might have been affected by covid-19 restrictions and lockdown measures. Each SEISS grant covers 80% of any businesses' average trading profit over a period of three months. The money is paid in one lump sum, directly into the claimant's bank account.

Two SEISS grants had previously been made available by the government however applications for these are now closed and self-employed individuals should apply for the November and February grants if they have been affected. If you met the criteria for the previous two grants issued in 2020 (even if you did not claim for them), then you will be eligible to claim for the newest SEISS grants. Your business must be trading or temporarily unable to trade due to the current coronavirus measures. If your business is still trading, then the demand for goods and services offered must be lowered as a direct result of the covid-19 restrictions.

- **Coronavirus Job Retention Scheme**

During the lockdown, many Businesses have been unable to offer their employees work as they usually would. To safeguard these jobs, the Coronavirus Job Retention scheme, which originated during the first coronavirus lockdown, was created.

Employers can apply for the Job Retention Scheme Grants and the government will cover up to 80% of each employee's salary, capped at £2,500 per month. The government will also cover the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on the 80% subsidised wage. Employers must then pay staff a minimum of 80% of their salaries under the scheme but can also choose to top up their employee's wages. For the employee, this is known as 'being placed on Furlough'.

In order to make a claim, a business must have created and started a PAYE payroll scheme on or before 30th October 2020 and must have enrolled for PAYE online. They must also own a UK bank account. The scheme is open to any entity with a UK Payroll. Any UK organisation with employees can make a claim however some public service organisations may not be eligible. Any employees on the following types of contracts can be placed on furlough:

- Full-time employees
- Part-time employees
- Employees on agency contracts
- Employees on flexible or zero-hour contracts

Once an employee is placed on Furlough, they cannot carry out any work for the business. There is also the option to flexibly furlough staff, who can work for any amount of time, and any work pattern but cannot work during hours that they are recorded as being on Furlough for.

Employers have a responsibility to communicate with their staff and advise them of the change in their employment status to a 'furloughed' member of staff. They must write to their employees and keep a record of this communication.

It has recently been announced that this scheme will continue in Scotland until the 30<sup>th</sup> April 2021. The scheme may be extended further but this is dependent on the spread of covid-19 and the strategy for easing lockdown measures.

Self-Isolation support grant

Following a positive Covid-19 test or exposure to a Covid-19 positive individual, the medical recommendation is to self-isolate for 10 days in order to prevent further spread of the virus.

A £500 grant is available for those on a low income who have been asked by Test and Protect to isolate following a positive Covid-19 test or close contact with a Covid-19 positive patient. This grant is specifically designed to help those who are unable to work from home and would lose out on their income through self-isolation.

You can apply for more than one grant if you have been asked to self-isolate multiple times, provided these instances do not overlap. Once you have received a phone call from test and protect you will receive a follow up call from your local authority who will advise you on how to apply for the grant.

For those who aren't eligible for the Self-isolation support grant, you might be able to apply for a crisis grant from your local council.

- **Sector-Specific Grants**

There are additional grants available to individuals working in specific sectors and job roles who have been impacted by coronavirus. This includes those working in close-contact businesses, such as hairdressers, makeup artists and driving instructors. More information can be found by visiting [coronavirusadvice.scot](https://www.coronavirusadvice.scot).

[www.advice.scot/news/separating-fact-from-fiction-employment-support-during-the-covid-19-pandemic/](https://www.advice.scot/news/separating-fact-from-fiction-employment-support-during-the-covid-19-pandemic/)

# Housing Benefit adjudication circular

## A3/2021: Housing Benefit (person who have attained the qualifying age for state pension credit) (Amendment) Regulations 2021 (Revised)

Updated 2 March 2021



### Introduction

1. The Housing Benefit (Person who have attained the qualifying age for state pension credit) (Amendment) Regulations 2021 (SI 2021/188) were laid on 25 February 2021 and come into force on 1 April 2021.
2. SI 2021/188 makes amendments to the personal allowance rates for people who reach State Pension age on or after 1 April 2021. There are no changes to the personal allowance rates for people who reached State Pension age before 1 April 2021.

### Background

3. The personal allowance rates for people receiving pension age Housing Benefit (HB) are based on the Standard Minimum Guarantee (in Pension Credit) plus the maximum amount of Savings Credit. As Savings Credit is treated as income for HB purposes this prevents any Savings Credit received from reducing the HB award. The same personal allowance rates are used for all pension age claimants regardless of whether the claimant receives Savings Credit.
4. Savings Credit is not available to people who reach State Pension age from 6 April 2016 but a decision was made to keep the HB personal allowances with the Savings Credit uplift for the first five years of the of the new State Pension despite removing access to the Savings Credit.
5. As a consequence, the HB personal allowance rates for those reaching State Pension age from 1 April 2021 will no longer include the Savings Credit element, in other words, the rates will be the same as the Standard Minimum Guarantee.

### New personal allowance rates

6. The new personal allowance rates will apply to single people and couples where both reach State Pension age on or after 1 April 2021. However, for couples where one member reached State Pension age before 1 April 2021 and the other member reaches State Pension age after that date, there is no change to their personal allowance rates and they will continue to be entitled to the higher amount.

#### Example 1 – One member of couple over pension age on 1 April 2021

Couple, both pensioners, with combined income above the rate of the Pension Credit Guarantee Credit applicable to them. As the older partner reached State Pension age before 1 April 2021, their HB is calculated using the personal allowance rate which includes the Savings Credit uplift.

#### Example 2 – Single person reaches State Pension age after 1 April 2021

Single claimant in work reaches State Pension age on 1 April 2021. His employment ends in July 2021 and he claims HB. His state and private pension income exceeds the level of Pension Credit Guarantee Credit. As he had not reached State Pension age before 1 April 2021, his HB is calculated using the personal allowance without the Savings Credit uplift.

#### Example 3 – couple both reach State Pension age after 1 April 2021

Couple, both under State Pension age at 1 April 2021 and both are working. The older partner reaches State Pension age in August 2021 and becomes entitled to state pension. He continues working until his partner also reaches State Pension age in January 2022 and starts receiving her state pension, when they both stop work due to poor health. Their combined income from their state and a small private pension exceed the rate of Pension Credit Guarantee Credit. As neither partner had reached State Pension age before 1 April 2021, their HB is calculated using the personal allowance without the Savings Credit uplift.

7. Details of the new rates are provided in [Annex A](#).

### Couples who separate or where one member dies

8. If the older partner dies first, and the younger partner reached State Pension age on or after 1 April 2021 their new personal allowance rate will not include the Savings Credit uplift. However, if they remain in the same dwelling that they lived in with their deceased partner, regulation 13ZA of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (SI 2006/214) will apply so that they continue to receive either their maximum rent or the reckonable rent due for 12 months.
9. If a couple separate the member who reached State Pension age before 1 April 2021 will be entitled to the higher personal allowance rate when assessing entitlement to HB. The member who reached State Pension age after 1 April 2021 will be assessed using the lower personal allowance rate.
10. Discretionary Housing Payments (DHPs) can be paid to those entitled to HB who face a shortfall in meeting their housing costs. There is no limit to the length of time over which a DHP award may be made. It may be awarded for a short period to give a claimant time to deal with their financial circumstances or for an indefinite period until their circumstances change. The start and end dates of an award are decided by local authorities on a case-by-case basis.

[www.gov.uk/government/publications/housing-benefit-adjudication-circulars-2021/a32021-housing-benefit-person-who-have-attained-the-qualifying-age-for-state-pension-credit-amendment-regulations-2021](https://www.gov.uk/government/publications/housing-benefit-adjudication-circulars-2021/a32021-housing-benefit-person-who-have-attained-the-qualifying-age-for-state-pension-credit-amendment-regulations-2021)



## If you get the severe disability premium and are moving to Universal Credit

If you get, or are entitled to, the severe disability premium you may be able to get 'transitional protection' if you move to Universal Credit.

This is an extra payment to help with your move to Universal Credit. Most people will get this automatically but some will need to claim it.



### Eligibility

You'll get this payment if all the following apply:

- you (or your partner) were entitled to Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance
- you got the severe disability premium within the month immediately before the first day of your Universal Credit award
- you're still eligible for the severe disability premium at the start of your Universal Credit claim
- you've not joined an existing Universal Credit claim

### What you'll get

If you're single you'll get:

- £120, if the 'limited capability for work and work-related activity' element is included in the award
- £285, if the 'limited capability for work and work-related activity' element is not included in the award

### If you're in a couple you'll get:

- £405, if you were getting the higher severe disability premium rate
- £120, if you were getting the lower severe disability premium rate and the 'limited capability for work and work-related activity' element is included in the award for either member of the couple
- £285, if you were getting the lower severe disability premium rate and the 'limited capability for work and work-related activity' element is not included in the award

Transitional protection reduces over time by the amount of any increase in your Universal Credit. This does not include any increase to pay for childcare costs.

### It will end if any of the following apply:

- you're a single claimant and you start living with your partner
- you stop living with your partner
- your Universal Credit increases by more than the transitional protection amount
- your earnings fall below the Administrative Earnings Threshold (AET) for more than 3 assessment periods (the AET is £343 per month for an individual and £549 per month for a couple)
- your Universal Credit claim ends

If your Universal Credit stops for less than 3 months because your earnings are too high, you may get transitional protection again when your claim restarts.

### How to claim

*You'll automatically get a transitional protection payment, if you're entitled to it, when you claim Universal Credit.* This will appear in your Universal Credit account

You'll need to make a claim if you were previously in a couple and your former partner was entitled to a severe disability premium as part of a claim for Income Support, income-based Jobseeker's Allowance or income-related Employment and Support Allowance.

You must make a claim within one month of separating from your partner.

### Claim your transitional protection payment by either:

- calling the Universal Credit helpline
- contacting your work coach through your online journal

# Fratila v SSWP - Shock and law! Court of Appeal pulls rug from under the government's rules on EU pre-settled status



EU Rights and Brexit Hub

Research, Advice and Support on EU Citizens' Rights



## Fratila v Secretary of State for Works and Pensions & Anor [2020] EWCA Civ 1741

Just before Christmas, the Court of Appeal of England and Wales delivered an explosive judgment, upending the government's discriminatory plans, and finding that EU nationals with pre-settled status (under the UK's new scheme for EU nationals resident before the transition period ended on the 31st of December 2020) are entitled to equal treatment with UK nationals when claiming benefits. Yesterday the Supreme Court granted the Secretary of State permission to appeal – so there is a lot more to come on this.

### **Which rules were being challenged?**

After introducing the EU settled status scheme (for EU nationals to apply for settled and pre-settled status) the government introduced regulations in **2019** to specifically exclude pre-settled status from conferring benefit entitlements. Instead, the government created further, **meta-regulations**, to preserve the effects of the old, pre-Brexit **2016** regs for people with pre-settled status, so that they *could* establish a right to benefits, but had to show *another* right to reside as well – such as through (**the right amount of**) work.

It was common ground among the parties that if the government had not introduced the 2019 regulations, then pre-settled status would in itself have been a right to reside for the purposes of benefit entitlement (though claimants would still have to meet the same conditions as UK nationals).

### **Why were the rules found unlawful?**

The new regulations were found to discriminate against EU nationals, contravening the fundamental right to equal treatment under Article 18 TFEU (which applied to the UK until the end of the transition period). The Court of Appeal found that the CJEU case of **Trojani** applied here – that when an EU national has been granted an unconditional right to reside in a Member State, the host state is not entitled to discriminate against them on the ground of nationality, including when it comes to rights to welfare.

In short, it is ok to 'gatekeep' – to require a 'right to reside' of benefit claimants and for the conditions for getting one to be discriminatory. But once a right to reside is granted, Member States do not have a license to discriminate with impunity - otherwise the right to equal treatment would be pretty meaningless.

This argument has not previously had much use in the UK, as contrary to popular myth (spread in part by the **UK coalition government's** references to ending the 'something for nothing culture'), EU free movement law never did create unconditional rights to reside. It is the *domestic* construct of pre-settled status which is not conditional on e.g. being in work.

### **Who decided that pre-settled status should work that way?**

Not the EU! Interestingly, the Withdrawal Agreement between the UK and the EU would have allowed the UK government to make temporary right to reside/pre-settled status conditional upon also being a worker/student/family member/self sufficient person. But, quite probably as a matter of administrative necessity, the UK government chose not to do so (and many people would have **fallen through the gaps** had they done so). In then seeking to impose conditions on access to benefits after the fact, ie acting as though it had made pre-settled status conditional, the government tried to both have and eat its cake.

### **What makes this such a dramatic ruling?**

For well over a decade, the UK higher courts have been delivering rulings (like **Mirga**) affirming the UK government's right to make entitlement to benefits **conditional on having a right to reside** under the 2006, then the 2016, regulations. Given the difficulty on relying on student or self-sufficient statuses in those regulations (due to, amongst other things, the difficulties around comprehensive sickness insurance), this has typically meant showing the status of worker, or family member of a worker.

On top of this, the past 10 years have seen a **restrictive trend** on EU citizenship/benefit entitlement cases (such as **Dano**) in the CJEU. This line of cases led the Secretary of State in **Fratila** to argue that the CJEU no longer required Member States to treat EU citizens equally with own nationals, unless certain conditions (typically having worker status) were met.

So on its face, this ruling seems like a dramatic departure from the domestic and EU judicial trajectory. But on closer inspection, it rests on the simple argument that those cases are different to, and do not overturn, **Trojani**. In cases where the right to reside derives from the EU **free movement Directive**, Member States impose that Directive's conditions. But in cases where the right to reside has a different legal basis, (as with primary carer rights based on a different instrument, in **Krefeld**), Member States (and the UK), cannot impose extra limitations upon the fundamental right of equal treatment.

### **How does this affect EU nationals with pre-settled status?**

The answer is less simple than we might have hoped! For four reasons:

1. The judgment appears to assume that it only concerns claims that arose before the end of the transition period, as Article 18 TFEU ceased to apply thereafter. However, the **Withdrawal Agreement** contains a provision (Article 12 WA) preserving the effects of Article 18 TFEU (the right to non-discrimination) for EU nationals who were resident before the end of transition - for their lifetimes. This is likely a point for future dispute.
2. The Secretary of State has been granted permission to appeal to the Supreme Court.
3. The Court of Appeal stayed (delayed) the judgment's effects until **the 26th February** – and this stay has now been **extended** by the UK Supreme Court until the appeal is determined.
4. A Northern Irish tribunal has made a **preliminary reference** to the CJEU, on a different case but the EXACT same point (they got in under the wire, with the reference registered on the 30th December 2020!). The tribunal has requested that the case be expedited.

So for all of these reasons, we are unlikely to have a definitive answer for a while. However, it seems advisable to, where other rights to reside are not available, base claims and/or appeals on pre-settled status; the Child Poverty Action Group give excellent further guidance [here](#).

### **Where does the case go next?**

The case has now landed on the desks of the Supreme Court, with a parallel case also before the Court of Justice of the EU. We will have to wait and see what the courts come up with in terms of hearing dates. Under the Withdrawal Agreement, the CJEU's ruling on a reference made by a UK court or tribunal (just) before the end of transition, will be binding on all UK courts.

Help!

If you are an adviser and would like some advice on, or drafting support with, using the **Fratila** case, please do get in touch: [law-eurightshub@york.ac.uk](mailto:law-eurightshub@york.ac.uk)

Courtesy of the The EU Rights and Brexit Hub - [www.eurightshub.york.ac.uk/blog/shock-and-law-court-of-appeal-pulls-rug-from-under-the-governments-rules-on-eu-pre-settled-status](http://www.eurightshub.york.ac.uk/blog/shock-and-law-court-of-appeal-pulls-rug-from-under-the-governments-rules-on-eu-pre-settled-status)

## Perennial

*Perennial is an independently funded charity that offers free and confidential advice and support to those working, or who have worked in, horticulture and their families.*



Helping people  
in horticulture  
**Perennial**

We wanted to keep in touch with advice providers and front-facing advisers across Scotland to ensure you are aware we are still operating as normal and to give a little update about our services.

In our initial email, we touched on the help our **Casework and Debt Team** at Perennial can offer, however, we also provide other plug-in services that may benefit horticulturists you work with. We've included some information below but are happy to discuss this further should you have any questions:

Renovo provide our service users with **employment support**. They pair the service user up with a work coach, and have resources available to help them with CV building, interview skills and assistance in looking for jobs. They can also help with career changes, weighing up employment over self-employment, etc.

We partner with Connect Health to offer a **free physiotherapy service** to those that are perhaps no longer able to access help from the NHS or are currently waiting to hear from a statutory service. There is an initial telephone consultation arranged to assess their needs and this would usually result in service users being provided with specific exercises which can be monitored using an app. Face-to-face sessions can also be arranged where necessary (Covid permitting).

Togetherall is our **free mental wellbeing** community online that is monitored 24/7 by trained professionals. Service users can sign up anonymously to ensure their privacy and confidentiality so we don't monitor these referrals. There are also resources and courses available from Togetherall covering things like sleep problems, stopping smoking, journals, etc. [Togetherall Sign Up page](#)

Further to this we now also offer access to a **free legal helpline** through Irwin Mitchell.

We are continually reviewing our service to see what works for our service users and what doesn't. As part of this we recently reviewed our Regular Payments Programme and now have **funds available** for monthly payments to those struggling financially due to situations like awaiting retirement income, ill-health, low income families, bereavement etc.

We appreciate that the pandemic is likely to cause unprecedented numbers of enquiries to advice agencies and so if we can be of any help to the horticulturists you work with please don't hesitate to contact us.

We are also still available to provide **(virtual) presentations to organisations**. If this is something you or your team would be interested in then let me know and I'd be happy to arrange this. We hope to get back to visiting our service users at some point in 2021 and hopefully the chance for some all important networking!

**Web:** <https://perennial.org.uk/home/ways-we-can-help/> Caitlin Daly [Cdaly@perennial.org.uk](mailto:Cdaly@perennial.org.uk)



### Money Advice Trust recently confirmed the trigger figures for the Common Financial Statement will be updated on 1 April 2021.

The figures will be published on the Common Financial Statement website from that date. If any licence holding organisation requires these figures prior to this date, for example to implement software applications, the figures can be requested directly from [Money Advice Trust](#).

AiB will adopt a flexible approach for a period of one month after 1 April 2021 as a transitional arrangement for advisers updating their systems and processes.

More information about the Common Financial Statement is available on the [Common Financial Statement website](#).

## Driving take-up of Pension Credit

Pension Credit can help to top up the income of retired people, even if they already get a pension or other income. And getting pension credit can also mean other help with council tax, housing benefit, or a free TV license for the over 75s.

Everyone getting State Pension will be receiving their annual uprating letters around now, which includes information about Pension Credit.

Please help us to promote Pension Credit to older people and those that may be supporting them, like family, friends and local organisations.

The [Pension Credit stakeholder toolkit](#) includes a range of social media assets you can use. And we'll keep updating it over the coming weeks.