Universal Credit: natural migration

Thank you for your letter dated 15 March 2019, and for attending to give evidence on 11 March. Following your evidence, as well as other evidence that we have heard in the course of our inquiry, I would be grateful for some further clarification so that we can make progress with our work.

Might you please respond to the questions below?

Numbers moving to UC through natural migration

In oral questions on 7 January 2019, you said "we expect another 1.6 million to move on to [UC] in the next 12 months as part of natural migration". On 11 March, however, Neil Couling told the Committee that this figure was incorrect. He said:

By the way, it is actually not 1.6 million people coming across in the next year through a change of circumstance to Universal Credit. Your previous witnesses on that just made an actual error. I think they managed to amalgamate the number of new claims with the change of circumstances.

He added that roughly half of the caseload growth will come from new claims and half will come from claimants on legacy benefits who have a change in circumstance.

1. Could you please confirm how many people the Department estimates will move to UC from legacy benefits through ‘natural’ migration in 2019?
   a) Of this group, how many people does the Department estimate will receive less from UC than they would from legacy benefits?

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1 DWP Oral questions 7 January 2019
2 Q14
2. Could you please provide the Committee with monthly data from January 2019 to the end of 2023 on how many people the Department estimates will move to UC by a) making a new claim, b) ‘natural’ migration, c) ‘managed’ migration?

3. Of the 1.6 million people currently on UC\(^3\), how many have made a new claim to UC and how many have moved over from legacy benefits?
   a) Of those that have moved over naturally, how many have gained and how many have lost out compared to the legacy system?

4. Of the total expected UC caseload, how many people does the Department estimate will be better off and how many will be worse off on UC than under the legacy benefit system?

Delay to managed migration
In its report on the Spring Statement, the OBR noted that the delay to the start of managed migration will lower the cost of UC by £2 million over the next five years. It explained:

   The Government has reduced volumes to well below DWP’s operational capacity in order to reduce the costs associated with transitional protection for claimants who would otherwise lose out relative to their legacy benefit claim and those associated with claimants who would gain from UC relative to legacy benefits but are only expected to move to UC via managed migration.\(^4\)

5. Could you please explain whether one of the factors in delaying the start of managed migration was the cost saving it would deliver for the Department? If not, how do you account for the OBR’s conclusion?
   a) What does the Department plan to do with the £2 million worth of savings it is making from paying transitional protection to fewer claimants?
   b) How many people does the Department estimate will move to UC via natural migration rather than managed migration because of the delay?
     i. Of this group, how many people does the Department estimate will be better off and how many will be worse off on UC compared to legacy benefits?

Change of circumstances leading to claimants migrating naturally
On 11 March, Neil Couling told the Committee that where claimants move to UC due to a change in circumstance and subsequently lose out, they have experienced a ‘relevant’ change of circumstance and there are “not the resources anymore in the legacy system to administer those claims”.

6. Could you please explain how the Department decided on what a ‘relevant’ change of circumstance would be, and how the impact on different groups of claimants was considered within this?

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\(^3\) DWP, Universal Credit Statistics, 19 February 2019
\(^4\) OBR, Economic and Fiscal Outlook, March 2019
ESA decisions not being carried across to UC
The Committee heard deeply concerning evidence that the Department is not always carrying over decisions made on ESA support group claimants’ ability to work when they move to UC via natural migration. Mind stressed that this not only results in claimants receiving less than they are entitled to, but may also lead to them having to go through another assessment or being subject to increased conditionality.

7. Could you please confirm:
   a) The number of cases where the Department is aware of this happening;
   b) What the process is for transferring over an ESA decision, and why problems are arising; and
   c) What steps the Department intends to take to ensure this does not occur in future.

Guidance for staff
In my previous letter dated 27 February, I asked some questions about the guidance available to DWP staff, to which we have not received an answer.

8. Could you please confirm:
   a) What guidance is provided to DWP staff about when they should advise a claimant on legacy benefits to make a claim for UC;
   b) What tools are available to DWP staff to help them advise claimants whether they will be better or worse off on UC compared to legacy benefits; and
   c) What safeguards are in place to ensure that claimants who stand to lose out financially when they transfer to Universal Credit do not inadvertently move over before they have to, leaving them worse off and without transitional protection

In your letter you offered to look into specific examples of claimants being encouraged to move to UC even though they had not had a change in circumstance. You will have seen that, in oral evidence, NAWRA referred to reports on Rightsnet of this happening in Bridport, Stockton, Renfrewshire and Middlesbrough. I would suggest that you ask your officials to work with advice services in those areas to find out more about what is happening on the ground. Reports of this happening can be found here:

https://www.rightsnet.org.uk/forums/viewthread/12851/

Compensation for claimants who are incorrectly advised to move to UC
In oral evidence, Neil Couling said that where claimants have moved to UC after receiving the wrong advice from the Department and subsequently lost out financially, the Department has provided them with compensation.

9. Could you please provide the Committee with a note on the Department’s approach to providing compensation to claimants who have been wrongly advised to move to UC. This should include:
   a) How these cases were brought to the Department’s attention;
The number of cases in which the Department has provided compensation to date and the total amount of compensation provided;

c) Whether this applies only to wrong advice given by the Department, or if it extends to other organisations such as local authorities;

d) Examples of the situations in which this has occurred;

e) How the amount of compensation due is calculated;

f) The time period over which the compensation is provided and whether the compensation will stay in place until the claimant has a change in circumstance that would trigger the end of transitional protection;

g) Whether the availability of compensation in these circumstances has been communicated to Jobcentre staff and organisations supporting claimants; and

h) Whether the Department is committed to providing compensation to all claimants who receive the wrong advice in future.

Court cases

The Committee is aware of a number of court cases which have been raised by or on behalf of claimants in relation to UC and natural migration.

In the TP vs AR case\(^5\), judges ruled that two claimants in receipt of SDP (Severe Disability Premium) and EDP (Enhanced Disability Premium), who migrated to UC after they moved to a different local authority, had been unlawfully discriminated against. Following this judgment, the Department announced that it would provide transitional protection for claimants receiving the SDP who had already moved to UC, and introduce a gateway preventing claimants with an SDP in their claim from moving to UC prior to managed migration.

10. Given that you have recognised the need for transitional protection for claimants in receipt of SDP, could you please explain why you are appealing this judgment?

- On what basis have you assessed that claimants receiving EDP are not in need of the same transitional protection as those in receipt of SDP?

On 11 March, Neil Couling told the Committee that there was “no right of return” from UC to legacy benefits for claimants who had been misadvised to claim UC. The court case he was referring to (TD and PR)\(^6\) related to claimants losing out following the Department’s incorrect decisions to terminate their legacy benefits. In one case a claimant’s Income Support was incorrectly stopped and in the other the claimant’s ESA was stopped. Both of these decisions were subsequently overturned on appeal.

11. Given that the judgment in this case set out that claimants cannot return to legacy benefits, can you confirm whether it is your intention to provide compensation to claimants who have moved to UC because of an erroneous decision made by the Department? If so, will this compensation reflect the full value of their loss?

12. Since the rollout of UC began in May 2016, how much has the Department spent fighting legal cases relating to Universal Credit?

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\(^5\) TP and AR judgement, May 2018

\(^6\) TD and PR judgement, March 2019
• What proportion of this has related to UC migration and transitional protection?
• What is the estimated cost of the TP and AR case, including the upcoming appeal?

Payment timeliness
Several organisations pointed out that current issues with the system, such as delays to full payment of a claimant’s award, can exacerbate issues for claimants who move to UC from legacy benefits and lose out as a result. In evidence to the Committee, you said that payment timeliness has increased and that 85% of new claims are now paid in full and on time.

13. Could you please confirm:
   a) the number of claims which were not paid in full and on time in 2018;
   b) the number of claims the Department estimates will not be paid in full and on time in 2019.

Savings and UC
The Committee heard that the rules for savings and unearned income are very different under UC compared with the legacy system. David Finch of the Resolution Foundation explained that UC treats working people’s savings more ‘strictly’ than legacy systems. He added that people could effectively be penalised as savings from certain schemes—aimed at encouraging people to save—can reduce the amount of UC a claimant receives.

14. Could you please confirm how income bonuses from the Government’s own savings schemes for people on UC are treated? Have you satisfied yourself that Universal Credit rules are not in conflict with Government policy on encouraging saving?

I would be grateful if you could provide a response to the questions above by 1 April.

With best wishes and I look forward to hearing from you,

Rt Hon Frank Field MP
Chair