

Legislation Scrutiny Committee examination of the Statutory Instruments on Universal Credit (UC)

DBC submission

About the Disability Benefits Consortium (DBC)

The Disability Benefits Consortium (DBC) is a national coalition of over 50 disability and welfare charities and other organisations committed to working towards a fair benefits system.¹ Using our combined knowledge, experience and direct contact with disabled individuals, people with long-term conditions and carers, we seek to ensure that government policy reflects and meets the needs of all disabled people.

Introduction

The Disability Benefits Consortium (DBC) welcomes the opportunity to submit evidence to the Secondary Legislation Scrutiny Committee on as it examines the Statutory Instruments on Universal Credit (UC).

The DBC has significant concerns that the regulations as they stand will see disabled people and their families once again hit unfairly by a reduction in income.

It's important that the regulations be examined in the context of the cuts that have already hit disabled people. The *Tipping Point* published in October 2012 by the hardest Hit Coalition (of which DBC is a part) highlights some of the cumulative impacts of benefit reforms on disabled people.

In particular, the report highlights how disabled people are twice as likely to live in poverty than the rest of the population. Even a small loss of income can tip people with a disability into greater dependence on health and social care services or on friends and family.

It has been estimated that the Government's proposed welfare reforms will cost some 3.6 million disabled people over £9 billion by the end of this Parliament.

This evidence submission explores 3 key areas:

- The loss of the Severe Disability Premium in the UC, leading to some disabled people being less well off;

¹ DBC members: Action for Blind People, Action for M.E., Age UK, Action on Hearing Loss, Ambitious about Autism, Arthritis Care, Breast Cancer Care, Capability Scotland, Carers UK, Child Poverty Action Group, The Children's Society, Citizens Advice, CLIC Sargent, Crohn's and Colitis UK, Cystic Fibrosis Trust, Deafblind UK, Disability Alliance, Every Disabled Child Matters, Guide Dogs, Hafal, Haemophilia Society, Inclusion London, LASA, Learning Disability Coalition, Leonard Cheshire Disability, Livability, Macmillan Cancer Support, Mencap, Meningitis Research Foundation, Mind, Motor Neurone Disease Association, MS Society, Muscular Dystrophy Campaign, Myeloma UK, National AIDS Trust, National Association of Welfare Rights Advisers, National Autistic Society (NAS), National Deaf Children's Society, National Rheumatoid Arthritis Society, Papworth Trust, Parkinson's UK, RADAR, Rethink, Royal National Institute of Blind People (RNIB), Royal College of Psychiatrists, RSI Action, Scope, Scottish Association for Mental Health, Sense, Sense Scotland, Skill, The Stroke Association, Sue Ryder, Transport for All, TUC, United Response, Vitalise

- Disabled people less well off in work;
- Work-related conditions placed on UC claimants;
- Changes to housing benefit arrangements.

The Severe Disability Premium (SDP)

Part 4: Elements of an award

There is no equivalent of the severe disability premium within the elements of Universal Credit. We believe that this will mean that Universal Credit will fail to protect the people who need it most.

How does it work in the current system?

At present, severely disabled adults may be eligible to receive the Severe Disability Premium (SDP) within a means tested benefit if they are in receipt of the middle or higher rate of the care component and:

- live on their own or
- just with dependent children and/or
- with a partner who is also severely disabled

This is currently worth £58 a week and is intended to help them with the additional costs they face from being a disabled person without someone to assist them. Over 230,000 disabled people receive the SDP.

Under the draft regulations there is no equivalent of the SDP within Universal Credit. The government proposes to use the savings from the SDP to raise the level of benefit paid to those entitled to receive the limited capability for work related activity element.

Once Universal Credit has been fully implemented, severely disabled people with no adult to assist them, and who are eligible for the limited capability for work element will be entitled to about £58 less a week than those in the current system and even the most disabled adults entitled to the limited capability for work related activity element will be entitled to £28 less a week than in the current system.

Whilst transitional protection will support many people currently receiving SDP against cash losses at the point they move on to Universal Credit, this is limited since it (1) will not protect new claimants (2) its value will be lost over time as a result of inflation, and (3) it will be lost if the household undergoes certain changes.

Through a detailed online survey, Baroness Tanni Grey-Thompson's review of disability and Universal Credit surveyed several hundred disabled people who would currently be eligible for the SDP. The full report "Holes in the Safety Net" can be found at http://www.citizensadvice.org.uk/holes_safety_net.htm

Key points:

- The current SDP is a well targeted benefit. **This group of people who under the current system are entitled to the SDP are those with the highest costs and the greatest needs.** The survey demonstrated this group face many extra costs and many were already struggling to manage financially in often extremely distressing circumstances.
- Respondents reported a wide variety of additional costs they faced as a result of living alone or without an adult carer. For example, these included: having to pay expenses

such as petrol for relatives and friends assisting them, having to pay someone to do chores such as cleaning and cooking and needing to pay someone to do even very minor house maintenance such as changing a battery in a smoke alarm or small repairs or decorating tasks, having to pay more for transport than someone with a carer or partner.

- These costs are not usually covered by social care. Only 37% of those currently eligible for the SDP were receiving any help from their local authority or an outside agency compared to 32% of those who were living with another adult or who had a carer. Only 13% of those currently eligible for the SDP were receiving two or more hours a week of social care.
- The impact of the loss of SDP could be very severe. Many were already living in very distressing circumstances and were very socially isolated. 83% of those eligible for the SDP said a reduction in benefits would mean they have to cut back on food and 80% would have to cut the amount they spent on heating.
- Even the most severely disabled people - those who are found to have limited capability for work related activity (LCWRA) - and who don't have another adult to care for them will be worse off. The extra that this group will receive through increases in the LCWRA element, is much less than the value of the SDP. A well targeted addition that is given to one group with a particular extra costs is being spread much more widely including those who don't face these extra costs
- Young carers will have to spend even longer caring. Around 25,000 disabled lone parents are currently in receipt of the SDP. For these families with young carers, the survey indicated that children (especially those over 10 years of age) were already taking on a very significant caring role. The majority were also receiving no support from local authorities or other outside agencies. The concern is that reducing the household budget of families further will mean that children will have to do even more caring, putting them at risk of even greater social exclusion.
- The regulations as currently drafted will produce the anomalous situation that a couple where one has LCWRA and the other works fulltime but is also a carer will under UC have the carer addition added to their maximum UC. However if the working partner leaves and a child takes over the caring responsibilities then the household in addition to losing the earnings coming into the household will also lose the carer addition in their UC and will not receive the SDP – they would be entitled to the SDP under the current system.

Recommendations:

- **We recommend the introduction of a self-care addition. This would be paid at the same rate as the carer's addition to anyone who does not have someone caring for them who is claiming the carers allowance or the carer's element.**
- **This could be done with no extra costs. Current spending on the SDP is estimated to be in the region of £700 million per year. The cost of this proposal has been estimated by DWP to cost around £400 million per year. This would still leave considerable savings to invest in raising the level of the higher disability addition. We believe this would better fulfil the policy intent of protecting those with the greatest needs.**

Making work pay for disabled people

We are concerned that, under Universal Credit, two groups of disabled people will not receive any more financial help in work than a non-disabled person but are liable to face considerable extra costs that they would not face if they weren't working. Many of these costs can't be covered by the Access to Work Scheme. The two groups are:

- **People who would have limited capability for work (LCW) or limited capability of work related activity (LCWRA) but are not entitled to PIP**
- **Those who are disabled but do not have LCW or LCWRA**

Part 4: Elements of an award and Part 5: Capability for work and work related activity

In order to access extra financial support, disabled people in work which pays more than the equivalent of 16 hours at the minimum wage, will have to be entitled to the work related activity element and also the personal independence payment (PIP) or DLA. Once PIP has fully rolled out there will be many disabled people who are currently entitled to DLA but will not have an entitlement to PIP so will not be entitled to any disability benefits. **This will create a perverse disincentive to increase their hours of work above this earnings threshold for many disabled people who do have limited capability for work and do not face conditionality to take work.**

Part 4 regulation 27 makes clear that any person requiring additional support because they are disabled will have to take the Work Capability Assessment (WCA)². The only additional elements which are available to disabled people are the limited capability for work (LCW) element and the limited capability of work related activity (LCWRA) element. Anyone who is found to be fully "fit for work" in the WCA will receive no extra financial help within Universal Credit.

Part 5 clarifies in more detail the conditions under which people are entitled to these elements. Those assessed by the work capability assessment as entitled to the LCW or the LCWRA elements will keep these elements in their universal credit maximum amount when they enter work regardless of their hours of work. **Part 3: Awards** also makes clear that they will also be entitled to the work allowance for those with limited capability for work.

However Part 5 regulation 41(2)(a) makes clear that if they are earning more than the equivalent of 16 hours of work/wk at the minimum wage (currently £97.28/ wk £422.70/mth) they will only be entitled to be assessed for entitlement to the LCW or LCWRA elements if they are also receiving DLA or PIP. Those who have already been assessed as entitled to LCW or LCWRA will continue to be entitled to an assessment on entering work. However there are a number of groups of disabled people who if they are not entitled to PIP (once PIP is fully rolled out) will face perverse incentives:

- Someone who is in work and has a deteriorating condition which means they need to cut back their hours of work will have a very strong perverse incentive to cut their hours of work more than they might otherwise - to below £97 a week (the equivalent of 16 hours at the minimum wage) even if they are able to do more.
- A disabled person currently in work and receiving the disability element of WTC and perhaps the lower rate of the care component of DLA will receive transitional protection – however this will quickly erode as their whole award will be frozen. If they are likely to qualify for the LCW group but don't receive

² *The assessment process to determine whether someone is eligible for ESA and the group in which they should be placed*

PIP, their only way to qualify for the extra support they are likely to need is to reduce their hours of work for 3 months or so until they have had an assessment – and then increase their hours again.

- Someone who would qualify for LCW or LCWRA but hasn't got a current claim to ESA because their partner was working and earning too much to be entitled to UC. If they make a claim to UC because their partner has lost their job or their partner has left them or their capital has reduced to below £16000 they will have a disincentive to moving into work without first waiting for 3 months to be assessed.

Evidence about extra costs of working not covered by Access to Work

The survey of disabled people in work which was also conducted as part of Baroness Tanni Grey-Thompson's review of disability and Universal Credit

http://www.citizensadvice.org.uk/holes_safety_net.htm found:

- **Many respondents to the survey reported higher costs around the home as a result of being in employment** . They said that as a result of their condition or impairment, work left them feeling much more exhausted than non-disabled colleagues meaning they had less energy in their free time. This resulted in extra costs in the home such as having to pay someone to do their cleaning or other household chores.
- **Many also reported extra costs in and to do with the workplace that cannot be covered by the Access to Work scheme such as** having to replace and repair aids such as wheelchairs and specialist clothing more frequently because of greater use in work

People who would be entitled to LCW or LCWRA but are not entitled to PIP

Once DLA is phased out it is likely that there will be many disabled people who have LCW or LCWRA but are not entitled to PIP. There will be a perverse incentive to decrease hours of work for many in this group. Unless they can work fulltime they will be much better off by reducing their earnings to under £422 /month until they have been assessed. In the following example a single person who decreases their earnings from £500 a month to £250 a month will be about £90 a month better off. Given that someone in this situation is likely to have extra costs if they work for more hours this will create a very significant incentive to decrease their hours of work.

A single man who has been working fulltime but is diagnosed with MS and finds he gets exhausted very quickly decreases his hours of work so he now earns £500/month He pays rent of £400/month and is not entitled to PIP - he will not be entitled to a work capability assessment and so will be treated as not having limited capability for work

His maximum UC will be £312(single claimant) + £400 (housing costs)= £712

His work allowance will be £111

His UC will be reduced by 65% of £500- £111= £253

His UC will be £712- £253 = £459

His income will therefore be £459 +£500 = £959 leaving him with an income after paying rent of £559/mth

If he further decreases his hours of work so he earns £250/month not £500 – he will be entitled to a WCA. If he is then assessed as having LCW he will have a maximum UC of £312(single claimant) +£124(LCW) + £400 (housing costs)= £836
If he earns £250/month he will keep the LCW element and also be entitled to the work allowance for those with LCW of £192
His UC will be reduced by 65% of £58= £38, his UC will be £798
His income will therefore be £798 +£250 = £1048 leaving him with an income after paying rent of £648/mth

Recommendation:

We recommend that regulation 41(2) should be abolished. The additional requirement to be entitled to PIP means that the system will create perverse incentives and make the system much more complex for claimants and advisers. **We believe that removing the necessity to be entitled to PIP would better fulfil the policy intent of making work pay and creating a less complex system**

Those who are disabled but do not have LCW or LCWRA

We are also concerned that there are many disabled people who face extra costs from working but would not be assessed as having LCW or LCWRA. Under UC this group will receive no extra help.

Someone who can self-propel a wheelchair more than 50 meters, someone who is registered as blind but can find their way in familiar surroundings, someone who has a condition which causes fatigue or exhaustion and they can't walk more than about 100 metres would all be unlikely to score sufficient points in a WCA to qualify for the LCW or LCWRA elements but would all be likely to face extra costs from working. They will receive no more help under UC than a non-disabled person.

Under the current system

At present disabled people working more than 16 hours per week are entitled to the disability element of Working Tax Credit (WTC). It is payable to those who have a disability or condition that makes it more difficult for them to find and sustain employment³. It is important because disabled people frequently face extra costs from working which can't be met by schemes such as Access to Work⁴. 117,000 families receive the disability element of WTC worth £54 a week.

In the above example, a single person earning £500 a month and paying rent of £400 a month, who has a significant level of functional impairment and qualifies for DLA but not sufficient to be found to have LCW would be entitled to £1105 under the current system. As shown above he will be entitled to £959 under UC. We are concerned that this reduction in support will make it very difficult for many disabled people to work as they will not have enough income to cover the extra costs they face working.

Recommendation:

We recommend that the work allowance for those with limited capability for work should also be available to those who in the work capability assessment are found to have a level of impairment which scores points even if that does not reach the

³ They are entitled to the disability element of WTC if they are receiving a disability related benefit or have recently received a qualifying sickness benefit and are at a disadvantage in seeking work.

⁴ Access to Work is there to support those people whose health or disability affects the way they can work. It gives the claimant and employer advice and support with extra costs which may arise because of needs.

requisite level of points to be found to be eligible for the LCW element. **We believe that this would better fulfil the policy intent of making work pay.**

Work-related conditions

Under Universal Credit, claimants with a disability and / or health condition can be required to undertake “all work-related requirements” **before** the outcome of their claim for the equivalent of income-related Employment and Support Allowance (ESA(I)) has been decided, as well as whilst they are appealing a decision.

What work-related conditions are required of ESA claimants and how will the equivalent work under Universal Credit?

Under ESA, an assessment outcome determines whether someone is placed in either the **work-related activity group** or **support group** of ESA. Claimants who are placed in the support group are not required to take part in work-related activity because of the severity of their disability or health condition. Under UC, the equivalent group will be the “no work-related requirements” group.

Claimants placed in the work-related activity group, are likely to be required to take part in some work-related activity (such as attending training courses, preparing a CV or taking part in the Work Programme). Under UC, the equivalent group will be the “work preparation” group.

Those who fail the assessment for ESA are regarded as ‘fit for work’ and can make a claim for Jobseeker’s Allowance (JSA) instead. Under JSA, claimants face full work conditionality, including a requirement to apply for a job. Under UC, the equivalent group will be the “all work-related requirements” group.

How do these work-related conditions apply to people who are making a claim for ESA?

There are two ‘phases’ for claimants applying for Employment and Support Allowance (ESA) – an assessment phase and a main phase. The assessment phase covers the process of deciding whether a claimant has limited capability for work or limited capability for work-related activity. During this assessment phase, which is supposed to be completed within 13 weeks, **claimants are treated as having limited capability for work.**⁵

This means that claimants can only be subject to work-related activity group conditionality, rather than full conditionality.

However, under current guidance, the Department for Work and Pensions states that:

*“When a claimant is first awarded ESA, they receive a basic rate of ESA whilst their capability for work is confirmed...**During the assessment phase, claimants do not have to take part in work-related activity...** claimants are required to provide up-to-date medical evidence now known as the ‘Statement of fitness for work’ (Fit note) showing that they have limited capability for work for any claim longer than seven days.”⁶*

What is being proposed under Universal Credit?

The rules around the assessment phase, for those applying for the equivalent of ESA(I) under Universal Credit, are not replicated in the draft Universal Regulations. From

⁵ See regulation 30: http://www.legislation.gov.uk/ukxi/2008/794/pdfs/ukxi_20080794_en.pdf

⁶ <http://www.dwp.gov.uk/docs/esa-stakeholder-information-pack.pdf>

discussions with the Department for Work and Pensions, the intention under Universal Credit is:

- that people on ESA(I) will be subject to full conditionality (“all work-related requirements”) during the assessment phase and throughout an appeal, whereas people on contribution-based ESA will not;

This means that claimants with an equivalent disability and / or health condition applying for ESA(C) will face different work-related conditions through the assessment phase for ESA to those applying for ESA(I) (or the equivalent in UC)⁷.

Citizens Advice has been told, by DWP, that:

- ‘the regulation’ has been redrafted to clarify that work-related requirements may be lifted where a claimant is unfit for work for longer than 14 days and where advisers identify that it is not reasonable to require claimants to fulfil work-related requirements. We would welcome confirmation of this.

In addition, there remains confusion about those UC claimants who become ill or disabled, and how this might impact the work-related requirements imposed on them. The DWP have stated that:

- from October 2013, where UC claimants become ill or disabled, claimants will remain in their appropriate ‘work requirements’ group (including the “all work-related requirements” group), with work-related requirements being tailored accordingly.

Disability organisations have been told that this does not mean disabled claimants cannot be moved into a different – and more appropriate – work-conditionality group, and their claimant commitment requirements amended accordingly. We believe this issue needs clarifying.

These changes potentially place enormous pressure on Jobcentre Plus Personal Advisers to use their discretion and ‘assess’ the work capabilities of someone. This is, in effect, the same assessment that is then made by the Work Capability Assessment (WCA).

Accuracy of decision making and impact on appeals

Currently, DWP Decision Makers use advice from the Atos healthcare professional (the WCA), medical evidence from the claimant’s GP and other healthcare professionals and their own knowledge and experience to make a decision on an award of ESA.

There is widespread and ongoing concern about the accuracy of decision making in ESA. In the past year, 35 per cent of ESA decisions that are taken to appeal are overturned in favour of the claimant.⁸ Of all appeals heard by February 2011, 38 per cent were overturned and, in 60 per cent of these, the claimant was originally awarded no points.⁹

The proposal in Universal Credit is that Jobcentre Plus Personal Advisers should make this decision based only on the fit-notes supplied by the claimant, which contains very limited information. This presents a considerable risk of causing a deterioration in a person’s condition, particularly where there is a mental health, or fluctuating, condition.

⁷ See draft regulation 30: <http://www.dwp.gov.uk/docs/esa-draft-regs-2012.pdf>

⁸ Official statistics (July 2012) ESA: WCA by health condition and functional impairment http://research.dwp.gov.uk/asd/workingage/esa_wca_oct2012.pdf

⁹ HC Deb, 28 June 2011, c662W

The disabled person will then be required to fulfil a specified level of conditionality – as decided upon in discussion between the Personal Adviser and the claimant – and if they are not able to do so, they will be sanctioned. This could result in them losing their full basic rate of ESA for a specified period. They will then go on to have a Work Capability Assessment, and may well be found to be entitled to either the work-related component or the support component of ESA, in which case a different, or no, level of conditionality will apply.

The same will be true for disabled people who appeal their ESA decision, a process which is currently taking upwards of 18 months to complete.

Recommendations:

- **Clarification from Government about their intention – in relation to undertaking work-related activity – for claimants who are being assessed for ‘limited capability for work’ and ‘limited capability for work-related activity’ or appealing their decision.**
- **Clarification about the situation for UC claimants who become ill or disabled and movement between work-conditionality groups.**
- **Confirmation that work-related requirements may be lifted where a claimant is unfit for work for longer than 14 days and where advisers identify that it is not reasonable to require claimants to fulfil work-related requirements.**
- **An amendment to the draft Universal Credit regulations to insert a new regulation that applies similar conditions to those outlined in regulation 30 of the draft ESA regulations. This sets out ‘conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made’. Conditions should include “that the claimant provides evidence of limited capability for work in accordance with the Medical Evidence Regulation**

Housing benefit arrangements

The draft Universal credit regulations include the latest round of changes to housing benefit, and will enshrine the changes for the future under Universal Credit. We are deeply concerned by a number of the changes which are formalised in these regulations and the impact they will have on disabled people.

Background

People with a disability experience inequality and disadvantage in many forms, including lower employment and earnings potential, restricted access to goods and services, and higher general living costs. Far more disabled people live in poverty than the rest of the population and are more reliant on benefits for their income. The government’s overhaul of the benefits system will lead to many disabled people seeing a reduction in their benefits packages, placing them into a deeper state of poverty. One of the benefits that is particularly hard hit is housing benefit.

The Welfare Reform Act 2012 and recent changes to regulations before then have starkly restricted the amount of benefit available to individuals and families to rent a home. Changes introduced before the Welfare Reform Act came into place, for example, have reduced the amount available under the Local Housing Allowance to the 30th percentile of local rents rather than the median, which applied until then. Furthermore, the maximum number of bedrooms that one household can claim has been restricted to 4. This, in

addition to the changes that are being introduced under the Welfare Reform Act, such as the up-rating of the Local Housing Allowance along CPI lines¹⁰ and the introduction of the new size criteria in social housing, is creating hardship for people with a disability, making it more and more difficult for people with a disability to lead an independent life.

Key issues:

1. Additional bedroom for an overnight carer

Schedule 4, paragraph 12 confirms previous regulations about an additional bedroom for those in need of an overnight carer introduced in April 2011 via the Housing Benefit Amendment Regulations 2010. We welcome this inclusion.

However, we are concerned that the new regulations tighten the eligibility around the additional bedroom. The previous regulations enabled a person to receive payment for an additional bedroom even when they did not receive DLA, where they could prove to be in need of an additional bedroom for an overnight carer. This has now changed and someone not in receipt of DLA/ PIP will now not be entitled to an extra bedroom, even where it may be needed.

In light of the changes to DLA introduced via the new Personal Independent Payment rules, which will mean that around 600,000 fewer people will receive PIP than DLA by 2018, we are concerned that some individuals with a disability, who do require an overnight carer, will be excluded from receiving an additional payment to cover for that cost due to losing DLA. It is currently difficult to judge who these 600,000 people will be, but we are concerned that it might include people who would still require an overnight carer.

We are also concerned that Schedule 4, paragraph 12, section 5 (b) will mean that informal arrangements with for example parents, who provide overnight care on a regular basis, will not be covered by additional payments.

Recommendations:

- **The regulations should allow for someone with a need for an overnight carer to be entitled to an additional bedroom, even if they do not receive DLA. This will ensure that someone with a genuine need for an overnight carer has this need acknowledged in their housing benefit payment.**
- **It should be clear from the regulations that local authorities have the power to award the additional bedroom to the individual in question, where they are satisfied that a caring arrangement exists between family members.**

2. Additional bedroom for a disabled child

While the regulations now acknowledge that those with a need for an overnight carer should be entitled to an additional bedroom under the LHA and size criteria rules, the same is not true in the case where a disabled child may require a separate bedroom to their sibling in order to reduce for example night disturbances. Regulation 13D(3) of the Housing Benefit Regulations 2006 only allow for one bedroom to be shared between two girls. These regulations are mirrored in the Universal Credit regulations.

¹⁰ Up-rating will be based on the lower of either the 30th percentile of market rents or CPI.

We, the undersigned, believe that the failure to address this is deeply concerning. We are joined in our concern by a recent Court of Appeal judgement in the cases *Burnip v Birmingham City Council* and *Secretary of State for Work and Pensions, Trengrove v Walsall Metropolitan Council* and *Secretary of State for Work and Pensions* and *Gorry v Wiltshire Council*, which ruled that by not acknowledging this need in the housing benefit regulations the Government was in fact contravening Article 14 of the European Convention of Human Rights. The Government is currently appealing this decision in the Supreme Court.

Recommendation:

- **We believe that the decision taken by the courts should be honored by the Government and the judgment reflected in the Universal Credit regulations.**

3. Exclusion of exempt accommodation

We very much welcome the exclusion of exempt supported accommodation from the Universal Benefit calculations. This acknowledges that people living in this type of accommodation require a home tailored to their needs, which may be more expensive than what is available under the size-criteria rules. This will mean that the 40,000¹¹ people estimated to be living in this type of accommodation, which is predominantly provided by non-registered landlords, will not face the possibility of having their benefits capped.

However, we are concerned that general ‘supported accommodation’, which provides around 130,000¹² homes for predominantly people with disabilities and long-term health problems and is normally provided by registered social landlords is not excluded from the calculations under Universal Credit. As housing benefit payments for supported accommodation can exceed what would be covered by the size criteria, there is concern that some of the people living in supported accommodation will have their benefits unfairly restricted.

We are also concerned that the regulations continue to use the now outdated definition of exempt accommodation, reiterating the point that the ‘body’ providing the accommodation, must also provide the claimant with care, support and supervision. Recommendations about what could be done about this have been brought forward in the past.

Furthermore, we are concerned by the fact that the exclusion of exempt accommodation from the Universal Credit calculations is being paid for by reductions in the Discretionary Housing Payment fund. The DHP is continuously being quoted as being the fund which will support vulnerable households likely to lose their home without additional support, and will therefore be stretched to its limit as it is. It was given additional funding of £30 million in order to deal with the fallout from the new under-occupancy rules, only for some of this money to be taken away again to pay for a different vulnerable group.

Recommendations:

- **We believe that the definition of exempt accommodation need to be urgently looked at to ensure that the reality of how exempt accommodation works is reflected in the new regulations.**
- **The exclusion of exempt accommodation from Universal Credit should be financed from other sources than the Discretionary Housing Payment fund.**

¹¹ Michelle Boath, Eleanor Baker and Helen Wilkinson (2010), ‘Exempt and supported accommodation’, DWP
¹² *ibis*

4. Under-occupancy deductions

As mentioned in previous briefings on this issue, we have recorded a large increase of calls to organizations' help lines in relation to housing issues over the last year. A number of these calls relate to the new size criteria in social housing, with many fearing that the new rules will mean that they may lose their home.

We continue to be gravely concerned about the implications of these new rules on disabled people who are deemed to be under-occupying their residence. Unless an individual receives non-resident over night care or lives in an adapted property, they now must choose between a cut in housing benefit or face moving to a smaller property. During parliamentary debates on the Bill, Mencap, for example, argued that people with a learning disability face losing the support networks they have within the area in which they live as well as their home. In addition, those living in adapted homes with an additional bedroom, which is often used for

The Equality Impact Assessment looking into this issue raised the concern that this policy would have a greater negative impact on disabled people than non-disabled people, with 420,000 (63%) of the 660,000 identified being classified as disabled¹³.

Recommendations:

- **Exemptions should be made for people living in adapted homes and those on DLA in this context. In addition, we would like to see one an exemption made, for those in receipt of Employment and Support Allowance.**

5. Benefit cap

We are very concerned that some carers caring for an adult with a disability, and is in receipt of carers' allowance, which means that they are spending at least 35 hours per week caring for the individual, will not be exempt from the benefit cap. This ignores the fact that someone receiving carer's allowance is unlikely to be able to work at the same time, and will be potentially penalised for their caring activity. The Government's own impact assessment shows that around 5,000 people/ families will be affected by the benefit cap as a result of not acknowledging this in the regulations.¹⁴ We are particularly concerned as the family would continue to pay rent for the adult child and therefore raise the level of rent a family may have to claim, putting them at an increased risk being caught out by the benefit cap.

We are extremely alarmed by the fact that families who take on the responsibility for caring for a disabled family member, which is known to save the state large amounts of money, are not recognised for their work. We are worried that this may lead to a carer having to make the decision to not continue caring for their adult relative and instead seek work.

Kassra's story

¹³ Equality Impact Assessment (June 2012) Housing Benefit: Size criteria for people renting in the social rented sector.

¹⁴ Benefit Cap (Housing Benefit) Regulations 2012

Kassra is 20 years old and has autism. He is currently living with his mother, who cares for him 24 hours per day, and his 16 year old brother in a flat in Westminster. The family have lived in the flat for over 25 years.

Kassra's mom recently received a letter from the council informing her that she would have her benefit restricted when the benefit cap is being introduced next year. Although Kassra is exempt from the benefit cap as he receives DLA, his mom, who cares for him full-time and pays for the room he lives in, will not be exempt.

Kassra's mom Jacqueline receives carers allowance, income support and child benefit for her younger son, amounting to about £185 per week. In addition, she receives £399 to cover her rent for herself and her two children. This means that she receives just over £30,000 in benefits per year. Once the benefit cap is introduced, she would have around £5,000 taken from her, making it impossible to stay in the home the family has lived in for over 25 years.

Jacqueline has many times asked the council to house her in social housing to help reduce the housing cost, but she has been told that she is not a priority. She was told that she may receive discretionary housing payment, however, she is very worried that this can be taken away from her at any time and is likely to run out in the future, as it is expected to cover the shortfalls for lots of people.

Jacqueline told us: 'You are exempt from the benefit cap if you care for your spouse who receives DLA. In what way is this different to me caring for my adult son? Without this exemption it would make it very difficult for us to stay together as a family.'

Recommendations:

- **Claimants in receipt of carer's allowance should be exempt from the benefit cap to deal with the outlined anomalies.**

Contact details

For further information on housing:

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Further reading

The Tipping Point: The human and economic costs of cutting disabled people's support (October 2012). The Hardest Hit Coalition
http://thehardesthit.files.wordpress.com/2012/10/the_tipping_point_oct_2012.pdf

'Holes in the safety net: The impact of Universal Credit on disabled people and their families' (October 2012). Baroness Tanni Grey-Thompson, supported by the Children's Society, Citizens Advice and Disability Rights UK.
<http://www.disabilityrightsuk.org/holesinthesafetynet.htm>