

Secondary Legislation Scrutiny Committee
House of Lords
London SW1A 0PW

7 January 2013

Dear Lord Goodlad

Universal credit regulations 2013 were laid before parliament on 10 December. I am writing to the committee regarding the loss of “parent flexibilities” in the new regulations and to outline the negative impact this will have on job seeking single parents under universal credit. Gingerbread takes the view that the loss of the flexibilities will fundamentally undermine the government’s ability to achieve its policy aims of:

- Ensuring that every household of working age has as at least one adult in paid employment
- Reducing child poverty and welfare dependency
- Supporting single parents back into work.

Since 2008, over 400,000 single parents have moved from income support (a benefit with no job seeking requirements) onto jobseeker’s allowance (JSA) in successive waves, depending on the age of their youngest child. Like all JSA claimants single parents must be able to demonstrate that they are actively seeking and available for work.

When this policy was introduced it was explicitly part of the government’s approach to promote sustainable work for single parents, and to do so by ensuring that a comprehensive set of “flexibilities” were clearly set out in regulations. The purpose of the flexibilities is twofold. Firstly, they are enabling; allowing single parents to look for employment that fits in with their caring responsibilities. Secondly, they provide important safeguards against the inappropriate use of sanctions in situations, for example, where single parents may be unable to take up work, or have to leave a job, because of a lack of suitable and affordable childcare.

Despite government assurances during the passage of the Welfare Reform Act 2012, the flexibilities available to job seeking single parents are changing. Only one (out of 12) of the current flexibilities has been migrated into new regulations in its entirety. The other 11 have either not been accounted for at all or have been qualified to narrow their application. For example, in universal credit regulations, single parents will still be able to restrict the number of hours they can work, but only if they can demonstrate there are jobs at those hours

available locally.¹ Even more worryingly, the following flexibilities have no equivalent regulation under universal credit:

- Leaving a job because of a lack of available and affordable childcare
- Refusing a job offer or to follow an instruction from an adviser when there is no affordable or appropriate childcare available
- Allowing a responsible carer up to one week to attend a job interview taking into account childcare arrangements
- Limiting work search requirements when:
 - A child has been excluded from school
 - There is no affordable, appropriate childcare available during the school holidays
 - A responsible carer is subject to a parenting order or contract.

Single parents have the sole responsibility for the care of their children. Without a comprehensive set of flexibilities defined within secondary legislation, single parents will find it harder to move into, and remain in, work. Currently, a fifth of single parents who manage to find a job will move out of employment again within 12 months. The loss of the flexibilities within regulations will make it harder for single parents to find employment that dovetails with their caring responsibilities. Single parents may also face a greater risk of incurring a higher level sanction for non-compliance, but for circumstances beyond their control, such as the local availability of childcare.

Instead of regulations, the government is proposing that the majority of the flexibilities will be documented in guidance. Detailing the flexibilities in guidance rather than secondary legislation does not preserve the original policy intention. As you will be aware, this is because regulation and guidance perform different functions. The purpose of regulation is to implement primary legislation and is legally binding; guidance, by contrast, is a set of internal recommendations or suggestions which do not carry any legal requirements. We take the view that the loss of the vast majority of flexibilities from regulation is a dilution of the original policy aims and represents a significant weakening of the status of the flexibilities.

We do not believe that guidance on its own will provide sufficient steer to advisers when supporting single parent claimants into sustainable employment. An over reliance on guidance undermines the consistency of service delivery and quality standards. This comes at a time when other measures to support single parents into work have also been scrapped; in particular the loss of specialist lone parent advisers at JCP.

DWP's own research does not uncover anything to suggest that the flexibilities are anything other than necessary and appropriate in their current form. However, research has consistently shown that a lack of adviser awareness regarding the flexibilities has resulted in their inconsistent application to single parent's JSA claims. Removing the regulations does not tackle the real issue of poor levels of advice in JCP and the Work Programme. This needs to be addressed through better training for advisers.

¹ There will be an easement provided for in guidance for single parents with children under 13. However, in current regulations all single parents can restrict their working hours even if they have no prospect of finding work at those hours because of local labour market constraints.

As such, we do not believe the government can fulfill its policy objectives of increasing the numbers of single parents in work, reducing child poverty and welfare dependency by removing the parent flexibilities from secondary legislation. We are calling on peers to:

- Insist that universal credit regulations are re-drafted to incorporate the full set of flexibilities, ensuring that single parents have the best chance of finding work that fits around their children's needs and protects their well-being
- At a minimum, prioritise regulations that:
 - Protect single parents from sanctions in circumstances where the lack of affordable and appropriate childcare limits the ability of single parents to take up, or continue in, paid employment
 - Enable all single parents to restrict work availability even if there is a lack of suitable job vacancies locally
- Secure a commitment from the government to monitor the impact of the loss of flexibilities on single parents' ability to adhere successfully to the conditionality regime and to find and remain in work
- Insist that the government draws up and makes publically available plans to:
 - Provide ongoing training and support to JCP advisers on the parent flexibilities
 - Monitor and address cases where single parents have been given poor quality advice or service by JCP and Work Programme advisers
 - Include the knowledge and application of the parent flexibilities in JCP performance management frameworks.

I have enclosed a table comparing the current flexibilities for job seeking single parents and provision in the universal credit regulations. I hope this brief submission is of value to the committee's work. Please don't hesitate to get in touch if you have any questions or would like more information. Please contact my colleague, Philippa Newis, on philippa.newis@gingerbread.org.uk or 020 7428 5415.

Yours sincerely



Caroline Davey

Director of Policy, Advice and Communications, Gingerbread

Comparison table of flexibilities in current regulations and the provision of flexibilities in universal credit draft regulations

Provision for flexibilities in current regulations	Provision for flexibilities in universal credit draft regulations
Regulations that have no comparable universal credit regulation	
<p>Single parents with a dependent child under 13 can limit the hours they work to their child's usual school hours, even if there are no reasonable prospects of finding work.</p>	<p><i>Regulation 88 (2) (b) stipulates that responsible carers with a child under 13 can restrict their work availability to their child's normal school hours. It does not make provision for continuing to limit availability if there are no reasonable prospects of work.</i></p> <p>Failure to comply with a work availability requirement could be sanctioned for three months, six months or three years depending on whether the claimant has been non-compliant on previous occasions.</p>
<p>Single parents with a dependent child aged 13 and over can limit the hours they work according to their caring responsibilities, even if there are no reasonable prospects of finding work.</p>	<p><i>Regulation 88 (2) (a) (i) (ii) stipulates that responsible carers can restrict work availability, but only if they have reasonable prospects of finding work. It does not make provision for continuing to limit availability if there are no reasonable prospects of work.</i></p> <p>Failure to comply with a work availability requirement could be sanctioned for three months, six months or three years depending on whether the claimant has been non-compliant on previous occasions.</p>
<p>Refusing a job offer or to follow an instruction from an advisor when there is no affordable or appropriate childcare available</p>	<p>Failure to comply with a work availability requirement could be sanctioned for three months, six months or three years depending on whether the claimant has been non-compliant on previous occasions.</p>
<p>Leaving a job because of a lack of available and affordable childcare</p>	<p>Failure to comply with a work availability requirement could be sanctioned for three months, six months or three years depending on whether the claimant has been non-compliant on previous occasions.</p>
<p>Allowing up to seven days to attend a job interview to take account of caring</p>	<p>Failure to comply with a work availability requirement could be sanctioned for three</p>

responsibilities	months, six months or three years depending on whether the claimant has been non-compliant on previous occasions.
Limiting work search requirements when a child has been excluded from school	Failure to comply with a work search requirements could attract a medium or higher level sanction.
Limiting work search requirements when there is no affordable, appropriate childcare available during the school holidays	Failure to comply with a work search requirements could attract a medium or higher level sanction.
Limiting work search requirements when a claimant is subject to a parenting order or contract	Failure to comply with a work search requirements could attract a medium or higher level sanction.
Regulations that have been limited in Universal Credit regulations	
Limiting work search and work availability requirements when dealing with a death involving a close friend or family member	Regulation 99 (3) (d) only applies to the death of a claimant's partner or a claimant's child
Limiting work search and work availability requirements when dealing with a serious illness involving a close friend or family member	This may be covered in guidance relating to regulation 99 (5) (b) under temporary circumstances
Limiting work search and work availability requirements when dealing with a domestic emergency involving a close friend or family member	This is covered regulation 99 (5) (b) however timeframes are not stipulated
Regulations that are being matched in Universal Credit	
A single parent can take up to one month to take up paid work and be treated as fulfilling the work availability requirement	Equivalent regulation: 96 (3) (b)