



## Benefits Newsletter January 2018

### 1. Universal Credit

#### Reclaiming Legacy Benefits

From 1<sup>st</sup> January 2018 is no longer possible for new claimants in 'live service' UC areas such as North Staffordshire to make a new claim for Universal Credit. See [AMD /18 Universal Credit: when claims may not be made](#). New claims for UC will start again when the Full Service is introduced again which in Stoke-on-Trent and people in Staffordshire Moorlands who use the Hanley and Longton Jobcentres will be 13<sup>th</sup> June 2018.

In the meantime, people who claimed UC before 1<sup>st</sup> January 2018 will remain on UC unless their claim ends for reasons other than excess earnings; (if their claim ends due to excess earnings then they have to reclaim UC if their income decreases within 6 months). If a UC claimant chooses to end their UC claim they should be able to claim legacy benefits instead; these are income-based Jobseeker's Allowance, income support, income-related ESA Tax Credits and Housing Benefit.

In HB Urgent Bulletin [HB U4/17](#) the DWP advises Local Authorities

"Where a claimant terminates their Universal Credit live service claim by choice they will be able to make a new claim to HB straight away."

Some UC claimants, such as people who would be entitled to the severe disability premium or disabled claimants who are working, may be better off if they end their UC claim and reclaim legacy benefits. There are also some UC claimants, such as people who do not work enough hours to qualify for Tax Credits, who are better-off if they remain on UC. Before advising anyone to make this change you would need to carry out a better-off calculation to make sure a claimant will not lose out if they do make the change. See [www.turn2us.org.uk](#) or [www.entitledto.co.uk](#) for free benefit calculators.

#### Managed Housing Payments to Private Landlords

During a [debate](#) about the impact of Universal Credit on Private Landlords, Caroline Dinenage the Minister of State for Health and Social Care confirmed that it is now possible for managed payments to private landlords under universal credit can be set up without the tenant's consent where there are two months arrears. *'We have simplified and sped up the process for private rented sector managed payment requests, which can now be done by email and on a single form, with no additional information required'*

#### Housing Costs for 18-21 year olds

In April 2017 the DWP ended automatic entitlement to housing costs for claimants aged 18-21 who are living in a full service UC area. The latest [statistics](#) show that 96% of 18-21 year olds claiming UC in full service areas are still receiving housing costs and half of these are exempt because they have children.

## 2. PIP

### High Court Judgment on Mobility Activity 1

On 16<sup>th</sup> March 2017 Mobility Activity 1 planning and following a journey was amended to prevent descriptors 1c, 1d and 1f being used for people who only suffer from psychological distress. This change prevented most people who suffer from agoraphobia and anxiety being able to claim the mobility component of PIP unless they also had a physical or sensory impairment that the descriptor applied to.

On 21<sup>st</sup> December 2017 in [RF v SSWP & Ors \[2017\] EWHC 3375 \(Admin\)](#), the High Court ruled that these amendments to mobility activity 1 - planning and following a journey - are unlawful on the grounds that: -

- they were in breach of Article 14 of the European Convention on Human Rights (ECHR), and were therefore unlawful.
- they were ultra vires Part 4 of the Welfare Reform Act 2012.
- the defendant's failure to consult prior to making the regulations was unlawful.

Mr Justice Mostyn ruled -

'The claim therefore succeeds on all three grounds. I grant the claimant permission to seek judicial review and I quash para 2(4) of the 2017 regulations.' (paragraph 64)

Esther McVey the new Secretary of State for Works and Pensions has made a [statement](#) that they will not be appealing this decision and they will be working with MIND and other stakeholders to reach the 220,000 PIP claimants who are affected by this decision. **Breaking news the DWP is to review all 1.6m PIP claims to ensure claimants who should qualify for the mobility element are receiving this.**  
<http://www.bbc.co.uk/news/uk-42862904>

### PIP Spotlight Review

The [Final Report](#) of the Stoke City Council's Spotlight review on PIP is was considered by Cabinet on 16<sup>th</sup> January 2018 and they also considered the [recommendations](#) for this report to be sent to the Secretary of State for Works and Pensions with a request that the CAB and Disability Solution are informed when the next tranche of DLA claimants are invited to claim PIP and for assistance to be given to Disability Solutions to find alternative funding for assisting people to claim PIP and appeal decisions.

### The Government response to the independent review of PIP

The Government has published its [response](#) to Paul Gray's second independent review of personal independence payment (PIP) assessments.

In its response, the government says that it broadly accepts Mr Gray's recommendations, including that it should -

- Simplify and better co-ordinate communication products to provide a clear explanation of user responsibilities including to make clear that the responsibility to provide further evidence lies primarily with the claimant.
- Ensure that evidence of carers is given sufficient weight in the assessment.
- Explore options for confirming medical history in advance of the assessment should be explored.
- Implement a system to follow up evidence identified after an assessment.
- Undertake further research on the operation of PIP, in particular covering the consistency of outcomes, the effectiveness of award reviews and the effectiveness of the mandatory reconsideration process.

However, the Government says that it does not agree to Mr Gray's recommendation to provide claimants with their assessment report at the same time as they receive their decision letter, The Government only partially agrees with the recommendation to offer audio recording of the assessment by default,

### **3. ESA**

The DWP is contacting around 75,000 claimants who may have been underpaid employment and support allowance (ESA) following conversion from incapacity benefit. In a [written statement](#), Secretary of State for Work and Pensions David Gauke confirmed that during the transfer of claimants to ESA from previous incapacity benefits a number of claimants were not assessed for income-related ESA although they may have had entitlement in addition to contributory ESA due to premiums being included in the income-related benefit.

### **4. Stoke City Council Social Fund**

The Stoke-on-Trent City Council Crisis support and Planned Community Support funds were suspended at the end of November 2017. The Co-operative Working team is now referring people to the Stoke-on-Trent Foodbank, but there is no funding for emergency fuel charges or furniture and white goods. The only information we have about this decision is an article which was in the [Sentinel](#) on 29<sup>th</sup> December.

### **5. Case Law**

#### **PIP Mobility Activity 1**

A 'SatNav' is not an orientation aid unless specially designed or modified to assist the disabled [CPIP/3759/2016](#)

#### **Universal Credit Sanctions**

A Universal Credit claimant had agreed to a claimant commitment which required her to carry out work search activities for 35 hours a week. During a work search review a medium-level sanction was applied to her UC as during one week she had been unable to comply with the 35 hour requirement due to a family crisis. The appeal was heard by Upper Tribunal Judge Wikeley who found that the sanction had been wrongly imposed as the decision maker should have considered Reg 95 (1)(a)(ii) of the Universal Credit Regulations 2013 which states

*95(1) A claimant is to be treated as not having complied with a work search requirement to take all reasonable action for the purpose of obtaining paid work in any week unless -*  
*(a) (ii) the Secretary of State is satisfied that the claimant has taken all reasonable action for the purpose of obtaining paid work despite the number of hours that the claimant spends taking such action being lower than the expected number of hours per week;* [CUC/1808/2017](#)

### **6. Two Child Limit**

CPAG issued a claim for [judicial review](#) in the High Court against the Secretary of State for Work and Pensions (SSWP) to challenge the two child limit, introduced by the Welfare Reform and Work Act 2016. Permission was granted on 17 October 2017 so the case will now go forward to a full hearing on 6 and 7 February 2018.

Grounds of challenge are:

(i) Direct breach of Article 8 (right to private and family life) and Article 12 (right to marry and found a family) given that the policy is intended to influence intimate behaviour and bring about smaller families;

(ii) Discrimination of children with multiple siblings in respect of Article 8 and Article 1, Protocol 1 given that a child with no siblings or only one sibling has their subsistence needs met through the social security system, while a child with 2 or more siblings does not.

## **7. Benefits for victims of domestic violence**

The DWP has published a useful [guide](#) on benefits for victims of domestic violence and abuse which gives details of any special rules relating to victims of domestic violence.

## **8. Social Fund Funeral Expenses**

On 2<sup>nd</sup> April 2018, the [Social Fund Funeral Expenses Amendment Regulations 2018](#) (SI.No.61/2018) come into force which will amend the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 to -

- remove the definition of 'funeral' from the regulations;
- add residents of care establishments who are supported by local authorities to the list of persons who are not taken into account in determining whether a claimant is responsible for funeral costs;
- clarify that costs can be claimed in respect of any new burial plot, irrespective of whether that involves an exclusive right to the plot, and allows for any costs relating to death certification to be awarded; and
- remove the provision allowing for the deduction from funeral payments of contributions received from charitable funds or certain relatives.

In addition, the regulations amend the Social Security (Claims and Payments) Regulations 1987 to

- permit electronic submission of evidence in connection with claims for social fund funeral payments and
- to extend the period in which claims can be made from 3 months to 6 months after the date of a funeral.