



Citizens Advice Scotland response Consultation on Universal Credit (Claims and Payments) (Scotland) Regulations 2017 Scottish Government March 2017

Citizens Advice Scotland (CAS), our 61 member Citizen Advice Bureaux (CAB), the Citizen Advice consumer helpline, and the Extra Help Unit, form Scotland's largest independent advice network. Advice provided by our service is free, independent, confidential, impartial and available to everyone. Our self-help website Advice for Scotland provides information on rights and helps people solve their problems.

In 2015/16 the Citizens Advice network in Scotland helped over 310,000 clients in Scotland alone and dealt with over one million advice issues. With support from the network clients had financial gains of over £120 million and our Scottish self-help website Advice for Scotland received over 4 million unique page views.

Introduction and context of response

Citizens Advice Scotland (CAS) warmly welcomes the opportunity to respond to this consultation. These draft regulations represent the first piece of legislation as part of the social security powers devolved to the Scottish Government under the Scotland Act 2016. The use of the Universal Credit flexibilities has been of considerable interest to CAS, alongside the wider rollout of Universal Credit, which is already a significant impact on many CAB clients.

In 2015/16, citizens advice bureaux in Scotland advised clients on 227,561 new issues related to social security benefits. Of those, 98,699 (43%) related to the six legacy benefits that are due to be replaced by Universal Credit. It is likely that Universal Credit will eventually become the largest single issue that Scotland's CAB Network provides advice on, and in areas where Full Service Universal Credit has already been rolled out, it is quickly beginning to take up a significant proportion of CAB advisers' time.

In 2015, CAS undertook a large survey of CAB clients across Scotland, which included questions about how people currently receiving social security benefits budgeted, if they ran out of money, and if they had the choice how frequently they would like benefit payments to be made to them, with a view to making recommendations for how the flexibilities should be used when powers are devolved. The findings of the report were published as 'Designing a Social Security System for Scotland: Universal Credit Flexibilities'¹ and this response draws upon them.

More widely, the development of Universal Credit and its impact on CAB clients is of considerable interest to CAS. We have presented evidence of issues arising from the

¹ Designing a Social Security System for Scotland: Universal Credit Flexibilities – Citizens Advice Scotland, December 2015 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-universal-credit-flexibilities>

limited Live Service rollout of Universal Credit across Scotland² and continue to monitor the progressive rollout of Full Service Universal Credit.

Q1. Do the draft regulations meet the policy intent of offering a choice to applicants on having their UC payments made twice monthly? [Yes/No]

Yes, the draft regulations meet the policy intent, subject to the points made below.

Regulations 2 (3) and 3 (2) refer to the ability to request that a payment is made twice monthly, or the duty to give them information about the option, not applying to claimants “*where the Secretary of State is arranging, or has arranged, for payments of universal credit to be made twice-monthly, or more frequently than twice-monthly.*” This is taken to mean claimants who already have an equivalent Alternative Payment Arrangement (APA) in place.

It would be helpful to add clarity over whether this is simply to avoid duplication; to protect vulnerable claimants as is the case in the equivalent regulation 4 (4) below; or whether the intention of the regulations is that Scottish claimants who are currently in receipt of an APA should not be permitted a choice over how frequently they receive Universal Credit payments.

If the intention of regulation 2 (3) is to protect vulnerable claimants, then the criteria should be set out in a similar manner to regulation 58 of the 2013 Claims and Payments Regulations³ referred to in regulation 4 (4).

Regulations 2 (4) states that “*Where the Secretary of State refuses a request made...the Secretary of State must advise the Scottish claimant of the reasons for that refusal.*” It is our understanding that the intention of this clause is to act as a ‘failsafe’ in the event that by changing the frequency of a claimant’s payments, major problems would be caused to the DWP’s Universal Credit IT infrastructure or similar event.

However, it could be interpreted that claimants’ requests made under the regulations as drafted can be refused for any reason, as long as that reason is communicated. As the right to have twice-monthly payments is intended to be an entitlement for Scottish claimants, rather than a discretionary system, CAS would recommend the Scottish Government set out for what reasons the Secretary of State can refuse a request for a more frequent payment. This would be helpful in enabling claimants to be given clear advice on their rights in this area.

In addition to the powers made in the regulations, CAS also supports giving claimants the ability to choose to have Universal Credit payments made on a weekly basis, as well as options of twice-monthly and monthly payments and would recommend the Scottish Government consider adding this option at a later date. This is discussed further below.

² Learning from Testing Times: Early Evidence of the Impact of Universal Credit in Scotland’s CAB Network – Citizens Advice Scotland, June 2016 <http://www.cas.org.uk/publications/learning-testing-times>

³ S. I. 2013/380 http://www.legislation.gov.uk/uksi/2013/380/pdfs/uksi_20130380_300916_en.pdf

Q2. Do the draft regulations meet the policy intent of offering a choice to UC applicants on managed payments of rent directly to landlords? [Yes/No]

Yes, the draft regulations meet the policy intent, subject to the points made below.

As detailed in our response to question 1 above, regulation 4 (5) makes an identical statement to regulation 2 (4), referring to the Secretary of State being able to refuse a request without setting out what the reasons for refusal might be. In line with the points made above CAS would recommend the Scottish Government set out for what reasons the Secretary of State can refuse a request for a rent payment be made directly to a landlord.

As detailed in our response to question 1 above, regulation 5 (2) refers to the duty to advise a claimant that they have a choice over who their housing payments are made to does not apply if they already have an APA in place.

In line with the points made above, CAS would recommend that it is clarified whether this is to avoid duplication, or whether claimants with an APA in place should not be allowed to request a change in their housing payment arrangements (for instance if a person whose rent payments were being made directly to their landlords wished to change back to having their housing costs paid as part of their Universal Credit payment).

It may be considered helpful for the meaning of 'landlord' to be defined in the regulations to clarify that it refers to private landlords as well as social landlords.

Future Opportunities

The consultation document refers to further analysis of responses and further discussions with organisations being used to inform further use of the Universal Credit flexibilities. As set out in our response to 'A New Future for Social Security'⁴, CAS would particularly recommend the Scottish Government explore using the flexibilities in the following ways:

To give claimants the choice of being paid weekly, as well as monthly or twice-monthly

As part of a survey of 601 CAB clients⁵, the majority of respondents who claimed a legacy benefit or Universal Credit (55%) would prefer to receive benefit payments weekly, compared with 32% who would prefer fortnightly payments and 13% who would prefer monthly payments.

⁴ Response to Consultation on Social Security in Scotland – Citizens Advice Scotland, October 2016 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-consultation-new-powers>

⁵ Designing a Social Security System for Scotland: Universal Credit Flexibilities – Citizens Advice Scotland, December 2015 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-universal-credit-flexibilities>

Most respondents would prefer to receive their payments according to how they currently budgeted: 73% of weekly budgeters preferring weekly payments, 53% of monthly budgeters preferring monthly payments and 50% of fortnightly budgeters preferring fortnightly payments – although only a few more than the 48% of fortnightly budgeters who would prefer a *weekly* payment. Weekly payments were most likely to be preferred by those who planned day-to day (66%), didn't budget (57%) or didn't know how they planned their money (46%).

Weekly payments were preferred by the largest number of those who said they currently managed their money well (38%) and the majority of those who managed quite well (51%), often ran out and have to borrow money (71%) and those who often ran out and have to get Crisis Grants or go to a food bank (70%).

Given that weekly payments were the most popular choice, with a majority of respondents indicating they would select this given the opportunity extending current Scottish Government plans to include a weekly option should be given serious consideration to fit in with the wishes of claimants, and given the potential to avoid the knock-on impacts of people having to borrow money or rely on Crisis Grants and food banks. CAS would recommend the Scottish Government continue to explore the feasibility of bringing in this option.

To give couples who receive a joint payment the choice of splitting the payment with an individual payment made to each partner.

As part of the CAB client survey referred to above, the majority of respondents who had a partner who also received benefits (51%) would prefer individual payments, with 49% favouring a single household payment. Women were slightly more likely than men to prefer a single payment, with men slightly more likely to prefer individual payments.⁶

Based on those findings CAS would recommend claimants be given the choice of whether they receive an individual or household payment. However, if a default position were required, CAS would prefer automatic payments to individuals. This would help avoid situations of domestic or financial abuse, or if one partner struggles with a drug, alcohol or gambling addiction.

To remove the underoccupancy charge from Universal Credit.

The underoccupancy charge – the so-called 'Bedroom Tax' – caused significant issues for clients when it was introduced in 2013, as previous CAS evidence has shown.⁷

Following the Scottish Government's welcome mitigation funding, affected claimants can get Discretionary Housing Payments (DHP) to cover their full losses, which has been largely successful in mitigating the impact on vulnerable people.

⁶ Ibid.

⁷ Designing a Social Security System for Scotland: Universal Credit Flexibilities – Citizens Advice Scotland, December 2015 <http://www.cas.org.uk/publications/designing-social-security-system-scotland-universal-credit-flexibilities>

However, as DHPs must be regularly re-applied for and are not designed to provide long-term support, a more robust solution would be to remove the underoccupancy charge for all Universal Credit claimants in Scotland. CAS recommends the Scottish Government does this using the flexibilities.

The Scottish Government has raised concerns about the possibility that by not applying the underoccupancy charge, individuals may be subject to the Benefit Cap if the extra amount they received in social security payments pushed them over the threshold for the Cap.⁸

As the report of the Smith Commission stated that “the UK Government’s Benefit Cap will also be adjusted to accommodate any additional benefit payments that the Scottish Parliament provides”⁹, CAS believes it would be consistent with the devolution settlement that the Benefit Cap should not apply in these cases. We would encourage the UK and Scottish Governments to work together to find a technical solution to the issue.

*The Scottish Association of Citizens Advice Bureaux - Citizens Advice Scotland
(Scottish charity SC016637)*

⁸ Scottish Government response to the consultation on Social Security – February 2017
<http://news.gov.scot/speeches-and-briefings/scottish-government-response-to-the-consultation-on-social-security>

⁹ Report of the Smith Commission, para. 56 – November 2014