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**JOINT SUBMISSION BY THE SCOTTISH FEDERATION OF HOUSING ASSOCIATIONS  
AND THE HOUSING SUPPORT ENABLING UNIT TO THE SOCIAL SECURITY ADVISORY  
COMMITTEE CONSULTATION ON THE UNIVERSAL CREDIT (TRANSITIONAL  
PROVISIONS) (MANAGED MIGRATION) AMENDMENT REGULATIONS 2018**

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**August 20<sup>th</sup>, 2018**

## **Consultation on the Universal Credit (Transitional Provisions) (Managed Migration) Amendment Regulations 2018**

### **1. Who we are**

- 1.1.** The SFHA leads, represents and supports Scotland's housing associations and co-operatives. We want to see a thriving housing association and co-operative sector providing sustainable and affordable homes.
- 2.** The HSEU is a partnership initiative between Coalition of Care and Support Providers Scotland (CCPS) and SFHA, funded by the Scottish Government. The HSEU works with providers of housing support and supported housing across the voluntary and independent sectors in Scotland.

### **3. General Comments**

- 3.1.** The draft regulations give the DWP huge flexibility in their application, even to the extent that the migration can be discontinued if the DWP sees fit. This wide discretion is welcome at one level – conferring the DWP with the ability to respond to circumstances; used unwisely, however, this flexibility would introduce a huge uncertainty, putting stakeholders such as housing associations and care and support providers working with claimants at a disadvantage when planning the support they can give.
- 3.2.** Obliging claimants to go through a reverification process is gratuitous and wasteful of the DWP's own resources. Would it not be more expedient to accept evidence already gathered, scan in the existing records and work from that basis? The DWP will already have proof of identity, residence and personal information – why create such a duplication of work for so many? This risks putting further pressure on GPs and other health care professionals to produce evidence for individuals which could incur charges. It also has the potential to cause claims to fail due to the inability of the claimant to meet the strict time limits for the provision of evidence. This is most likely to impact on vulnerable claimants who require medical evidence to support their applications due to the time medical professionals can take to provide this.

- 3.3.** The managed migration, including as it will the most vulnerable, relies on a communication process that is not sufficiently comprehensive. Notification letters are heavy handed, elicit a poor response and add to the anxiety and stress many will experience. It would be much better if the DWP could work with stakeholders to use a variety of communication methods to engage with the most vulnerable not only to help them make the transition to Universal Credit but also to maintain their claim.
- 3.4.** Although it is stated that there will be alternatives to the digital process of application, there is no indication of the resources available to support alternative methods, nor how claimants will be able to access these resources. Indeed, in a recent report of whistleblowers in DWP Service Centres, it is alleged that, claimants are discouraged by staff from phoning in to resolve problems or to book a home visit and instead are actively persuaded to go online, using a technique called “deflection”, even when callers insist they are unable to access or use the internet.<sup>1</sup>
- 3.5.** The DWP needs to accept that those who have been on long term ESA, who are going to take up a significant proportion of the managed migration, will need a lot of help. The current provision of Universal Support Delivered Locally is inadequate to meet needs. The DWP is aware of this and has engaged stakeholders to elicit their views, but as yet there are no firm proposals; once there are there will need to be time allowed for their implementation – it would be very hazardous to proceed to migrate the vulnerable without adequate support arrangements in place, something already highlighted in a Citizens Advice (England and Wales) report<sup>2</sup>.
- 3.6.** There needs to be transparent process map to verify that procedures have been adhered to, so that all stakeholders have a clear understanding of what is going on. The greater the level of transparency, the better the chance of the process running smoothly.

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<sup>1</sup> <https://www.theguardian.com/society/2018/jul/22/universal-credit-it-system-broken-service-centre-whistleblowers-say>

<sup>2</sup>

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Making%20a%20Universal%20Credit%20claim%202018%20-%20final.pdf>

**3.7.** Many of the more vulnerable claimants that will be captured in the managed migration will have appointees. Currently an appointee has to set up a separate email address for each claimant that they support. This is not sustainable where an appointee is responsible for several claimants. Similarly, will housing associations and care/support providers have the opportunity to alert the DWP in advance of a tenant's vulnerabilities and will the DWP give advance notice to the association that a vulnerable tenant is to be asked to migrate – this should be practicable if housing associations have access to a suitably developed landlord portal.

**3.8.** The current DWP guidance to stakeholders on Alternative Payment Arrangements lacks an explanatory note on Scottish UC choices. It would be useful if the guidance could be revised to reflect the options available in Scotland.

**3.9.** A long standing concern of the SFHA, the HSEU and Scottish housing associations that provide adapted housing is the difference between housing benefit and Universal Credit with regard to the eligibility of service charges for adaptations that enable disabled persons to live independently. Without such adaptations individuals would either have to live in some form of institutional care or in hospital – neither of which would be satisfactory either in terms of cost to the public purse or in terms of the health, well-being and dignity of the individuals. The following are examples of monthly charges (rounded to the nearest £) that a disabled person may receive help from housing benefit, but does not receive help from Universal Credit:

- Clos-o-mat Toilet: £13
- Auto Door: £24
- Specialist Bath: £18
- Hoist: £22
- Window Opener: £4

If an individual required all the above adaptations to make their home habitable, they will face a shortfall of £81 per month when they transfer to Universal Credit. If nothing else, it would be appreciated if there was clarification on how individuals are expected to meet these costs if no longer getting support from housing benefit.

#### 4. Comments on the Explanatory Memorandum

4.1. The following comments relate to specific paragraphs in the explanatory memorandum for the Social Security Advisory Committee.

4.2. **Paragraph 11:** Whilst welcoming the three month leeway for awarding transitional element to cover variations, there is still concern that too many in-work claimants are losing out purely through the interaction of frequency of their wages and the day they are paid with their Universal Credit payment date. This has been highlighted in detail by the CPAG report *Rough Justice*<sup>3</sup>. The SFHA is also concerned that if a claimant in Full Service has two payments in an assessment period that negates their claim for Universal Credit, their claim is closed, requiring a reactivation of the claim the following month. This contrasts with the Live Service, where a claim was kept open for up to six months.

4.3. **Paragraph 24:** Limiting the time frame for backdating a claim to one month is too restrictive, particularly if the DWP is expected to migrate up to 60,000 claimants a month. It seem inequitable that claimants have such a restricted time frame when it is in their interests but the DWP has an infinite timeframe when it is in its interest. The prime consideration should be to get the migration right and ensure that claimants receive their due entitlement.

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<sup>3</sup> <http://www.cpag.org.uk/sites/default/files/CPAG-2018-Rough-justice.pdf>

**4.4. Paragraphs 26 and 27:** The use of the phrase “to warm them up” reflects a level of disrespect for claimants. The communication plan is too limited in that the direction of communication is all one way, with no provision for acknowledgement and feedback to allow support to be directed. There is no reference to working with stakeholders and partners to help claimants prepare for the move to UC – so how will the DWP identify those that need additional support? Although there is reference to the development of communications in Paragraphs 138 to 143, there is a lack of detail or a strategy to judge whether the extent of communication is adequate.

**4.5. Paragraph 29:** There needs to be further detail on how the timescale for making a claim can be extended. Again, if tens of thousands of claims are supposed to be migrated per month, how can the DWP ensure an adequate level and consistency of service?

**4.6. Paragraph 32:** In order to give stakeholders confidence and the necessary time to prepare their support, there will need to be transparency in the publicising and adequate notice of migrations. In order to increase the chances of a smooth migration a wide range of stakeholders and partners must be kept fully informed and consulted. It needs to be recognised that not everyone who will be affected will have a social landlord and/or support provider to help prepare them for the changes.

**4.7. Paragraph 33:** There is a concern that various vulnerable groups are being lumped together, with insufficient information how identification of the various groups will take place.

**4.8. Paragraphs 34-40 (extension of the deadline day):** We would urge the DWP to invest in involving stakeholders to get the message across, in much the same way as the Partnership fund was used to promote take-up of Pension Credit. The DWP also needs to be conscious of the anxiety that will be caused to vulnerable claimants and the detrimental effect on their mental health if their migration proves not to be straightforward. The process needs to be kept under constant review and changes made expeditiously – or the process paused if necessary.

- 4.9. Paragraph 42:** There needs to be a greater degree of clarity and clear documentation about how agents will check for evidence of complex needs. How will assessments be conducted? What right of appeal will there be? The decisions of agents need to be justifiable and accountable.
- 4.10. Paragraph 43:** Definitions of illness and disability are needed. With respect to the inability of making a claim electronically because an official computer system was inoperative, there also has to be an allowance if the claimant was unable to make a claim electronically, either because there was no ready method of communication or there was but it was not functioning; as alluded to earlier, there is concern that claimants are being deflected from making claims other than online even when an alternative method would be more appropriate.
- 4.11. Paragraph 44:** This seems unduly punitive. If a claimant was entitled to certain benefits prior to being moved to UC that would have in other circumstances a qualification for transitional protection. Due allowance must be made for a claimant's vulnerability and there should not be an assumption that a claimant should be fully conversant with the migration process and that errors could be made in good faith.
- 4.12. Paragraph 45:** Consideration should be given to the timing of the migration day to ensure that the claimant is left for the minimum time without money. Under UC, the first payment is made 5 weeks after the date of claim. If their legacy benefit was stopped midway through its assessment period, claimants may find it even more difficult to cope.
- 4.13. Paragraph 51:** It would be unjust if a claimant were to lose their transitional protection if they were reliant on a third party for necessary information that had not arrived within the prescribed timescale. Again, we would question the need to demand this evidence if the evidence previously presented for their existing legacy claim is still current. Clarification is also needed as to why prisoners should be excluded from transitional protection.
- 4.14. Paragraphs 54/79/111:** These indicate that transitional protection will cease when a couple split up, which will include, if they were entitled, their disability premiums. This seems unduly harsh especially given that the claimants may well be in a vulnerable state as a consequence of break up.

- 4.15. Paragraph 64:** It should be noted that those who were subject to the benefit cap under legacy benefits will face a further drop in benefit when they are migrated to UC. The CPAG report previously referred to highlighted the additional challenges facing benefit capped households due to the vagaries of payment dates. A more intensive level of support and advice will be needed for this group.
- 4.16. Paragraphs 84/85:** The need to include these paragraphs reflects a sense of chaos that could infect the whole process. Whilst the ability of the DWP to be flexible in the face of unintended consequences is to be welcomed, this is not a substitute for careful preparation and full involvement and commitment to collaborating with stakeholders and partners.
- 4.17. Paragraph 97:** This does not reflect the full range of recipients of Severe Disability Premium. There are couples living together, each of whom receives SDP in their own right. Normally, transitional protection only continues until there is a change of circumstances; in the case of couples both of whom are in receipt of SDP, the death of one should not trigger the removal of SDP to the other.
- 4.18. Paragraph 105 (b):** As above, this exclusion could be in certain circumstances discriminatory, if the test is only if they would have had changes that would have been *likely* to affect SDP entitlement. It is also unsatisfactory not to have a set date when this one off check will take place.
- 4.19. Paragraph 108:** This suggests that those who have already migrated naturally will be compensated for the loss of SDP but not the Disability or Enhanced Disability Premiums. It would seem unfair if transitional protection was restricted to SDP only.
- 4.20. Paragraph 113:** It is inequitable if a claimant was naturally migrated to UC, who subsequently had a change of circumstance prior to the one-off check stage, will receive nothing; There should be an additional payment to cover the period between their natural migration and subsequent change of circumstance.

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