New claims for universal credit to be introduced in one district per region from October 2013

Universal credit is to be introduced in one district per region from October 2013, according to the DWP.

In the June 2012 edition of its Touchbase e-zine, the DWP confirms that a pathfinder area in the North West of England will trial the implementation of universal credit from April 2013.

The DWP goes on to say that, working with HMRC and local authorities, it has agreed that new claims for universal credit will be introduced in one district per region from October 2013 and then rolled out to the remaining districts, with all new claims for those in and out of work to be for the new benefit by mid 2014.

In addition, the DWP confirms that the migration of existing claimants to universal credit will take place between 2013 and 2017 and that further details of the migration will be announced in the summer.

The DWP has also announced the sites that will deliver the telephony and processing services for the first phases of universal credit from October 2013 –

- DWP Benefit Processing Centres – Birkenhead, Bolton, Canterbury, Cosham, Glasgow, Sunderland, Wolverhampton and Wrexham;
- DWP Telephony Contact Centres – Bangor, Bootle, Derby, Dundee, Grimsby, Makerfield, Middlesbrough and Paisley;
- HMRC sites – Blackpool (Ryscar House) and Merry Hill Contact Centre.


Court of Appeal holds that LHA rules discriminate against people with disabilities

The Court of Appeal has held that local housing allowance (LHA) rules discriminate against people with disabilities.

In Burnip v Birmingham City Council & Anor [2012] EWCA Civ 629 (15 May 2012), the Court of Appeal considered three cases where the claimant argued that the failure of the relevant legislation to allow for LHA to cover an extra bedroom, required due to the needs of a disabled person, was discriminatory under Article 14 of the European Convention on Human Rights (ECHR).

Allowing the claimants’ appeals, Lord Justice Maurice Kay held that the claimants had established a ‘prima facie’ case of discrimination for the purposes of Article 14 of the ECHR, and that the Secretary of State had failed to establish objective and reasonable justification for the discriminatory effect of the statutory criteria.

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Increased benefit fraud penalty of up to £2,000

An increased financial penalty for benefit fraud of up to £2,000 came into force on 8 May 2012.

The increased penalty, provided for by section 114 of the Welfare Reform Act 2012, will be used as an alternative to prosecution for ‘low level’ fraud and will be set at a minimum of £350, rising to 50% of the benefit overpayment, whichever is the greater, up to a maximum of £2,000.

Welcoming the increased penalty, Minister for Welfare Reform Lord Freud said –

‘We always push for the strongest possible punishment for benefit thieves who are stealing money from the people who need it the most. When it makes financial sense to do so, we will prosecute through the courts but where very little or no money has been stolen we will fine people as well as recover any overpayment, hitting fraudsters where it hurts the most.

We are getting tougher and no one will escape justice with a mere slap on the wrists.’

NB – prior to the increase, the minimum financial penalty had been £15, rising to a maximum of £600.
GPs vote for WCA to end 'with immediate effect' 

Ps from across the country have voted for the work capability assessment (WCA) to end 'with immediate effect'.

At the British Medical Association’s Local Medical Committee Conference 2012, which took place in Liverpool in May 2012, GPs voted unanimously in favour of a motion put forward by doctors in Hampshire and the Isle of Wight and in Scotland –

'That conference, in respect of work capability assessments (WCA) as performed by ATOS Healthcare, believes that the –

- inadequate computer based assessments that are used have little regard to the nature or complexity of the needs of long term sick and disabled persons
- WCA should end with immediate effect and be replaced with a rigorous and safe system that does not cause avoidable harm to some of the weakest and most vulnerable in society.'

Welcoming the outcome of the vote, Dr Dean Marshall, Chairman of the British Medical Association’s Scottish General Practitioners Committee, said –

'These assessments can have a devastating effect on our patients’ mental and physical health. There has been a dramatic increase in the numbers being assessed as fit to work and a massive number of appeals have been made against these decisions. The frequency of successful appeals seems to us to demonstrate the mechanism’s shortcomings. Our patients are very concerned and confused about these assessments. Many are in fear of how they will cope with the removal of, or cuts to, their benefits. Evidence appears to suggest that people with serious health conditions are sometimes being declared fit for work.'

Claimants with drug or alcohol dependency to face benefit sanctions

In a speech at an event in parliament organised by Alcoholics Anonymous in May 2012, Secretary of State for Work and Pensions Iain Duncan Smith warned that, under universal credit, claimants with a drug or alcohol dependency will be subject to benefit sanctions if they refuse treatment for their addiction, adding that –

'The outdated benefits system fails to get people off drugs and put their lives on track. We have started changing how addicts are supported, but we must go further to actively take on the devastation that drugs and alcohol can cause. Under universal credit we want to do more to encourage and support claimants into rehabilitation for addiction and starting them on the road to recovery and eventually work. Getting people into work and encouraging independence is our ultimate goal. Universal credit will put people on a journey towards a sustainable recovery so they are better placed to look for work in future and we will be outlining our plans shortly.'

However, in response, Chief Executive of drug charity DrugScope Martin Barnes said –

'There is no evidence that using the stick of benefit sanctions will help people to positively engage with treatment and support their recovery. Indeed, the risk is that people will disengage from support services, potentially worsening their dependency and the impacts on their families and communities. Linking benefit to a requirement to undergo treatment would set a dangerous precedent for people with physical or mental health problems and would be against the principles for healthcare set out in the NHS Constitution.'

NB – the measures will form part of a new ‘claimant commitment’, being introduced next year alongside universal credit. The commitment will record the responsibilities a claimant has to meet, including relevant work-related requirements, to be entitled to benefit.

Mandatory work activity to be expanded

The government has announced the expansion of the mandatory work activity scheme.

In a written statement to parliament on 12 June 2012, Minister for Employment Chris Grayling said that the government has decided to expand the mandatory work activity scheme with the expansion enabling Jobcentre Plus to make between 60,000 and 70,000 referrals to mandatory work activity each year, at a cost of an additional £5m per annum.

Mr Grayling said that the decision had been taken as the result of careful consideration of the positive impacts demonstrated within new DWP research, published on the same day.

However, the new DWP statistics, contained in the ad-hoc analysis Early impacts of Mandatory Work Activity show that – whilst in the first 3 months mandatory work activity decreased the likelihood of claiming benefit by up to 5 percentage points – in the subsequent period the impact decreased, returning to zero by 21 weeks following the referral.

The statistics also show that mandatory work activity had no impact on employment outcomes, although the DWP cautions that employment impacts are less robust than benefit impacts because the HMRC tax data does not capture all employment outcomes, and cannot always be matched to benefit records.

Mr Grayling’s statement on the expansion of mandatory work activity is available from Hansard and the DWP ad-hoc analysis, Early impacts of Mandatory Work Activity, is available from the DWP website.
DLA reform to cost £710m but reduce benefit expenditure by £2.24bn

Disability living allowance (DLA) reform will cost £710m but will reduce benefit expenditure by £2.24bn, according to the DWP.

In an impact assessment, Disability Living Allowance Reform, published in May 2012, the DWP says that the policy objectives for the replacement of DLA by the personal independence payment (PIP), from April 2013 onwards, are –

• to create a new, more active and enabling benefit that focuses support on those disabled people who face the greatest barriers to leading full, active and independent lives;
• to ensure that expenditure is sustainable; and
• to assess more accurately, objectively and transparently those people who would benefit most from additional support.

The DWP goes on to say that its ‘best estimate’ of the implementation costs arising from the introduction of PIP is currently £710m, and that these costs include provision for making changes to IT systems, training DWP staff, the administrative effort required to manage the transition of existing recipients to the new system, and the cost of trained independent assessors undertaking the assessment.

However, the DWP says that there will be net costs to individuals from reductions in benefit expenditure – as a result of ‘focusing support on those with greatest needs’ – of £2.24bn (or 20% of forecast working age DLA expenditure) by 2015/2016, with an equivalent saving to the exchequer.

In addition, the DWP confirms that, by 2015/2016, the estimated caseload for PIP is around 1.7m, as compared to a previously forecast estimate of DLA working age caseload of around 2.2m.


DWP missed opportunities to detect potential problems at A4e, says NAO

The DWP missed opportunities to detect potential problems at A4e, according to the National Audit Office (NAO).

In a report, Preventing fraud in contracted employment programmes, published in May 2012, the NAO considers arrangements at the DWP for detecting and preventing fraud and improper practices in employment programmes.

The report concludes that levels of reported fraud in employment programmes are low and that the introduction of the Work Programme in June 2011 largely addressed the main weaknesses in previous programmes which had led to a risk that fraud by providers was being understated.

However, the NAO says that some risks still remain because not every control applies to every programme, particularly to smaller ones.

In particular, the report finds that the DWP’s past assessment of the risk of fraud at A4e missed vital evidence –

‘The Department does not currently obtain all relevant copies of providers’ internal audit reports and did not receive the paper sent to the Chair of the Public Accounts Committee. This included evidence of nine possible cases of fraud and seven of improper practice by A4e’s staff and highlighted a possible systematic failure to mitigate the risk of fraudulent and irregular activity at both an office and regional level.’

NB – on 15 May 2012, Minister for Employment Chris Grayling announced that the DWP had terminated its Mandatory Work Activity contract with A4e for the South East because of ‘significant weaknesses’ in the company’s internal controls.


Face to face and telephone support to help claimants go online, says Lord Freud

Face to face and telephone support under universal credit will be geared towards helping claimants use the online channel, according to Minister for Welfare Reform Lord Freud.

In a speech in May 2012 to the National Digital Conference, Lord Freud told delegates that universal credit is designed to be ‘digital by default’ and that, while there will still be face to face and telephone support in place, that support will be geared towards helping people to use the online channel.

Lord Freud went on to say –

‘I am determined to make the most of the opportunity – and the financial incentive – presented by universal credit to identify claimants who lack computer skills and to help them to become “digitally independent”.

This is about work as much as it’s about welfare. As you know, employers expect digital skills for almost all jobs. It also opens up opportunities for managing money better via online banking or budgeting support. Or accessing money saving services like internet-rates and paper-less billing.

DWP cannot do this alone. We’re still looking at options – but there are a number of external organisations that are well placed to help people to make a universal credit claim online and to stay online.

The more I think about it the more I realise that digital and financial inclusion go hand in hand. Both are at the heart of universal credit.’

Lord Freud’s speech to the National Digital Conference is available from www.dwp.gov.uk/newsroom/ministers-speeches/2012/30a-05-12.shtml
The DWP has issued new guidance to local authority housing benefit departments in relation to the ending of existing income support claims for lone parents with a youngest child aged five or over.

In HB/CTB Circular G4/2012, the DWP highlights that, from 21 May 2012, the age of the youngest child will reduce to age five for new and repeat claims of income support. In addition, the DWP says that this change will be introduced in two stages for existing lone parents –

- from May 2012 for existing lone parent claimants with a youngest child aged six, or who turns six; and
- from August 2012 for existing lone parent claimants with a youngest child age five, or who turns five.


Lord Justice Maurice Kay also noted that the law has been changed from 1 April 2011 so as to allow LHA for an extra room where an overnight carer is required, although this does not apply in cases where the extra bedroom is required due to the needs of a disabled child or children.

Welcoming the judgment, John Wadham, General Counsel of the Equality and Human Rights Commission, which intervened on behalf of Mr Burnip, said –

‘Our intervention in the Burnip case has helped to ensure that all disabled people claiming housing benefit do not face indirect discrimination. If it was not for the Human Rights Act, disabled people may be more likely fall into rent arrears because they cannot afford the home that meets their needs and then face eviction.’

In addition, Alison Garnham, Chief Executive of the Child Poverty Action Group, which represented another of the claimants, (Mr Gorry who had two disabled children), said –

‘We welcome the fact that the court has recognised the unfairness of the housing benefit rules. This is a tremendous victory for the rights of disabled people and their children. In this case it was clearly not possible for two children, one with Spina Bifida and another with Down Syndrome, to share a single bedroom with such different demands and needs. It’s absolutely right that the housing benefit system should respond to challenges like this, and it is clear discrimination if it does not.’


NB – the DWP has applied for leave to appeal against the Court of Appeal’s decision.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 received Royal Assent on 1 May 2012.

Despite suffering eight defeats in the House of Lords as the proposed legislation passed through Parliament, the new Act will, amongst other measures, provide for the removal of a number of areas of social welfare law, including welfare benefits, from the scope of legal aid.

NB – during the passage of the Act, legal aid was however retained for welfare benefit appeals to the upper tribunal and higher courts, and to the first-tier tribunal on ‘points of law’.

As the Act completed its progress through Parliament, Justice for All – a coalition of almost 4,000 charities, legal and advice agencies, politicians, trade unions, community groups and members of the public – said –

‘A year and a half since the proposals first emerged, and after passionate and dedicated campaigning by Justice for All members and many others, the Bill is certainly better than when it began.

Our very warmest thanks for all your efforts in writing to your MPs and Peers, organising rallies and marches and stalls, signing petitions and attending events. The campaign against this Bill has driven by your expertise and your passion.

But it will still leave hundreds of thousands of people without access to legal aid from next April, and advice agencies and legal aid solicitors battling to keep supporting people who need advice and representation.’

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is available from legislation.gov.uk.