

REPORT TO: POLICY AND RESOURCES COMMITTEE – 24 APRIL 2017
REPORT ON: SCOTTISH GOVERNMENT CONSULTATION ON UNIVERSAL CREDIT FLEXIBILITIES
REPORT BY: EXECUTIVE DIRECTOR OF CORPORATE SERVICES
REPORT NO: 154-2017

1.0 PURPOSE OF REPORT

This report contains the Council's response to the Scottish Government's consultation on the draft regulations to implement the two priority Universal Credit (UC) flexibilities: managed payments of rent to landlords; and more frequent payments of UC.

2.0 RECOMMENDATIONS

That the Committee agrees to the content of the consultation document as outlined in Appendix 1 which will then be submitted to the Scottish Government and notes the impact of Universal Credit (Full Service) on rent arrears on another Scottish local authority

Notes the Scottish Governments intention to introduce Experience Panels from summer 2017.

3.0 FINANCIAL IMPLICATIONS

None.

4.0 MAIN TEXT

- 4.1 Universal Credit (UC) remains a UK reserved benefit, and the Department for Work and Pensions retain responsibility for its delivery. However, the Scottish Government have powers over some payment arrangements.
- 4.2 Universal Credit is a single payment for working age people introduced by the UK Government. UC aims to improve work incentives, simplify the benefits systems and reduce fraud and error.
- 4.3 The main differences between UC and other current welfare benefits are: UC is available to people who are in work and on a low income, as well as those who are out of work; most people will apply online and manage their claim through an online account; claimants will usually receive just one monthly payment per household, paid into a bank account; and support with housing costs (rent) will go directly to the claimant in most cases as part of their monthly payment.
- 4.4 Scottish Flexibilities
- 4.5 In January 2017 the Scottish Government announced Universal Credit payments in Scotland will become more frequent and adaptable. The use of new flexibilities around Universal Credit payments marks the first use of new social security powers under the Scotland Act 2016.
- 4.6 The flexibilities will enable tenants the choice of having the housing element of UC payments made directly to both social and private landlords. In addition to this, new applicants who live in full service areas (Dundee from November 2017) will be given the option of twice monthly payments in arrears instead of the DWP's current monthly in arrears.
- 4.7 The Scottish Government launched a consultation in January 2017 setting out the necessary regulations to implement these flexibilities.
- 4.8 The consultation centres around two flexibilities designed to make it easier for people to manage their Universal Credit payments:-

- Having the option of being paid UC twice a month rather than monthly; and
- Having the option of any UC housing element being paid direct to landlords.

It is the Scottish Government's intention to provide individuals with more choice and control over UC payments.

4.9 Option of More Frequent Payments

UC will be assessed on a monthly basis but in Scotland applicants will have the **option** of receiving payments twice monthly in order to help with their household budgeting.

4.10 Managed Payment of Housing Costs Element to Landlords

The Scottish Government is intending to introduce this flexibility to safeguard tenancies and prevent build-up of rent arrears. The intention is that tenants will have the option of having their housing element being paid directly to the landlord, broadly replicating the situation now with housing benefit.

4.11 Highland Council who have been operating under Universal Credit Full Service since 29 June 2016 have recently reported that the level of rent arrears continue to rise as the number of households claiming Universal Credit increases. They have also reported that the rent arrears per household for Full Service Universal Credit cases are greater than those in Live Service UC. The average rent arrears per household for those tenants living in mainstream tenancies and receiving UC full service are £962, compared with £627 under UC Live Service.

4.12 Experience Panels

The Scottish Government want to work with individuals who have recent experience of benefits paid by the DWP, so that they can design a new social security system with and for the people of Scotland.

4.13 Individuals throughout Scotland are being invited to join Experience Panels share their experiences and to help build the new social security system in Scotland.

The Social Security Experience Panels will start in summer 2017 and will last for four years.

5.0 **POLICY IMPLICATIONS**

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

6.0 **CONSULTATIONS**

The Council Management team were consulted in the preparation of this report.

7.0 **BACKGROUND PAPERS**

None.

Consultation on Universal Credit (Claims and Payments) (Scotland) Regulations 2017

January 2017

MINISTERIAL FOREWORD



I am pleased to introduce this consultation on the Universal Credit (Claims and Payments) (Scotland) Regulations following the devolution of powers to make such regulations by the Scotland Act 2016.

The Scottish Government is committed to ensuring that the new powers provided for in the Act are used to give Scottish applicants more choice and control over their Universal Credit payments. Universal Credit is still reserved to the UK Government but our priority will be to use the flexibilities available to us to make sure that its delivery will be better suited to meet the needs of the people of Scotland.

Managed payments of rent to landlords, and more frequent payments of Universal Credit have been two issues that stakeholders have repeatedly raised with us and we want to let people claiming Universal Credit have the option to choose these if they so wish. Work with DWP to deliver the flexibilities is progressing. We need to also progress the legislation that will be required. It's important that we gather your views on the draft regulations and whether they are fit for purpose. You can help us do this by responding to this consultation.

As many of you may recall, the recent social security consultation included a question on extending managed payment of rent to private sector tenants. Early indications from the consultation responses, and previous feedback from relevant organisations, indicate that offering the same choice to private sector tenants is the favoured approach and also the fairest one. These regulations have therefore been drafted to cover both the private and social rented sectors.

Getting the views of anyone with an interest in Universal Credit is vital to us, so I'm encouraging as many people as possible to contribute. I look forward to considering your responses.

A handwritten signature in black ink, appearing to read 'Jeane Freeman', written in a cursive style.

JEANE FREEMAN
MINISTER FOR SOCIAL SECURITY

BACKGROUND

Universal Credit (UC) is a single payment for working age people introduced by the UK Government. UC aims to improve work incentives, simplify the benefit system and reduce fraud and error. UC remains reserved to the UK Government, however the Scottish Government has some administrative powers to change payment arrangements for UC.

The main differences between UC and other current welfare benefits are: UC is available to people who are in work and on a low income, as well as to those who are out of work; most people will apply online and manage their claim through an online account; claimants will usually receive just one monthly payment per household, paid into a bank account; and support with housing costs (rent) will go directly to the claimant in most cases as part of their monthly payment.

The following link provides more information on Universal Credit:

<https://www.gov.uk/guidance/universal-credit-toolkit-for-partner-organisations>

The Scottish Flexibilities

The flexibilities are being progressed to make it easier for people to manage their UC payments.

The draft regulations attached at the end of this paper cover two flexibilities:

- Having the option of being paid UC twice a month rather than monthly; and
- Having the option of any UC housing element being paid direct to landlords.

These changes are intended to provide more choice and control over UC payments.

Neither option will affect the overall amount of UC that is payable and both will be delivered by the Department for Work and Pensions (DWP) as part of that Department's overall responsibility for delivering UC.

These changes will also not replace the DWP system for Alternative Payment Arrangements which will continue to operate for those who fall under the current criteria of requiring this (e.g. as a result of a vulnerability or rent arrears).

Option of more frequent payments

UC will be assessed on a monthly basis but in Scotland applicants will have the **option** of receiving payments twice monthly in order to help with their household budgeting.

Managed Payment of Housing Costs Element to landlords

The Scottish Government is intending to introduce this flexibility to safeguard tenancies and prevent build-up of rent arrears. The intention is that tenants will have

the **option** of having their housing element being paid directly to the landlord, broadly replicating the situation now with housing benefit.

Future Opportunities

Analysis of the responses to the social security consultation exercise held during 2016 and discussions with individuals and relevant organisations will shape what other UC flexibilities the Scottish Government may decide to progress at a later date.

ABOUT THIS CONSULTATION

The purpose of this consultation is to ask if the Universal Credit (Claims and Payments) (Scotland) Regulations 2016 are fit for purpose, and whether there are any unintended consequences, in relation to the flexibilities that the Scottish Government is proposing to introduce.

QUESTIONS

1) Do the draft regulations meet the policy intent of offering a choice to applicants on having their UC payments made twice monthly?

Yes

No

Comments

Dundee City Council support the policy intention to offer choice to applicants to have their UC payments made twice monthly. It is important for applicants to know that they have a choice in the frequency of their UC payments. This may help households address different financial situations which may arise from time to time. This flexibility will allow applicants to manage their income and potentially avoid falling into arrears and using other means to raise income

2) Do the draft regulations meet the policy intent of offering a choice to UC applicants on managed payments of rent direct to landlords?

Yes

No

Comments

The present housing element of Universal Credit creates unnecessary problems for claimants and increases rent arrears levels across all housing sectors. Private landlords will be less likely to rent to benefit claimants and therefore there needs to be a clear ability for rent to be payable direct to the landlord where the tenant agrees

2017 No.

SOCIAL SECURITY

**The Universal Credit (Claims and Payments) (Scotland) Regulations
2017**

Made - - - - - *[April] 2017*

Laid before the Scottish Parliament *[April] 2017*

Coming into force in accordance with regulation 1.

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 5(1)(i) and (p) and section 189(4)(a), (5) and (6) of the Social Security Administration Act 1992(1) and all other powers enabling them to do so.

In accordance with sections 29(4) and 30(3) of the Scotland Act 2016, they have consulted the Secretary of State.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Universal Credit (Claims and Payments) (Scotland) Regulations 2017 and come into force on [xxx June] 2017.

(2) In these Regulations—

“the 2013 Claims and Payments Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(1);

“Scottish claimant” means a person (and any one of joint claimants) applying for, or in receipt of, universal credit who lives in Scotland.

Scottish claimant to be able to request twice-monthly payments

2.—(1) Despite regulation 47(1) of the 2013 Claims and Payments Regulations (universal credit generally to be paid monthly in arrears), a Scottish claimant may request at any time to receive future payments of universal credit twice-monthly in arrears, where that is more frequent than the payments that would otherwise be made.

(2) A Scottish claimant who has made the request referred to in paragraph (1) may at any time—

- (a) request that the Secretary of State cancel it, or
- (b) make a further such request.

(3) Nothing in paragraph (1) or (2) restricts the ability of the Secretary of State to arrange for payments of universal credit to be made twice-monthly, or more or less frequently than twice-monthly, in any case or class of case.

(1) S.I. 2013/380.

(4) Where the Secretary of State refuses a request made under paragraph (1) or (2), the Secretary of State must advise the Scottish claimant of the reasons for that refusal.

Scottish claimants to be advised that they can request twice-monthly payments

3.—(1) Every Scottish claimant must be advised that he or she can request that universal credit be paid twice-monthly in arrears and be given information about the implications of such a choice.

(2) Paragraph (1) does not apply 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.

Scottish claimant to be able to request direct payment to a landlord

4.—(1) Despite regulation 60 (deductions which may be made from benefit and paid to third parties) of the 2013 Claims and Payments Regulations, a Scottish claimant who is liable to make a rent payment may request at any time to have an amount of universal credit paid directly to their landlord.

(1) In paragraph (1)—

(a) “rent payment” has the meaning given by paragraph 2 of schedule 1 of the Universal Credit Regulations 2013⁽²⁾; and

(b) the “amount of universal credit” is the amount of the award of universal credit that relates to the claimant’s liability to make a rent payment.

(2) The deduction from universal credit and the payment to the landlord referred to in paragraph (1) is to be made in accordance with the provisions of schedule 6 of the 2013 Claims and Payments Regulations.

(3) A Scottish claimant who has made the request referred to in paragraph (1) may at any time—

(a) request that the Secretary of State cancel it, or

(b) make a further such request.

(4) Nothing in paragraph (1) or (4) restricts the ability of the Secretary of State to direct that payments of universal credit be made to a landlord under regulation 58 of the 2013 Claims and Payments Regulations (payment to another person on the claimant’s behalf).

(5) Where the Secretary of State refuses a request made under paragraph (1) or (4), the Secretary of State must advise the Scottish claimant of the reasons for that refusal.

Scottish claimants to be advised that they can request direct payment to a landlord

5.—(1) Where an award of universal credit to a Scottish claimant includes an amount that is calculated in accordance with Part 4 or 5 of schedule 4 of the Universal Credit Regulations 2013, that claimant must be advised that he or she can request to have an amount of universal credit paid directly to their landlord.

(2) S.I. 2013/376.

(2) Paragraph (1) does not apply where the Secretary of State is arranging, or has arranged, for payments of universal credit to be made to the claimant's landlord.

Exception: non-digital service cases

6.—(1) These Regulations have no effect in relation to a Scottish claimant whose award of universal credit is not administered on the digital service computer system operated by the Secretary of State in digital service areas, or whose claim, if successful, will not be so administered.

(1) For these purposes, “digital service area” has the meaning given in regulation 5(3) of the Universal Credit (Digital Service) Amendment Regulations 2014(3).

St Andrew's House,
Edinburgh
[xxx February] 2017

[xxx]
A member of the Scottish Government

(3) S.I. 2014/2887, as substituted by regulation 20 of the Universal Credit and Miscellaneous Amendments Regulations 2015, S.I. 2015/1754.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations vary the operation of the claims and payments system for universal credit in relation to Scotland.

Regulation 1(2) provides a definition of a “Scottish claimant”, that is used to determine the persons applying for, or in receipt of, universal credit to whom the Regulations apply. Regulation 6 provides an exception, that the changes made by these Regulations do not apply where the Scottish claimant’s universal credit award is not administered on the Secretary of State’s digital service computer system.

Regulation 2 allows Scottish claimants to request to have universal credit payments made twice-monthly, where payments would be otherwise made less frequently. A claimant who has made that request can cancel it at any time. If the Secretary of State refuses the request, the Scottish claimant must be told why the request has been refused.

Regulation 3 provides that Scottish claimants are to be advised that they can request to have universal credit paid twice-monthly, rather than monthly, unless the Secretary of State is already making, or proposing to make, payments with at least that frequency.

Regulation 4 allows Scottish claimants who are tenants to request to have universal credit payments made to their landlord. The payments would be of universal credit so far as relating to the claimant’s liabilities for accommodation which that claimant rents. A claimant who has made that request can cancel it at any time. If the Secretary of State refuses the request, the Scottish claimant must be told why the request has been refused.

Regulation 5 provides that Scottish claimants who are tenants must be advised that they can request to have such payments made direct to that landlord, unless the Secretary of State has already made, or is proposing to make, such arrangements.

RESPONDING TO THIS CONSULTATION PAPER

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You view and respond to this consultation online at <https://consult.scotland.gov.uk/low-income-benefits/universal-credit-claims-and-payments>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 13th March 2017.

Alternatively you can e-mail your response and the completed Respondent Information Form, which is also available separately on the Scottish Government website (see "Handling your Response" below) to: ucflexconsultation@gov.scot

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) and send it to:

Universal Credit Flexibilities Consultation
Scottish Government
Victoria Quay
Area 2H North
Edinburgh
EH6 6QQ

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at: <http://www.scotland.gov.uk/consultations>.

Handling your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form attached included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material,

responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Martyn Lindsay
Scottish Government
Victoria Quay
Area 2F South
Edinburgh
EH6 6QQ

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<https://www.ideas.gov.scot>.)

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Consultation on Universal Credit (Claims and Payments) (Scotland) Regulations 2017

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes No



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