

NFA Response to the draft Universal Credit regulations and the regulations on the benefits cap which are now being considered by the Social Security Advisory Committee (SSAC)

Introduction

The National Federation of ALMOs (NFA) represents 55 arms length management organisations (ALMOs) who between them manage over 800,000 council homes across fifty four local authorities.

Since their inception ten years ago, ALMOs have provided tenants with excellent local, customer-focused and cost-effective housing management services. They have significantly improved performance and customer service by forging a new, closer relationship with residents. ALMOs manage homes for some of the most vulnerable people in society and work in some of the most intractable areas of the country. The NFA therefore makes this submission on the basis of that experience.

The NFA supports the government's intention to reform the way in which benefits and tax credits are paid in order to put "work at the centre of working-age support" and reduce the complexity of the system. As a sector we recognise the need to make the system simpler for tenants as well as ensuring that the welfare system as a whole supports tenants, who can, back into work. However, we have a number of concerns about how the detail is going to be implemented and our comments on specific issues are set out below.

Universal Credit Regulations 2012

Online claiming

A number of our members are concerned about the implications of a substantial shift towards online claiming and the unintended consequences of such a move. Many ALMOs are concerned that amongst some groups of tenants there are low levels of IT literacy and many do not own computers. The monthly expense associated with broadband is also an issue with this target group and the availability of community internet is still not widespread and what is available in libraries etc. could be over-run. Research shows that social landlords tend to deal with some of the most vulnerable and chaotic in society. There is also a particular concern around the older working-age group, which has less access to this channel.

Our members are worried that the burden of helping these tenants to complete a claim online may then fall to the housing provider without any further resources being provided to support that work. Whilst many housing providers are considering providing access through their offices or laptop schemes, the need is likely to be overwhelming, drawing on staff time and the expense will draw funds away from other services. And if claimants are using public access computers, how will DWP ensure confidentiality of claimants' personal data? And how will claimants' ID be verified/validated?

Some members have also asked whether advocates or support staff will be able to assess, on behalf of the claimant, if a person is unable to use on-line or telephone. If this support does not come from the landlord would the landlord be informed? ALMOs are concerned about their more vulnerable tenants and the danger that some could lose out on Universal Credit entirely because they do not understand the process.

Members have also asked how DWP will authenticate that the person making the claim is the person liable to pay rent? And whether there be separate authentication processes for each joint applicant? If a claimant will be required to bring in paper documentation to verify, where will the 'local office' be? Is the DWP considering external verification by other professionals such as housing staff?

ALMOs have suggested that robust testing of the needs of particular groups of tenants take place in the pathfinders in order to assess good practice and identify the cost associated with the necessary support and whether, if a significant proportion of tenants cannot claim online, it would cause delays to processing.

Encouraging the take up of more hours of work

The draft regulations comment on under-employment and one of the aims of the system is to encourage claimants to undertake more hours. Our members have highlighted the issues that their tenants already come up against when wanting to work more hours. They have found that some employers, for example in the retail sector, keep the majority of their staff at limited, but variable hours, as part of their own business strategy and tenants have therefore been unable to increase their hours permanently.

Some ALMOs are aware of employers limiting their staff to 16 hours at minimum wage, which could be due to the employer wishing to avoid national insurance contributions and to have a very flexible work force. The effect of this is that employees often feel unable to take on another job due to the unpredictable hours, they are unlikely to be entitled to working tax credit, and their income is very low and requires recourse to benefits, in particular housing and council tax benefit. These employees are very susceptible to debt and rent arrears, particularly when they have a temporary change in hours. The changes to the benefit regime will not change their situation; rather employers need to be persuaded to act responsibly in order to give these reforms a better opportunity to achieving its aims.

Members are also very concerned that the decision to allow those claimants with no support with their housing costs to keep more of their earnings will penalise those who do require help with their housing costs by reducing the level of a household's earning disregard by 1.5 for every pound of housing support the household received. Given that those receiving Housing Support will be householders who are on very low incomes, it seems unfair that they would lose out in this way. This may also act as a disincentive for those households in receipt of help with housing costs to accept an offer of employment. Members are therefore unconvinced that this change meets the stated aims of the government to encourage householders into work, more work or better paid work.

Payment of Universal Credit

Our members are very concerned that claimants may need to wait for a significant amount of time for their Universal Credit claim to be paid; at least one month and one week after date of claim. Given that Universal Credit will be in place of a number of different benefits and in some cases it will be the claimant's only income, is the government considerate of the hardship issues that could arise in the meantime and the potential for the landlord to pursue eviction actions?

NFA members are also concerned about how the transition will be managed between the current weekly system for housing benefit to monthly in arrears. This will create an immediate cash flow problem for most organisations even if everyone pays who is supposed to. ALMOs have therefore asked that, at the very least, the notification of the award should also be made in writing as well as on line. If this is only done on line then the many tenants who do not have access to a computer at home may be unaware of the full breakdown. The landlord should also receive a notification of a claim and a decision on the award so that they are aware of the issues in terms of rent arrears action. Payment for gaps in entitlement should be for all claimants, how else are poor families and households expected to manage during the migration period? To transfer from a fortnightly to a monthly payment in arrears will in most cases create hardship and will transfer the burden onto other service providers. It also has obvious safeguarding issues for families with children and vulnerable adults in particular.

Where housing costs can be paid directly to the landlord, this will be for a limited period. Members want to ensure that DWP will inform landlords if this will cease and would like to know how removal from direct payments will be assessed.

ALMOs also have concerns about the use of "real time information" for assessing claims. While based on the principle of accuracy, there will be complexity for those whose circumstances change frequently or who are in and out of work and this will make it difficult for people to budget. Members are also concerned that where people do change jobs or hours frequently this may cause backlogs at HMRC, which will in turn affect claimants' ability to maintain up-to-date rent payments.

Date of claim and backdating

Our members would like to see any backdated payments for the housing element be paid directly to the landlord. This is due to the problem the landlord will have in terms of cash flow issues and the potential delay in the payment being made by the tenant and the seriousness of arrears action that might be taken at that stage.

There may also be a risk of payday lenders and loan sharks taking advantage of the vulnerable and a strong argument can therefore be made that for safety reasons, and to deter this risk, any backdated payments should be made to the landlord.

Under 25s

Some members have highlighted the issue that there does not seem to be any evidence that in the social housing sector under 25s can live less expensively than over 25s or that a lower Universal Credit for under 25s will reinforce the work incentive. Given the high levels of youth unemployment and NEETS nationally, this age group will be particularly badly hit by a combination of reducing opportunities

and income. This, combined with higher levels of non-dependent deductions, places under 25s in a vulnerable situation – families cannot afford to keep them and their ability to live independently will be restricted financially.

Caring for children after relationship breakdown

Members are concerned that DWP take into account the fact that some adults and children who may be vulnerable due to domestic abuse/violence may feel coerced into saying the other parent should have the payment.

Carers

Members are concerned that carers of people who miss out on the definition “severely disabled” may be at a disadvantage within the benefit system even though their caring duties are very similar to those who care for a “severely disabled person”.

Members also feel that some of the regulations relating to carers penalise one or the other of two carers who care for a person when they meet the criteria. There are concerns that when caring for a disabled child only one parent can be nominated as a responsible carer and that a change can only be made to this nomination once every 12 months. There should be some allowance to cover circumstances where there is a severely disabled child and both parents share the caring responsibilities due to the emotional issues involved.

Failure to notify within 7 days to result in suspension payment

Members are concerned that this will adversely affect those with vulnerabilities or complex needs. What measures are in place to allow claimants to notify if they are to be away for a period of time? Will there be a warning process for claimants so that if paperwork at HMRC is not up to date or a claimant has been in hospital/care home and has not been able to notify?

Under-occupancy

The NFA has expressed concerns previously about the under occupation penalty for social housing tenants. The under-occupation penalty will have a big impact on household incomes and the ability to pay rent. This will be particularly difficult for landlords and tenants where there is a lack of alternative accommodation available to match the household size.

We would like now to comment in relation to the specific criteria on the number of bedrooms to which a renter is entitled.

No allowance is made for children (or adults) for whom, due to their disabilities, it is better that they have their own bedroom. If there is another child in the property, who due to their age and gender, is deemed to be able to share with the disabled child, then only one bedroom will be allocated for both of them. However, we urge the government to rethink this policy following the Court of Appeal judgement on 15 May 2012. The Judge in this case decided that the LHA rules (on which the under-occupancy size criteria are based) discriminate against disabled children because they do not allow an additional room where two children cannot share a bedroom because one of them is severely disabled. We would urge the government to

amend this criterion to allow a disabled child to have an additional bedroom where this is required due to their impairment.

The regulations say that the housing element of Universal Credit will be removed for those in hospital/residential school care home or LA care if they are resident in these institutions for more than six months. However, our members are concerned about the remaining member of the household if this isn't a permanent arrangement and whether that would mean that they then are under-occupying and will either have to cover the shortfall or try to move to smaller accommodation. The regulations also state that no room would be allowed for a child away and attending university. If this is not taken into account that child could find it cannot return to the family home on completion of the course and would be forced to find their own accommodation, possibly needing financial support if they were unemployed. This appears to oppose a general move toward children remaining in their home later than is currently the case and the reduction in benefits for the under 25s.

Service charges which are eligible under Part 5 of the regulations

The listed services for which service charges will be eligible for payment under the Universal Credit regulations are severely restricted compared with the services that are eligible under the current housing benefit regulations. This will lead to many vulnerable people being unable to sustain their tenancies if these services are withdrawn or the tenants are required to pay for these services themselves. The Department for Work and Pensions had previously indicated that there was no intention of changing the services eligible for housing benefit; we therefore propose that the government should align the service charges eligible for payment under the universal credit regulations with the current housing benefit regulations.

Specifically in relation to the lack of inclusion of furniture as an eligible service charge, we have real concerns that already vulnerable people may be targeted by high cost credit providers such as doorstep loans, weekly payment stores or even illegal means such as loan sharks, to furnish their property, if the current measures that many housing providers are currently able to provide are withdrawn.

We also request further clarification of what services would be eligible under the criteria of "services necessary to maintain the fabric of the accommodation".

Annual rent increases

The draft regulations do not cover the process by which the universal credit payable is adjusted in line with landlords' annual rent increases. It is proposed that social landlords would be permitted to communicate details of the annual rent increases affecting their tenants to the Department for Works and Pensions, rather than the tenant being required to do so. This would make it a more manageable process for the Department for Works and Pensions rather than receiving individual notifications from tenants.

PIP claims

PIP forms will not be sent to staff on behalf of claimants. If someone is unable to complete an initial application online or by telephone because of their disability, what provision will be made to help claimants to contact DWP for a paper application? This approach is less inclusive as even with the option of a paper

application, a telephone call is necessary to make the request. The ability to provide a paper application to residents from chaotic households and those where illness or disability inhibits their ability to manage their household affairs has proven successful in enabling claimants to maximise their income and has helped them to avoid paying extra for care or mobility costs with money set aside for household bills and rent.

Payments of PIP

Whilst a payment at four-weekly intervals is not likely to cause confusion for claimants with no other income from other benefits, there is a risk that those in receipt of a variety of benefits will struggle. A 4 weekly payment of PIP with a bi weekly payment of ESA and a monthly amount of the Housing Benefit element of UC could lead to mismanagement of household income and prove detrimental to the emotional and financial wellbeing of such claimants.

Method of acceptance of the claimant commitment

We suggest that all claimants are given the opportunity to accept a claimant commitment either electronically, by telephone or in writing. Telephone and written acceptance should not be reserved to only the most vulnerable claimants.

Expected hours of work

The exemption from the expectation to work 35 hours per week should apply to carers of children up to the age of 16, not just the age of 13, to ensure adequate supervision of children and to prevent incidents of anti social behaviour occurring.

Work search requirements: interviews

There should be some allowance made for claimants who have genuine reasons for not being able to participate in an interview, for example, due to sickness or hospital treatment.

Work search requirements and work availability requirement: limitations

The requirement for claimants to search for and be available for work within one hour and 30 minutes from home may not be affordable due to the high costs in travelling that far. The costs of travel should be taken into account and also the impact of caring responsibilities.

The draft regulations should also clarify whether the 90 minutes of travel refers to use of public transport or by car.

The allowance for claimants to search for work relating to their specific skills should be extended beyond three months to a more reasonable time frame to allow highly qualified and experienced claimants to find alternative work.

Period of a reduction under section 26: high-level sanctions

A three-year sanction period should only apply to the most serious offences, for example, serious fraud, rather than failure to fulfil a mandatory work activity.

Housing Benefit (Benefit Cap) Regulations 2012

Many people will require support to budget monthly and to ensure bills, payments, rent, CT etc are made. This relates to those who are vulnerable and/or lead chaotic lifestyles and for those who have had rent paid direct to the landlord. The proposals appear to place the burden of the UC payments on landlords to recover rent and this links to the proposal that anyone reaching the cap or facing a reduction in UC will have the rent element deducted first. The implied message here could be that tenants think it is okay to reduce their rent payments as this is the element of UC that is specified in the reduction. If this happens it will lead to arrears, court action and an increase in evictions.

Our members have asked why define the housing element as the benefit that is reduced? Why not make it an overall reduction. This aspect of the changes could impact on tenants' ability to maintain their tenancy, with knock on social and financial costs of increased evictions, homeless presentations and health/wellbeing issues. The associated costs to other services appear not have been taken into account.

There is a risk that the potential saving derived from the cap, being outweighed by the disruption to families, for example eviction, resulting in displaced families, the expense of bed and breakfast or hostel accommodation. It is recognised by the government that many of these families fall under the "troubled families" category and the potential for these families to be further disrupted, which would have both financial and practical impacts on statutory authorities and the community.

Grace periods

The government has agreed to delay the implementation of the cap for newly unemployed who lost have their job through no fault of their own. We envisage other comparable situations where delaying the cap would be equitable and should apply, for example:

- Two lone parent families coming together. As separate lone parent families, the cap may not apply due to the small number of children. However, once they become one family, the number of children may mean the cap applies immediately. They may lose all of their Housing Benefit. If they knew this in advance, it is likely they would choose not to move in together. This may work against the government preference for two parent families over single parents. Financially, it would mean more benefit paid for two families rather than one. If they did not know about the rule in advance and they moved in together, they will find their Housing Benefit being cut immediately, which may lead to tension and family break up, where the children would suffer.
- A similar problem may arise for children living away from home due to a decision by Children's Services or the court. If at some stage, they decide that it would be in the best interest of the child to move back in with their parent, it may mean the cap will apply.
- Sometimes, Children's Services or the courts arrange for a child or children to move in with a relative such as a grandparent to care for a child. It may be under a 'special guardianship order'. In which case, the relative can claim benefit for the child as their dependent. However, an extra child or children may mean the cap applies straight away.

- Exemptions. It is possible that at some stage, one of the exemptions may cease to apply. For example, entitlement to Disability Living Allowance, Personal Independence Payment or the support component of Employment and Support Allowance may cease. In which case, the cap will apply straight away. We would argue for a similar grace period when such occurrences take place, in order for the family to adjust or find alternative accommodation. It would seem unfair for the cap to apply immediately when a family member's health condition has improved. The argument for this is even stronger if one takes into account the reduction in disability benefit and increases in other benefits, such as disability premiums.
- If a couple are working but their hours fall (through no fault of their own) below the required 24 a week, they will lose their WTC. It means they will also be capped.

One exemption from the cap will be for those who are either entitled to Working Tax Credit (WTC) or "households who are working sufficient hours to qualify for WTC but whose earnings are so great that they have been awarded a "nil entitlement." It seems inequitable that the cap will therefore apply to those who are working but not working enough hours to satisfy WTC rules. The chance of more hours may not be possible (at least in the short term) so capped claimants will feel 'punished' for working – as the loss of Housing Benefit of the cap will worsen the very small earnings disregard that exists in other benefits outside WTC. It may incentivise looking for more work but may equally incentivise giving up their part time work completely. The cap will have a higher impact upon larger families, yet it is they who may not be able to work full time due to the size of the family.

DWP preparations

The NFA would like to urge the DWP to start working proactively with all of our members in order to help prepare tenants and businesses for the coming changes. For instance it would be very helpful if ALMOs and other social housing managers could be automatically provided with the names of people who it has begun contacting to advise they will be affected by the various changes.

Many social landlords have projects and initiatives that are designed to assist households through the changes, such as help finding employment, budgeting skills or can make referrals to other services and agencies. If landlords cannot share this data it impedes action by landlords wishing to assist and support tenants.

Coherence of the overall legislative programme

The regulations appear to be silent on pass-ported benefits – e.g. free school meals, free prescriptions and other free or subsidised medical tests and treatments.