Housing costs in Universal Credit

By Wendy Wilson

Contents:
1. Introduction
2. Calculating the housing cost element (rent payments)
3. Experiences of implementation
4. Further calls to halt the roll-out
5. Support for home owners
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Summary</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>1. Introduction</strong></td>
<td>5</td>
</tr>
<tr>
<td>Roll-out</td>
<td>5</td>
</tr>
<tr>
<td>Housing costs within UC</td>
<td>6</td>
</tr>
<tr>
<td><strong>2. Calculating the housing cost element (rent payments)</strong></td>
<td>8</td>
</tr>
<tr>
<td>2.1 Administration</td>
<td>8</td>
</tr>
<tr>
<td>2.2 Payment direct to the claimant</td>
<td>8</td>
</tr>
<tr>
<td>Alternative Payment Arrangements</td>
<td>9</td>
</tr>
<tr>
<td>2.3 Monthly payments in arrears &amp; waiting periods</td>
<td>10</td>
</tr>
<tr>
<td>2.4 Incentivising regular payments</td>
<td>10</td>
</tr>
<tr>
<td>2.5 Interim payments</td>
<td>11</td>
</tr>
<tr>
<td>2.6 State Pension Credit and Housing Credit</td>
<td>11</td>
</tr>
<tr>
<td>2.7 Mixed age couples</td>
<td>11</td>
</tr>
<tr>
<td>2.8 Single people aged between 18 and 21</td>
<td>12</td>
</tr>
<tr>
<td>2.9 Supported housing</td>
<td>12</td>
</tr>
<tr>
<td>2.10 Temporary accommodation</td>
<td>12</td>
</tr>
<tr>
<td>2.11 Service charges</td>
<td>13</td>
</tr>
<tr>
<td>2.12 Ground rent</td>
<td>14</td>
</tr>
<tr>
<td>2.13 Use and occupation charges &amp; mesne profits</td>
<td>14</td>
</tr>
<tr>
<td>2.14 Size criteria</td>
<td>15</td>
</tr>
<tr>
<td>Overnight care</td>
<td>15</td>
</tr>
<tr>
<td>Temporary protection</td>
<td>15</td>
</tr>
<tr>
<td>Temporary absences</td>
<td>15</td>
</tr>
<tr>
<td>Death</td>
<td>16</td>
</tr>
<tr>
<td>Lodgers</td>
<td>16</td>
</tr>
<tr>
<td>Amendments to the UC Regulations</td>
<td>16</td>
</tr>
<tr>
<td>2.15 Non-dependent deductions</td>
<td>16</td>
</tr>
<tr>
<td>2.16 Paying rent on two homes</td>
<td>17</td>
</tr>
<tr>
<td>2.17 Temporary and other absences from home</td>
<td>18</td>
</tr>
<tr>
<td>2.18 The benefit cap</td>
<td>18</td>
</tr>
<tr>
<td>2.19 Conditionality &amp; sanctions</td>
<td>19</td>
</tr>
<tr>
<td>2.20 Overpayments of UC</td>
<td>19</td>
</tr>
<tr>
<td>2.21 Scotland &amp; Northern Ireland</td>
<td>19</td>
</tr>
<tr>
<td><strong>3. Experiences of implementation</strong></td>
<td>21</td>
</tr>
<tr>
<td>3.1 East Lothian Council</td>
<td>21</td>
</tr>
<tr>
<td>3.2 Work and Pensions Committee inquiry 2016-17</td>
<td>22</td>
</tr>
<tr>
<td>3.3 The Government’s response March 2017</td>
<td>27</td>
</tr>
<tr>
<td>3.4 Scottish Government call to halt UC Full Service roll-out March 2017</td>
<td>28</td>
</tr>
<tr>
<td>3.5 Lords Financial Exclusion Committee report 2017</td>
<td>30</td>
</tr>
<tr>
<td>3.6 Joseph Rowntree Foundation report 2017</td>
<td>31</td>
</tr>
<tr>
<td>3.7 Work and Pensions Committee inquiry – UC roll-out 2017</td>
<td>32</td>
</tr>
<tr>
<td><strong>4. Calls to halt the roll-out</strong></td>
<td>35</td>
</tr>
<tr>
<td><strong>5. Support for home owners</strong></td>
<td>36</td>
</tr>
</tbody>
</table>
Summary

The Welfare Reform Act 2012 and associated regulations provide for the replacement of a number of benefits, including Housing Benefit, with a single monthly payment of Universal Credit (UC). The roll-out of UC, having been delayed several times, is now due to be complete in 2022. The pace of the roll-out will speed up from October 2017.

Detailed provisions setting out how housing costs will be calculated under UC were set out in the draft Universal Credit Regulations 2013 published in December 2012. The regulations were considered by the Social Security Advisory Committee (SSAC) – the Committee’s report was published alongside the draft regulations in December 2012. The Regulations were subject to the affirmative resolution procedure, meaning that they had to be approved by both Houses of Parliament. The Universal Credit Regulations 2013 (SI 2013/376) came into force on 29 April 2013.

The calculation of entitlement to assistance with rent payments is similar to the current Housing Benefit system. However, there are some significant differences. The default position is that UC is paid direct to claimants as a single monthly sum – claimants are responsible for ensuring that the housing cost element is paid to the landlord to cover the rent due. This involves a behavioural change for most tenants of social landlords. Alternative Payment Arrangements and budgeting assistance may be available in certain circumstances where claimants struggle to adapt. In addition, there is a one month assessment period meaning that claimants may have to wait at least 5-6 weeks before receiving a payment.

The phased roll-out of UC provides a basis on which the impact of claimants applying for UC can be assessed. In relation to the housing costs element, there are significant concerns about the impact of waiting periods and other delays on rent arrears, particularly in short-term temporary accommodation.

Following what it described as “compelling evidence of the problems in the rollout of Universal Credit in its recent follow ups” the Work and Pensions Select Committee re-launched its inquiry into UC in February 2017. The inquiry was not concluded before Parliament dissolved on 3 May 2017, but evidence submitted indicated issues around rent arrears and hardship experienced for those claiming UC. The Employment Minister, Damien Hinds, responded to several issues raised in a letter of 1 March 2017. He pointed to the fact that some claimants had had rent arrears before claiming UC, and expressed the view that newly arising rent arrears were expected to be of a short duration.

The roll-out of UC was the subject of a Westminster Hall debate on 19 April 2017 led by Catherine McKinnell MP for Newcastle upon Tyne North. Damien Hinds responded, again pointing to evidence of pre-existing arrears but acknowledging that there had been some delayed payments to claimants.

The Work and Pensions Committee has an ongoing inquiry into the roll-out of UC and is taking written evidence up to 13 October 2017. An oral evidence session held on 13 September 2017 saw witnesses representing public and private sector landlords express concerns about growing rent arrears and levels of tenant debt. On 21 September Damian Hinds wrote to the Committee setting out recent developments in relation to a Universal Credit Landlord Portal for social landlords, and advising that all social landlords will be offered the opportunity to acquire Trusted Partner status. This scheme allows landlords to identify vulnerable tenants and be paid rent directly before falling into arrears.
On 15 September the DWP published research commissioned from Ipsos MORI, *Universal Credit Test and Learn Evaluation: Families*, in which the five-week waiting period was identified as a key factor behind the accrual of tenant arrears after moving on to UC.

On 18 September, the Chair of the Work and Pensions Select Committee, Rt Hon Frank Field, called on the Government to pause the roll-out of UC, saying:

> Evidence from the first three Universal Credit boroughs shows they have amassed £8m in rent arrears, with more than 2,500 tenants in London claiming Universal Credit so far behind with their rent they are at risk of eviction from their homes.

> We are hearing evidence of people being plunged into all sorts of vulnerability as a result of the debt, risk of hunger and homelessness, and resulting stress of being migrated onto Universal Credit, with its in-built 6 week delay in receiving a first payment and much longer waits for many people.

The 28 September 2017 saw the *Telegraph* report that 12 Conservative MPs had written to the Work and Pensions Secretary calling for a pause in the accelerated roll-out of UC.

This paper explains the key differences between assistance with housing costs under the Housing Benefit regime and under UC. The paper considers evidence of the impact of claiming housing costs under UC to date and the Government response.

The Scottish Government has power under section 29 of the *Scotland Act 2016* to make regulations in relation to the housing costs element of UC for claimants who rent their homes. The Scottish Government has made clear its intention to use this power to abolish the Removal of the Spare Room Subsidy/bedroom tax and to make changes to the payment arrangements under UC.

Welfare reform in Northern Ireland was delayed – implementation began at the end of September 2017.

There are several Library papers and official reports on UC. Background on its introduction can be found in Library Research Papers 11/24 *Welfare Reform Bill: Universal Credit provisions* and 11/48 *Welfare Reform Bill: Committee Stage Report*. A *final impact assessment* on UC was published in December 2012.

Information on how entitlement to UC is calculated can be found in a Library paper *Universal Credit: an introduction* (6469).

Other Library papers include: *Universal Credit changes from April 2016* (7446) and *Universal Credit: proposals for a seven day “waiting period” for claims* (6694).

The Work and Pensions Select Committee published a *report* in November 2012 on Universal Credit implementation: meeting the needs of vulnerable claimants. The *Government Response* was published in February 2013.

The National Audit Office published a highly critical report on the management of UC implementation in September 2013, *Universal Credit – early progress*. This was followed in November 2013 by the Public Accounts Committee’s Thirtieth Report of 2013-14, *Universal Credit: early progress*.

The Work and Pensions Select Committee launched an inquiry into support for housing costs within a reformed welfare system in July 2013 the *report* of which was published in April 2014.

More recent reports are summarised in section 3 of this paper.
1. Introduction

The *Welfare Reform Act 2012* (and associated regulations) provides for the replacement of a number of benefits, including Housing Benefit, with a single payment of Universal Credit (UC).

**Roll-out**

Universal Credit was first introduced for a small subset of new claimants in certain areas in 2013. DWP's initial efforts targeted claimant groups whose claims were comparatively simple to manage, such as single, childless, out-of-work adults. Having learnt from these initial experiences, the Department intends to expand the scheme by rolling out to successively wider areas and more complex caseloads. Roll-out has, however, been “substantively delayed” several times.¹

UC is now available in all Jobcentres across Great Britain, but in most areas is only available for new claims from people with relatively simple circumstances. This should change with the roll-out of the “**Full Service**” (formerly the Digital Service), when UC will expand to all claimant groups. At that point new claims for existing benefits and tax credits will no longer be possible. Once this is achieved, the remaining benefit and tax credit claimants will be moved onto UC by “managed migration.” The latest final end date for the introduction of UC is now March 2022.

In summary, the latest plans are as follows:

- **“National expansion”** of Universal Credit was completed by Spring 2016, so that Universal Credit is available in all Jobcentres in Great Britain – although initially for new claims only, for select claimant types. In *most areas* UC is still limited to new claims from single unemployed people (or people with very low earnings) satisfying the “gateway conditions.”
- **Roll-out of the Full Service**, starting from 2016. Initial trials started in Sutton, Croydon and Southwark. Where the Full Service has been introduced UC claims will be taken from all claimant groups.
- In his *Written Ministerial Statement on 20 July 2016*, the Secretary of State for Work and Pensions, Damien Green, announced that the Government was “**reshaping** the next phase of UC” and, accordingly, set out a new plan for rolling out the Full Service, which involves:
  - Introducing the Full Service in 5 jobcentres a month to June 2017;
  - Expanding it by 30 jobcentres a month from July 2017;
  - Following a break over summer 2017, “scaling up” the roll-out of the Full Service to 55 jobcentres a month between October and December 2017;
  - Accelerating the roll-out to 65 jobcentres a month by February 2018; and

¹ *Autumn Statement 2015: Policy Costings*; p33
Finishing roll-out with the final 57 jobcentres in September 2018.

- Information on when the Full Service is due to be rolled out in each local authority in Great Britain is available on GOV.UK – see Universal Credit transition to full service (last updated 16 November 2016).
- As the Full Service is rolled out, new claims for “legacy” benefits – the benefits UC is replacing – will be progressively closed down so that under the latest timetable, by September 2018 UC will be available to all claimant groups across the country, and no new claims for working-age means-tested benefits and tax credits will be possible.
- The final “managed migration” stage when the remaining legacy benefit and tax credit claimants are moved over to Universal Credit. The Written Ministerial Statement on 20 July 2016 announced that there would be a new “contingency” period following the achievement of national roll-out of the Full Service, before the commencement of managed migration. Managed migration is now expected to start in July 2019, and to be completed by March 2022.

Further information on the Government’s latest UC roll-out schedule, and what is expected to happen at each stage, is provided in section 2 of the Commons Library briefing Universal Credit changes from April 2016. See also Universal credit: Who can claim Universal credit at the Revenuebenefits website.

Details of the UC implementation schedule in Northern Ireland are on the nidirect website – see Introduction to Universal Credit.

Housing costs within UC
Detailed provisions setting out how housing costs will be calculated under UC are contained in Regulations 25 and 26 together with Schedules 1-5 of the Universal Credit Regulations 2013. The explanatory note to the draft Regulations said:

In part 4, in particular, regulations 25 and 26 and Schedules 1 to 5 provide for the amount to be included in respect of a claimant’s liability for payments in respect of accommodation occupied as their home. Schedules 1 to 3 contain general provision as to the types of payments, when a person is regarded as liable for such payments and when they are regarded as occupying accommodation. Schedule 4 provides for the calculation of the amount of the housing costs element where a claimant is renting accommodation and Schedule 5 provides for the calculation where a claimant owns their accommodation.

Briefly, where a claimant is liable to pay rent, their level of assistance will be calculated with reference to their household size and circumstances, in addition to the actual rent level charged. The White Paper, Universal Credit: welfare that works provided the following information on calculating housing costs under Universal Credit:

- An appropriate amount will be added to the Universal Credit award to help meet the cost of rent and mortgage interest. For those who rent their accommodation, this amount will be similar to the support currently provided through Housing Benefit.
Our aim is to simplify provision for rent support in Universal Credit as much as possible, while protecting potentially vulnerable people from unintended consequences, such as getting into arrears or being made homeless.\(^2\)

Information on how entitlement to UC will be calculated can be found in a Library briefing paper entitled *Universal Credit: an introduction* (6469). The DWP has published *An introduction to Universal Credit* (updated 6 February 2017) and also *Universal Credit and rented housing: guide for landlords* (updated 4 September 2017).

Changes to Housing Benefit entitlement introduced prior to the implementation of UC such as national caps on Local Housing Allowance (LHA)\(^3\) entitlement, calculating LHA based on the 30\(^{th}\) percentile of market rents, size criteria in social rented housing and the household benefit cap, are being carried over and will also apply to claims for the housing element of UC. Part 7 of the Regulations sets out how the household benefit cap operates under UC.

The intention is that those claimants living in the private rented sector who are not currently subject to the Local Housing Allowance rules (e.g. protected/regulated tenancies governed by the *Rent Act 1977*) will be included in the new scheme:

All private-rented sector tenants who are entitled to the housing costs element in Universal Credit will have that assessment based on the relevant LHA rate.\(^4\)

Section 2 of this paper highlights some of the main differences between the Housing Benefit system and entitlement to the housing element of UC.

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\(^2\) DWP, *Universal Credit: Welfare that Works*, CM 7957, November 2010, paras 28-30

\(^3\) LHA is the equivalent of Housing Benefit for claimants living in the private rented sector.

\(^4\) DWP, *Universal Credit and related regulations: Response to SSAC technical comments and policy points*, 2012
2. Calculating the housing cost element (rent payments)

The following sections highlight the key differences between the current Housing Benefit system and the calculation of assistance with housing costs under UC.

2.1 Administration

Housing Benefit is a national benefit which is administered by local authorities. UC is administered by the Department of Work and Pensions (DWP) with online application and administration as the main delivery mechanism. Local authorities continue to have responsibility for the administration of Discretionary Housing Payments.\(^5\)

Over time, social landlords will need to replace their relationship with Housing Benefit sections within local authorities with DWP links.

DWP is working with local authorities, social landlords, charities and other service providers to develop local face-to-face support services to help UC claimants. The aim of “Universal Support – delivered locally” (previously known as the Universal Credit Local Support Services Framework) is to establish a “joined-up, holistic service, particularly for vulnerable claimants and those with complex needs, helping the claimant move from welfare dependency,” providing help with, for example, understanding the new system, getting online and managing a monthly budget.\(^6\)

2.2 Payment direct to the claimant

Council tenants who qualify for assistance currently receive their Housing Benefit as a rent rebate, their rent accounts are adjusted accordingly. Housing associations, the other main providers of social housing, cannot require the direct payment of tenants’ Housing Benefit entitlement to the landlord but the vast majority of their tenants opt for this method of payment. Since April 2008 the majority of claimants living in private rented accommodation have had assistance with housing costs paid directly to them.

Under UC, the intention is that the housing component will be paid direct to tenants. This will bring the social housing sector in line with the private rented sector:

\(^{b)}\) The Government’s intention is to pay universal credit to the claimant in the majority of cases. The Government believes that this policy will replicate the budgeting skills that people will need

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\(^5\) These are discretionary payments to Housing Benefit claimants who experience a shortfall between their benefit and contractual rent payment.

\(^6\) DWP, Universal Credit at work, October 2014, p15; see also the speech to the Local Government Association by Lord Freud, Universal Credit and Universal Support, on 12 January 2015
when working and will help to break the cycle of welfare dependency that is a feature of the current benefit system.  

7  HC Deb 10 October 2011 c255W

Direct payment of the housing element of Universal Credit to social housing tenants is controversial. There is concern that it will result in increased rent arrears and impact on landlords’ revenue streams.

The Scottish Government intends to use its powers under the Scotland Act 2016 to give claimants more choice over how and when UC is paid. This is covered in section 2.20 of this paper.

**Alternative Payment Arrangements**

Regulation 58 of the *Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013* (SI 2013/380) provides for alternative payment arrangements (APAs) under UC – this will enable direct payment of all or some of a claimant’s UC to a third party (such as a landlord) in certain circumstances.

A good deal of work has been put in to the development of APAs. For example, the DWP ran six small-scale demonstration projects which operated from June 2012 to the end of 2013. The projects tested different elements of direct payments:

...including testing different trigger points when social landlords should receive direct payments if tenants fall into specified levels of arrears. The projects will also inform how best to communicate the changes to claimants, provide assistance with budgeting to successfully pay their rent, and support claimants and landlords experiencing financial difficulties.  

8  DWP Press Release, 19 January 2012

Detailed information on direct payments to social landlords, including information on the results of the demonstration projects, can be found in Library briefing paper 6291, *Paying Housing Benefit direct to tenants in social rented housing*.

The current version of the guidance on APAs, *Universal Credit personal budgeting support and alternative payment arrangements*, was updated in March 2017. Some of the safeguards the DWP has developed to mitigate potential risks to tenancies and landlords’ income streams resemble current arrangements within Housing Benefit for claimants living in the private rented sector. For example, it is possible to pay the rent to landlords on behalf of claimants in arrears. Personal budgeting advice is available for claimants who struggle to manage their finances. The guidance, *Universal Credit personal budgeting support and alternative payment arrangements* states:

Alterative Payment Arrangements will be ‘claimant centric,’ in other words something that is discussed and considered with the claimant. Applications will be considered on a case by case basis. Personal Budgeting Support and Alternative Payment Arrangements

A claimant can be considered for one or more Alternative Payment Arrangements based on individual circumstances and characteristics. The Universal Credit Agent acting on behalf of the
Secretary of State makes the decision whether to award an Alternative Payment Arrangement taking account of numerous factors.

For example:

- Is the claimant managing to pay their bills on time, particularly their rent, and have they fallen into arrears in the past, or are they currently in arrears?
- Do they think they will be able to manage a monthly budget, taking account of their income and outgoings over a calendar month?
- If the claimant is part of a couple, are they used to managing their money together and do they think they will be able to manage the single Universal Credit payment to the household? 

Annex A to the APA guidance provides information on issues that will/may trigger an alternative payment arrangement.

2.3 Monthly payments in arrears & waiting periods

UC includes a waiting period of 7 days from the submission of a claim before payment of UC begins. This means that claimant may not get paid for the first 7 days after a claim is submitted.

This is followed by an assessment period of one month, meaning that claimants may have to wait at least 5-6 weeks before receiving a payment. Issues identified with waiting and assessment periods and the impact on rent arrears is covered in section 3 of this paper.

Monthly payments in arrears does not necessarily ‘fit’ with social landlords’ rent account systems. The UC Regulations allow for more frequent payments and split payments in certain circumstances.

It is not unusual for social landlords to operate rent a rent free period for tenants over Christmas. The UC payment is based on the total annual rent divided by 12 – landlords offering rent free weeks will receive slightly less per month than the money needed to cover the rent and will have to ‘catch-up’ during the rent free period.

2.4 Incentivising regular payments

The Universal Credit (Approved Tenant Incentive Scheme) (Amendment) Regulations 2017 were introduced to facilitate a scheme proposed by a housing association in East Lothian. The association wanted to reward tenants who paid their rent by direct debit or standing order, and who engaged in the digital roll-out of UC, by offering a rent reduction. In the absence of the Regulations, the rent discount would have been clawed back through a reduction in the tenant’s benefit award. The Regulations allow for social landlords to devise these schemes but each subsequent proposal must secure the Secretary of State’s approval prior to

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9 DWP, Universal Credit personal budgeting support and alternative payment arrangements, March 2017, pp5-6
implementation. The Regulations were considered by the Social Security Advisory Committee on 8 March 2017.

2.5 Interim payments
When commenting on the draft Universal Credit Regulations, the Social Security Advisory Committee (SSAC) sought clarification over whether there would be an equivalent provision to Regulation 93 of the Housing Benefit Regulations 2006. Regulation 93 requires that an authority must make an interim HB payment to a claimant if all necessary information has been supplied and the authority has not determined the claim within 14 days.

The Government provided the following response:

We are not making an equivalent provision to the existing rule in connection with Housing Benefit. In circumstances where we are not able to verify all elements of a claimant’s Universal Credit award, an advance of benefit may be payable in the interim. This advance would then be recovered in full once the award becomes payable. Any under payments paid to the claimant as soon as is practical and overpayments recovered through usual deduction processes.

We could also make an award of Universal Credit in respect of decided elements even where other elements remain undecided. So, for instance, we could make an award of Universal Credit that does not include an amount in respect of housing costs where a question around rent liability remains to be decided.10

The current guidance states:

You may be able get an advance on your first Universal Credit payment if you’ve recently been receiving another benefit or you’re in urgent financial need. Check with your work coach.11

2.6 State Pension Credit and Housing Credit
Claimants must be under State Pension age in order to be eligible to claim UC.

Since October 2014 reforms to State Pension Credit have mirrored the introduction of UC so that Housing Benefit for pension age claimants will become the Housing Credit element of State Pension Credit. Pension age Housing Benefit claimants not affected by the introduction of the social sector size criteria12 so there will be no size criteria in the assessment of the new Housing Credit Element.

2.7 Mixed age couples
Couples where one person is over and the other under Pension Credit age will be expected to claim UC and will, therefore, be subject to relevant conditionality requirements and measures such as the social

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10 DWP, Universal Credit and related regulations consultation: DWP response to technical comments and policy points
11 DWP, An introduction to Universal Credit, February 2017
12 See Library briefing paper: Under-occupation of social housing: Housing Benefit entitlement (6272)
sector size criteria. Couples already in receipt of Pension Credit are expected to continue to be entitled to it.

2.8 Single people aged between 18 and 21

From April 2017 the housing cost element of UC is not payable to single people (or members of a couple claiming as a single person) aged between 18 and 21, who claim for the first time in a ‘full service’ area. There are a number of exceptions to this rule - the Government has published detailed guidance on the exemptions in Memo ADM 6/17, there is guidance on Housing Costs for 18-21 year olds on the GOV.UK website. There is also a Library briefing paper: Housing cost element of Universal Credit: withdrawing entitlement from 18-21 year olds (6473).

2.9 Supported housing

Residents of supported ‘exempt’ accommodation have help with their housing costs provided separately to UC in a similar way to Housing Benefit in the short term. The Universal Credit (Transitional Provisions) and Housing Benefit (Amendment) Regulations 2013 (SI 2013/2070) enable Universal Credit and Housing Benefit (HB) to be paid simultaneously where the claimant is in “exempt accommodation.” Exempt accommodation includes a resettlement place and accommodation provided by a county council, housing association, registered charity or voluntary organisation where that body, or person acting on their behalf, provides the claimant with care, support or supervision.

Similarly, claimants living in ‘specified’ supported accommodation are expected to claim Housing Benefit in respect of their housing costs. In 2014 the DWP introduced a new category of “specified accommodation” in an attempt to resolve concerns amongst providers of supported housing, who argued that the existing definition of ‘exempt accommodation’ would not protect residents of supported housing from welfare reform policies, such as direct payments, the under-occupation deduction, and the benefit cap. The National Housing Federation published an explanatory note on the Housing Benefit and Universal Credit (Supported Housing) (Amendment) Regulations 2014 which explains the definition of specified accommodation.

2.10 Temporary accommodation

The Regulations define temporary accommodation as accommodation where rent payments are made to the local authority, or a provider of social housing other than the local authority, where the accommodation is being used to discharge the authority’s homelessness duty or to prevent the resident becoming homeless.15

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13 See DWP Circular HB A19/2013
14 Housing Benefit and Universal Credit (Supported Housing) (Amendment) Regulations 2014
15 Certain types of temporary accommodation where support is provided fall into the category of ‘specified’ accommodation – claimants in these types of temporary accommodation continue to claim Housing Benefit.
The Government intended that claimants in temporary accommodation would receive housing support as part of their UC and that this would be based on the appropriate Local Housing Allowance rate for the household and would take account of household size as opposed to property size.16

Section 3 of this paper considers early experiences of local authorities with homeless households placed in temporary accommodation who have claimed UC. Delays in processing claims have been highlighted as a problem. There were indications that the 2015 Government intended to remove residents in temporary accommodation from UC – on 8 February 2017 Lord Freud told the Work and Pensions Select Committee:

The other area, I am not sure this would cost net money but you will remember that when I left we had just put out a consultation document on supported housing where Universal Credit does not work for very short terms, as we were discussing. If you are going to a refuge for four weeks, or into a homeless hostel for a few weeks—I kept it out originally and now we are looking at a structure of how it should be separately funded. We could look at, and it is mentioned in the consultation document, doing the same with temporary accommodation.17

The consultation paper Funding for Supported Housing (November 2016) acknowledged that UC presents challenges for providers of short-term accommodation and sought views on how best to respond:

For providers of certain types of short term accommodation, Universal Credit, which is typically paid monthly, presents challenges. Shorter term accommodation may include provision such as:

- hostels for homeless people or domestic violence refuges;
- short term emergency accommodation provided by a local authority whilst their duty to house a homeless person is assessed; and
- other supported housing settings where stays may be short term.

The Government also recognises that different funding models for the short term accommodation types set out above may also be applicable to Temporary Accommodation provided by local authorities in discharging their homelessness duties.

We are seeking views on how best to provide support for short term stays alongside the monthly assessment and payment in Universal Credit. Challenges include ensuring we remain responsive to housing needs at the start of someone’s Universal Credit claim while entitlement is determined and first payments are made.18

2.11 Service charges

There were initial concerns that the housing element of UC would cover far fewer types of service charge that tenants are liable to pay than

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16 HB/CTB Circular G10/2010
17 HC 898, 8 February 2017, Q130
18 DWP & DCLG, Funding for Supported Housing, November 2016
under the Housing Benefit system. On 21 December 2012 the DWP
published an ‘exhaustive list’ of eligible service charges (i.e. those
charges for services that will be covered by UC) and guidance for
consultation up to the end of January 2013. Social landlords
welcomed the move but highlighted some remaining issues:

However, housing benefit consultant Chris Smith warned there is
still likely to be some uncertainty.

He cited a DWP survey published in 2010 showing that more than
400 descriptions of service charges are used by landlords. He said
there could be legal disputes as social landlords try to ‘shoehorn’
charges into one of the four headings in the guidance.

According to the most recent global accounts for housing
associations, service charge income is worth £870 million a year.

The current version of the list of service charges covered by UC was
published in April 2013: Universal Credit service charges – guidance for
landlords.

2.12 Ground rent

Ground rent is payable by long leaseholders as a condition of their lease
agreement. It is possible to claim Housing Benefit to cover ground rent
liability but this is not the case under UC. This change was raised by the
Social Security Advisory Committee (SSAC) when they considered the
draft Universal Credit Regulations:

Payments which are not Rent Payments (Schedule 1, para 3): this
means that leaseholders will have to meet a demand for ground
rent from their own resources.

The Government provided the following response:

Provision for ground rent is excluded from support within
Universal Credit. Amounts for such liabilities are generally low and
it is not considered appropriate to include them within a simplified
system.

2.13 Use and occupation charges & mesne
profits

The SSAC questioned the omission of use and occupation charges and
mesne profits from the definition of rent payments that the housing
costs element of UC will cover:

Rent Payments (Schedule 1, para 2): in the definition of ‘rent
payments’ no provision is made for ‘use and occupation charges’
(the payments made by a person commonly left in the property
after the death of a tenant whilst the new tenancy situation is
resolved). Similarly there is no provision for mesne profits.

19 DWP, Universal Credit service charges – guidance for landlords, December 2012
20 Inside Housing, “DWP spells out service charges eligible for benefit “, 10 January
2013
21 DWP, Universal Credit and related regulations: Response to SSAC technical
comments and policy points
22 Sums of money paid for the occupation of land to a person with right of immediate
occupation where no permission has been given for that occupation.
The Government said:

No specific provision is being made for mesne profits in the housing element of Universal Credit as we consider that they would be more likely to appear as rent or payments for a licence or permission to occupy. In these cases legitimate housing costs are likely to be covered under Schedule 1 of the regulations. We decided not to carry forward specific provision for mesne profits as it would not be fair for the benefit system to underwrite such arrangements.  

2.14 Size criteria

Overnight care
Reductions in Housing Benefit can apply to claimants where they live in a property that is deemed to be too large for their needs. An exemption operates so that an additional bedroom is allowed where a disabled person, or someone with a long term health condition, has a proven need for overnight care and it is provided by a non-resident carer. This exemption was introduced for claimants in the private rented sector in April 2011 by an amendment to the Housing Benefit Regulations 2006. It also applies to claimants in the social rented sector from April 2013.

Under UC a more restrictive definition of people requiring overnight care applies. Currently it is possible for claimants to have a spare room for an overnight carer and not suffer a Housing Benefit reduction if they do not receive Attendance Allowance (AA) or Disability Living Allowance (DLA) if the authority is satisfied that overnight care is needed, and is provided by someone who does not live with the claimant. Under UC the exemption will only apply if the claimant or the person receiving the care (the claimant’s partner/child/non-dependant) is in receipt of DLA (middle or highest rate), AA or the daily living component of the Personal Independence Payment (PIP).

Temporary protection
Currently, where the tenant could previously afford the rent and has not claimed Housing Benefit in the last 52 weeks the size criteria does not apply for 13 weeks. Under UC the reduction applies immediately.

Temporary absences
Under UC the following rules on temporary absences from the home will apply:

- a child (or young person aged 16-19) will be considered as occupying a bedroom for the first six months that they are in care or in prison, or outside Great Britain (depending on circumstances).
- non-dependants will be considered to be still occupying a bedroom during travel outside Great Britain for up to six months, during a prison sentence that is expected to or has reached no

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23 DWP, Universal Credit and related regulations: Response to SSAC technical comments and policy points
24 For working-age claimants in social rented housing under-occupation deductions have applied since 1 April 2013.
more than six months, or for any other temporary absence of up to six months.

The SSAC questioned the changes to eligibility for assistance with housing costs during a temporary absence:

Temporary Absences (regs 3(6) & 4(7)): reducing the period of temporary absences from 52 weeks to 26 weeks may cause some difficulties for a claimant whose partner or child is, for example, in hospital or respite care. Although the partner would be eligible to claim as a single person, the loss of support with respect of a child could jeopardise ongoing contact with them if they were at a distance and travel costs were high.

The Government responded:

Universal Credit clarifies and aligns a disparate mix of temporary absence rules in the current income-related benefits. DWP believes that introducing a standard 26 week rule for temporary absence is broadly fair. Where there are clear rules, there will always be people who fall on the wrong side of the line but we do not expect that this change will cause significant problems in practice.25

Death
Currently, where a member of the household dies, resulting in under-occupation, Housing Benefit entitlement is not reduced for a period of 52 weeks. Under UC this period is reduced to 3 months.

Lodgers
Under UC no room is allowed for a lodger but any income from lodgers is disregarded in full. Currently a room is allowed for a lodger but any income received is taken into account aside from the first £20.

Amendments to the UC Regulations
The UC Regulations have been amended to take account of several court cases which established that certain disabled people may be entitled to an additional bedroom. For example, disabled children and adults who cannot share a bedroom because of a disability. For more information see Library briefing paper: Under-occupying social housing: Housing Benefit entitlement (6272).

2.15 Non-dependent deductions
A non-dependant is someone who normally lives with the Housing Benefit claimant such as an adult son, daughter, relative or friend. Currently, there are seven separate rates at which a deduction is made from the claimant’s Housing Benefit entitlement irrespective of whether or not the non-dependent actually makes this payment. These rates vary by income (of the non-dependent) – under 25s on benefit are exempt.

Under UC, one flat-rate Housing Cost Contribution (HCC) of £68 per month is deducted from a claimant’s entitlement - all under-21s are exempt from the HCC. There are also exemptions (as there are now) for

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25 DWP, Universal Credit and related regulations: Response to SSAC technical comments and policy points
non-dependents who are in receipt of, or entitled to receive the care component of DLA at the middle or highest rate, AA or the daily living component of PIP, carer’s allowance, as well as prisoners and those responsible for a child under 5 years old.

Tenants registered as blind and anyone in receipt of, or entitled to receive the care component of DLA at the middle or highest rate, AA or the daily living component of PIP will not face a HCC deduction.

The flat-rate HCC deduction is made from the claimant’s housing cost element after other deductions e.g. in respect of any under-occupation, have been made.

Some working non-dependents will benefit from the flat-rate contribution while others on benefit and with lower incomes – particularly younger people aged 21-25 (who receive a lower rate of UC) may struggle. The National Housing Federation (NHF) said that the single rate of deduction would “cause hardship within households where the non-dependent is on benefit but not exempt.”

Under Housing Benefit full-time students are exempt from non-dependent deductions but they are not exempt from the HCC under UC.

2.16 Paying rent on two homes

Under UC benefit is payable on two homes if:

- liability to pay rent on two homes has arisen because of fear of violence in the accommodation normally occupied as the home. In this case, both liabilities can be paid for up to 12 months as long as there is an intention to return to the original property;

- a disabled person is unable to move into a new home because it needs adaptations to make it suitable. The claimant will have to prove that the delay is reasonable. A disabled person is defined as someone in receipt of specified disability benefits (high or middle rate care component DLA, Attendance Allowance or PIP). Benefit will be payable for up to one month.

The housing element of UC is payable for up to one month if a claimant cannot move into their accommodation immediately because they are in hospital or a care home.

An additional amount for housing costs can be paid where someone is not able to occupy their home because of essential repairs but this payment will only cover either the housing costs of the other accommodation or the accommodation which they normally occupy as their home (not both).

There is no equivalent in the UC Regulations to the four-week concession that allows Housing Benefit to be paid where there is an unavoidable overlap in liability for rent.

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26 NHF Briefing: Universal Credit Regulations, December 2012
27 The original draft regulations only allowed for domestic violence.
2.17 Temporary and other absences from home

From 28 July 2016, the Government amended the rules on claiming Housing Benefit while absent from the Great Britain to limit entitlement to 4 weeks “to align with the allowable period in other benefits, including Universal Credit.” \[28\] Prior to this, Housing Benefit could be claimed for up to 13 weeks. It is possible to receive the housing costs element for a longer period in certain circumstances.

Claimants may continue to receive the housing element of UC for six months where they are in prison and are not expected to be absent from their home for longer than that period. This is less generous than under the current system where prisoners in custody waiting for a trial or sentencing, or who have to stay away from home (for example, in a bail or probation hostel) as a condition of bail, may get Housing Benefit for up to 52 weeks. Housing Benefit can also be received for up to 13 weeks if a claimant is sentenced to prison, as long as the total time spent in prison is likely to be 13 weeks or less, including any time spent on remand. The NHF pointed out: “delays in the court process mean that people who may be subsequently found not guilty are sometimes held in custody for much longer than six months.” \[29\]

The SSAC commented on this issue:

Temporary Absence of a Benefit Unit Member (Schedule 4, para 13): this provision will have an adverse impact upon remand prisoners subsequently found not guilty or who are given an outcome by the court which is other than a custodial sentence. \[30\]

The Government responded:

This provision provides protection for claimants where members of the extended benefit unit are absent temporarily. In the case of remand prisoners, six months protection for the claimant is a reasonable period. \[31\]

Where a member of the household dies, UC continues to be paid at the same rate for up to three months. This is less generous than under the current system where Housing Benefit entitlement is not reduced for a period of 52 weeks when a member of the household dies.

2.18 The benefit cap

The cap, which limits the total amount of annual benefit that a family can receive to £20,000 outside of London and £23,000 within Greater London, applies under UC. \[32\]
2.19 Conditionality & sanctions

The *Welfare Reform Act 2012* enshrines the principle that, in order to receive financial assistance, claimants must look for work. All claimants of UC are required to accept a claimant commitment. It is expected that most claimants will fall into the “all work requirements” category meaning that they must take all reasonable steps to search for work.

UC carries consequences for non-compliance and sanctions increase in duration for repeat offences. The housing element of UC is unaffected by these sanctions but as UC, in most cases, is paid direct to the claimant, there are concerns that the severity of the sanctions regime may lead to some claimants failing to prioritise rent payments. The NHF suggested that claimants subject to a UC sanction should automatically be switched to direct payment of the housing element to the landlord in order to prevent the accrual of rent arrears.33

2.20 Overpayments of UC

Section 71ZB of the *Welfare Reform Act 2012* provides that the Secretary of State can recover any amount of UC paid in excess of entitlement – this applies regardless of the cause of the overpayment. This represents a change from the position under Housing Benefit; for example, overpayments are generally not recoverable where the claimant can establish that the overpayment arose as a result of an official error.

2.21 Scotland & Northern Ireland

The *Scottish Government* has power under section 29 of the *Scotland Act 2016* to make regulations in relation to the housing costs element of UC for claimants who rent their homes.

The Scottish Government has said it will use this power to abolish the size criteria for claimants in social rented housing (Removal of Spare Room Subsidy/bedroom tax). On 26 March 2017 the Scottish Government announced that it would extend the Scottish Welfare Fund to assist claimants affected by the measure to limit entitlement to housing costs in UC for young people aged 18-21.

In January 2017, the Scottish Government launched a consultation exercise on the *Universal Credit (Claims and Payments) (Scotland) Regulations 2017*. The Scottish Government is committed to giving the recipients of UC more choice over how and when payments are made:

  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.

33 NHF Briefing: Universal Credit Regulations, December 2012
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.34

The Regulations have been drafted to give tenants the option of:

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

The outcome of the consultation exercise was published in June 2017: Response to the Consultation on Universal Credit (Claims and Payments) (Scotland) Regulations 2017. The Universal Credit (Claims and Payments) (Scotland) Regulations 2017 were laid in the Scottish Parliament on 29 June to come into force on 4 October 2017.

In Northern Ireland, the Welfare Reform (Northern Ireland) Bill 2012 failed to make progress. This prompted the UK Government to introduce the Welfare Reform (Northern Ireland) Act 2015 to provide for the implementation of welfare reform measures in Northern Ireland. More information can be found in Library Briefing Paper 07389: A Fresh Start: the Stormont Agreement and Implementation Plan and the Northern Ireland (Welfare Reform) Bill 2015-16 [Bill 99]. The roll-out of UC in Northern Ireland began at the end of September 2017.

The size criteria (under-occupation) provision came into force in Northern Ireland on 20 February 2017. The Department for Communities (DfC) is mitigating the impact of the deduction for social housing tenants up to March 2020. A review will take place in 2018/19.

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34 Consultation exercise on the Universal Credit (Claims and Payments) (Scotland) Regulations 2017, January 2017
3. Experiences of implementation

As noted earlier in this paper, the National expansion of Universal Credit was completed by Spring 2016, so that Universal Credit is available in all Jobcentres in Great Britain – although initially for new claims only, for select claimant types. In most areas UC is still limited to new claims from single unemployed people (or people with very low earnings) satisfying the “gateway conditions”.

Roll-out of the Full Service started in 2016. Initial trials started in Sutton, Croydon and Southwark. Where the Full Service has been introduced UC claims are being taken from all claimant groups.

The roll-out so far provides a basis on which the impact of claimants applying for UC can be assessed. In relation to the housing costs element, there are concerns about the impact of waiting periods and other delays on rent arrears, particularly in short-term temporary accommodation.

3.1 East Lothian Council

East Lothian Council was initially involved as a partner agency to Musselburgh Job Centre Plus (JCP) during the rollout of the Universal Credit Live Service (UCLS) from 27 April 2015. The Council subsequently signed up to a further Delivery Partnership Agreement (DPA) for the full digital rollout of the Universal Credit Full Service (UCFS) from 23 March 2016.

A report prepared for, and considered by, East Lothian Council in December 2016 described the impact of Universal Credit Full Service on mainstream council house rent collection as “severe”:

- 590 council house tenants were known to be claiming UC at the end Q2 2016/17. The total value of rent to be collected from these tenants each fortnight was £75,400.47. This equates to £1,809,611.28 over a 12 month period.
- Current tenant rent arrears reduced from £1,295,782.60 at the end of 2015/16 to £1,210,872.63 at the end of Q1 2016/17 - an £84,909.97 reduction (6.55%). This significant reduction was mainly due to the summer rent charge break at the end of June 2016. This is an expected reduction at this time of year as those in arrears continue to pay.
- Current tenant rent arrears increased from £1,210,872.63 at the end of Q1 2016/16 to £1,452,515.37 at the end of Q2 2016/17 – a £241,642.74 increase (19.95%).
- This equates to a net in-year increase of £156,732.77 (12.09% increase). The increase in rent arrears in Q2 2016/17, has almost entirely wiped out the reduction in rent arrears reported in both 2014/15 and 2015/16.
- Of the year-to-date increase of £156,732.77 – £79,140.69 relates directly to debt associated with UC. The remaining £77,592.08 remaining is the indirect impact, i.e. time spent
dealing with UC claimants is detracting from the time officers are able to spend dealing with other tenants.

- By way of comparison, during the same period in 2015/16, current tenant rent arrears reduced by £51,262.42.
- 481 of these 590 tenants have rent arrears. 316 of these 481 tenants have increasing rent arrears.
- The average rent arrears for a UC claimant is £898.89 – to put this into context, the average rent arrears against a non-UC case are £589.49.
- Overall, there has been a 12.09% increase in current tenant rent arrears in 2016/17. However, for UC claimants, there has been a 22.40% increase in rent arrears.35

The report recommended that the DWP should “carry out an urgent investigation into the impact of Universal Credit in East Lothian on claimants and on the local authority and other social landlords” and ask “the UK Government to suspend the housing cost element of Universal Credit until this investigation has taken place.”36

3.2 Work and Pensions Committee inquiry 2016-17

Following what it described as “compelling evidence of the problems in the rollout of Universal Credit in its recent follow ups” the Committee re-launched its inquiry into UC in February 2017.37 Evidence was taken up to 20 March 2017. The Committee invited written submissions on the following points:

- How long are people waiting for their Universal Credit claim to be processed, and what impact is this having on them?
- How are claimants managing with being paid Universal Credit monthly in arrears?
- Has Universal Credit improved the accuracy of payments?
- Have claimants reported making a new claim for Universal Credit, and then found that the system has not registered their claim correctly?
- What impact is Universal Credit having on rent arrears, what effect is this having on landlords and claimants, and how could the situation be improved?
- Would certain groups benefit from greater payment process flexibility and, if so, what might the Government do to facilitate it?
- Does Universal Credit provide people in emergency temporary accommodation with the support they need, and how could this be improved?
- What impact is Universal Credit having on the income and costs of local authorities, housing associations, charities and other local organisations?

35 Report for East Lothian Council: Update on welfare reform and Universal Credit, 20 December 2016 (opens in word)
36 Ibid
37 Universal Credit roll-out: inquiry relaunched, 21 February 2017
• How well is Universal Support working, and how could it been improved?
• What impact has the introduction of full Universal Credit service had in areas where it has replaced the live service?³⁸

The Committee Chair, Rt Hon Frank Field, said:

Huge delays in people receiving payments from Universal Credit have resulted in claimants falling into debt and rent arrears, caused health problems and led to many having to rely on food banks. It is bad enough that UC has a built-in six-week wait between someone applying and them receiving their first payment, but we have heard that many have to wait much longer than this. The adverse impact on claimants, local authorities, landlords and charities is entirely disproportionate to the small numbers currently claiming UC, yet Lord Freud has told us he thinks it will take decades to optimise the system. We have therefore felt compelled to investigate UC yet again. We will examine what its impact is on claimants and those local bodies which deal with them, and what Government needs to do to ease the pressure on those worst affected.³⁹

The Committee took oral evidence on 23 January 2017 from witnesses representing the Halton Housing Trust, Resolution Foundation, Child Poverty Action Group (CPAG), and Gateway and Welfare in the London Borough of Croydon. Martin Williams of CPAG responded to a question about the time it is taking for claimants to receive their first payment of UC:

Working with claimants waiting for payment, the evidence we see is that they just cannot manage with that sort of wait. This is not a wait that is a delay; it is a designed-in period at the start of a claim. If I deal with the start of a claim first and then with the frequency of payment afterwards, the wait is because for many claimants there is no entitlement during the first seven days anyway, particularly if you come straight from work to UC. You then have an assessment period of one month and you are paid at the end of that and, in fact, it is seven days after the end of that. Assuming it works well as intended, you are looking at at least six weeks to wait.

We already see cases where the housing cost element is not calculated in that time, so there is a further wait for housing costs. I was reviewing case studies and there were two where people were at risk of eviction because the housing cost element had not been calculated.

You have to understand that the vast majority of people we come across—and it is typical of Universal Credit claimants—do not have six weeks' money in hand at the point they make their claim.⁴⁰

Mr Williams said that advance payments for claimants suffering hardship are not well advertised.⁴¹ Mark Fowler of Gateway and Welfare in Croydon (a full service area) commented on claimants’ experiences in that area:

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³⁸ Ibid.
³⁹ Ibid.
⁴⁰ HC 898, Oral Evidence, 23 January 2017, Q8
⁴¹ Ibid.
Just to pick up on the point of those more vulnerable groups that were identified, under Universal Credit for single people under the age of 35, they were previously receiving a one-room rate of £155 a week. Under Universal Credit it is shared facilities at £72. Now, bearing in mind what Martin was saying about the duration, we have seen at Croydon on average it is about 12 weeks before any form of payment is awarded, which is creating considerable pressures, as you can understand. 

[...] 

What we have also found is that people in emergency accommodation—so people who are unlikely paid, incredibly vulnerable, fleeing domestic violence, mental health issues, single parents, English not their first language—are particularly hit by the approach to Universal Credit. One example is that in emergency accommodation without shared facilities we obviously want to move people on within the six-week window, otherwise you are in trouble with the Ombudsman and it is not appropriate. To receive housing costs from Universal Credit, you have to be in the property for six weeks. That is immediately obvious of where the policy is contradictory one side to the other.42

He reported that rent collection rates amongst vulnerable households in temporary accommodation had fallen in Croydon, Sutton and Southwark from 90% to between 42% and 59%.43 More information on the experiences of Croydon, Sutton and Southwark councils can be found in a letter from Mark Fowler to Rt Hon Frank Field of 3 February 2017.

Nick Atkin of the Halton Housing Trust said:

The issue with ourselves and UC is that if you look at the fact that in Halton there are 12,000 tenancies that the four main housing associations have between them, there are just over a thousand of those households are in receipt of UC. 920 of them are in arrears, and if you look at the figures, UC claimants make up just 9% of all our tenancies but they account for 37% of our arrears at the moment.44

Mark Fowler confirmed that payment concerns related to UC were feeding through to private sector landlords.45 The Residential Landlords Association (RLA) supported research carried out by Sheffield Hallam University in 2015 which, inter alia, sought the views of RLA members on Universal Credit and their experiences of it. The research found:

1. Of those landlords with tenants in receipt of UC, 25% said that they were in arrears. This supports the concerns raised by former Welfare Reform Minister, Lord Freud, and is consistent with what he told the Work and Pensions Select Committee that UC was having an “effect” on rent arrears for around a quarter of claimants.

2. As a result of UC claimants being in arrears, 34% of landlords said that they had requested that payment to cover rents be made directly to them (known as Alternative Payment Arrangements or Landlord Managed Payments) which can be put in place where a tenant gets into two>

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42 Ibid., Q18 & 20
43 Ibid., Q24
44 Ibid., Q36
45 Ibid., Q44
months of rent arrears. Just 38% of these said that they had been successful in achieving this.

3. In seeking such arrangements, 61% of landlords found the process either “tricky” or “very difficult”. The same proportion found that the Department for Work and Pensions was not very helpful in dealing with their concerns or queries.

4. The removal of the housing element of UC from being paid to 18-21 year olds has made 76% of landlords less likely to rent to those in this age group because of worries about whether the rent will be paid or not.  

The RLA is pressing for the following changes to UC:

- Allow tenants to choose whether or not to have the housing element paid direct to the landlord.
- A clear route through which landlords can reclaim rent arrears from tenants on UC and subsequently move home.

The RLA is also seeking a way of gaining “Trusted Partner Status” for private landlords in line with that enjoyed by social landlords. 

Private landlords frequently cite welfare reform, and specifically UC, as a reason for their reluctance to let to claimants who rely on state assistance to pay their rent.

Witnesses to the Work and Pensions Committee identified that some aspects of the roll-out were identified as working well:

The job coaches are working in a positive way, the relationship we have at a local level is broadly positive. As long as people are continuing in role and there are not too many changes; that is good. If we could share information in a more joined up way and that was slightly more open and transparent, that would certainly support that initial enthusiasm that you all saw when you kindly visited us. Equally, I have to be honest, the size and the scale of the rollout and the timing of that is considerable. That brings pressures and pressures on resource and people and their understanding. In short, it is at odds with the enthusiasm. I think it is fair to say that is the case, at the moment.

Lord Freud, former Minister of State for Welfare Reform, gave evidence to the Committee on 8 February 2017. He responded to questions about the level of arrears tenants on UC are experiencing and cautioned against taking the rent arrears figures at face value on the basis that some tenants had moved onto UC with pre-existing arrears:

The figures that you saw, that 86% is not what it appears, as I say is because you already have 79% anyway. However, when I left in December I was looking at figures that show that there was a problem and there was a proportion of people, probably around a quarter, where UC was having an effect on the arrears. The Department is obviously really concerned to sort that. The issue is around how long does it take to work out what the right rent is

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46 RLA, Changes needed to Universal Credit to give confidence to tenants and landlords, March 2017
47 Ibid.
48 Ibid.
49 For more information see Library briefing paper: Can private landlords refuse to let to Housing Benefit claimants? (7008)
50 HC 898, Oral Evidence, 23 January 2017, Q55
to make those payments? There is an element about getting the right data and the speed of processing. They need to and are working on speeding up and then accuracy of data—one of the things that has happened in the social housing sector is people find it quite difficult to know what their rent is because of the way that it is worked so getting accurate information about the rent is something that you need to liaise three ways between the Department, the tenant and the landlord.

Now, that process needs to be improved and I know they are working on that improvement. They are looking at a portal—\textsuperscript{51}

Lord Freud pointed to the development of Universal Support:

\textquote{...what we did is look at something that we call Universal Support, which is a partnership between the Department and the local authorities. We have now got an agreed partnership agreement signed with every single local authority to help with the barriers that some people will find. Currently we are only dealing with two or three barriers: digital, competence and budgeting support. But there is no reason why that system should not expand to handle other barriers.\textsuperscript{52}}

However, Lord Freud did indicate that claimants in short-term temporary accommodation could be removed from UC:

\textquote{The other area, I am not sure this would cost net money but you will remember that when I left we had just put out a consultation document on supported housing where Universal Credit does not work for very short terms, as we were discussing. If you are going to a refuge for four weeks, or into a homeless hostel for a few weeks—I kept it out originally and now we are looking at a structure of how it should be separately funded. We could look at, and it is mentioned in the consultation document, doing the same with temporary accommodation.\textsuperscript{53}}

The Committee published a letter on 16 March 2017 in which the then Employment Minister, Damian Hinds, responded to several issues raised by the Committee concerning the UC. On the issue of short-term emergency accommodation, he said:

\textquote{UC is calculated on a monthly basis and this does not easily align with local authority (LA) provision of emergency and temporary accommodation. This has caused some difficulties for LAs, and for tenants who find themselves in emergency or short term accommodation, as Croydon Council has pointed out to you in their correspondence.

The recent consultation on supported accommodation, which closed on 13 February, asked whether the approach of devolving the extra costs for shared accommodation to LAs might also work for temporary accommodation, given the issues and any system of monthly assessment will cause. We are currently considering responses to the consultation.\textsuperscript{54}}

The Committee’s inquiry was not concluded before Parliament was dissolved on 3 May 2017. The evidence submitted can be found on the Universal Credit inquiry page.

\textsuperscript{51} HC 898, Oral Evidence, 8 February 2017, Q106
\textsuperscript{52} HC 898, Oral Evidence, 8 February 2017, Q114
\textsuperscript{53} Ibid., Q130
\textsuperscript{54} Response from Minister for Employment Damian Hinds, 1 March 2017, paras 18-19
3.3 The Government’s response March 2017

As noted in the previous section, the Work and Pensions Select Committee published a letter on 16 March 2017 in which the then Employment Minister, Damian Hinds, responded to several issues raised concerning the roll-out of UC, particularly in relation to the impact on rent arrears. Overall, the Minister said:

We believe that any arrears of rent associated with UC are likely to be of a short duration, cleared relatively quickly and should not present an insurmountable obstacle to landlords over the lifetime of a tenancy. The early evidence from UC backs up this hypothesis. In 2015 we found that 48% of UC claimants with housing costs were in arrears in the first month of a claim (compared to 31% in JSA), but by month 3 the UC cases in rent arrears had fallen to 33% - very close to the historic JSA position.55

The full contents of the letter can be found online: Response from Minister for Employment Damian Hinds. The letter listed Government action to improve how UC operates for people claiming the housing costs element.

The Chair of the Committee, Rt Hon Frank Field issued the following response:

Despite a growing body of evidence about the very real hardship the rollout of Universal Credit is creating for some, often the most vulnerable, claimants - and the struggles it is creating for local authorities trying to fulfil their responsibilities – it is flabbergasting that the Government continues to keep its head in the sand.

There is no urgency in the Government’s attempts to solve, for example, the incompatibility between Universal Credit and a council’s duties to those in emergency temporary accommodation. This is affecting some of society’s most vulnerable people, at a point of crisis, yet the Government appears unwilling to take the action it could to solve this and simply remove these people from the Universal Credit system.56

The roll-out of UC was the subject of a Westminster Hall debate on 19 April 2017 led by Catherine McKinnell MP. Damien Hinds responded to questions about delayed payments and rent arrears:

Let me assure the House that I recognise what a complex and important issue housing arrears are. Many different factors are at play. As colleagues know, UC pays housing costs directly to the claimants and they pay rent to their landlord. That mirrors the world of work, which is an important part of the fundamental culture change I mentioned. That of course has been the case for some time, since the Labour Government rolled out the local housing allowance in the private rented sector in April 2008.

[…]

Catherine McKinnell: The Minister made reference to housing payments mirroring the world of work, but I am aware of no

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55 Response from Minister for Employment Damian Hinds, 1 March 2017
56 Work and Pensions Select Committee, Universal Credit: “Government has its head in the sand”, 16 March 2017
workplace in which the employee is expected to wait six weeks or more for payment.

Damian Hinds I am grateful to the hon. Lady for making the important point about the timing of payments to individuals. No one should wait more than 45 days for their first UC payments, unless they are exempt from waiting days, which the hon. Member for Strangford (Jim Shannon) mentioned. Various exemptions include those for prison leavers and for people coming across from other benefits, such as income-related JSA or ESA. For those exempt from the waiting days, the wait is no more than 38 days. A claimant who cannot wait that long, however, may apply for an advance of up to 50% of the total award to provide support through to the UC payment being made. That is an important facility, and we continue to work on raising awareness of its availability.

There have been some delays in the payment of the UC housing element, largely because of, for example, mismatches between what claimants tell us and what landlords tell us is the rent due. We continue to work on process improvements around that. The pre-existing system was itself far from perfect, and we believe the processing times for the UC housing element are about the same as those for local authorities paying housing benefit. According to research by the national organisation for ALMOs—arm’s length management organisations—three quarters of tenants on universal credit were already in arrears before coming on to UC. Nevertheless, we continue to address those issues and we recognise that further improvements can still be made. That includes a dedicated team to handle the processing of rental information for both claimants and landlords.57

3.4 Scottish Government call to halt UC Full Service roll-out March 2017

On 21 March 2017 the Scottish Government’s Communities and Social Security Secretary, Angela Constance, wrote to the Secretary of State for Work and Pensions requesting a complete halt to the roll-out of UC in Scotland, with immediate effect, until problems with its implementation are fully resolved.

The letter states:

There are several significant problems, which I set out in detail below, that are now impacting so severely on tenants and landlords that I believe continued Full Service roll out in Scotland is no longer feasible. I call on your Department to resolve these problems, before UC roll out continues.

First, the built in 6 week wait for the first payment is throwing some households into crisis and building up rent arrears. As well as causing considerable hardship for those affected, there is a knock on pressure on other local council services, as well as the Scottish Welfare Fund. This service should not be diverted into filling gaps caused by ill-designed UK Government welfare policies.

Moreover, it appears that many people are waiting longer than 6 weeks for their first payment of UC, causing even greater hardship. I can only assume this is due to the increasing numbers

57 HC Deb 19 April 2017 cc365-6WH
of complex cases coming onto UC and the lack of operational capacity to support them. Advance payments of benefit are not well advertised and the repayments are automatically deducted from UC payments for at least 3 months. This means families have a period of time to manage on an income below the UC rate, putting them at risk of spiralling into debt.

Like me, you will be aware that landlords are increasingly reporting major issues in communicating with DWP, notwithstanding the work that has already been done to try and alleviate some of the administrative difficulties surrounding payments of rent. I understand that even when it has been agreed that there should be a managed payment of rent to a landlord, it can take up to 10 weeks to get a payment. Not all landlords will wait that long before starting eviction proceedings.

It appears in some areas properties are now being advertised as ‘No UC’ due to the landlord’s experience with late payments from DWP. As well as the impact on individuals, there are real concerns about the financial impact on housing associations' income streams and reserves.

I am aware that DWP are still working on a solution to the housing element issues within UC. However, given some of these issues were raised at the commencement of Live Service roll out I am not confident that a permanent fix will be implemented in the near future. The increasing pace of roll out from the autumn will no doubt exert more pressure on DWP operations.

These and many other issues were mentioned in the letter from Damian Hinds, Minister of Employment, to the Work and Pensions Committee on 1 March. Unfortunately, his response, against a backdrop of delays and continuing operational difficulties within UC, does not provide sufficient reassurance that these issues will be suitably resolved in the necessary timescale.

The problems arising are impacting on individuals and families to an unacceptable extent threatening not only the tenancy of their home but of accruing longer term debt. The UC approach of “test and learn” has kept volumes relatively low during the design stage, as Mr Hinds pointed out. Your Department should now demonstrate its commitment to this approach, by deferring the plans for scaling up the roll out of the UC Full Service until such time as all the issues are fully resolved. Given the experience to date it is clear that further roll out cannot be undertaken without causing further hardship for claimants and as such can surely not be considered safe.

You will be aware that the Scottish Government is not alone in expressing these concerns. The Work and Pensions Committee along with the Social Security Committee at the Scottish Parliament have carried out their own inquiries and evidence gathering. Both Committees have expressed their concerns to you, as have the Local Government Association and local authorities.

In summary, to protect the more complex cases being drawn into hardship situations, I must request a halt to Full Service roll out in Scotland to allow for some space and time to get the issues finally resolved.

Please be assured that I have not taken this decision lightly, given the implications for the timetable to implement the Scottish UC flexibilities in the autumn. However, I cannot stand by and allow
this situation to continue when it is impacting so adversely on the people of Scotland.

For further details see Call to halt full service roll-out of Universal Credit at the Scottish Government website.

3.5 Lords Financial Exclusion Committee report 2017

On 25 March 2017 the House of Lords Select Committee on Financial Exclusion published a report, Tackling financial exclusion: A country that works for everyone? The Committee’s report states that while it did not seek to conduct detailed post-legislative scrutiny of the Welfare Reform Act 2012, it had set out to understand the ways in which changes resulting from the Act had helped to address, or served to intensify, financial exclusion. The Committee had received “extensive evidence” on this theme. Changes that were particularly highlighted as having had an impact included, among other things, the introduction of Universal Credit.

The section of the Committee’s report on welfare reform and financial exclusion covering Universal Credit concentrates on three aspects:

- the initial waiting time;
- monthly payments; and
- payment of housing costs.

While acknowledging the Government’s intention to promote social and financial inclusion through the introduction of Universal Credit, the Committee was concerned that unintended consequences could undermine these aims. Accordingly, it made a number of recommendations which, it believes, would help to prevent benefit recipients “spiralling unnecessarily into debt and financial exclusion.” The recommendations include:

- Abolishing the seven-day waiting period at the start of a Universal Credit claim. The Committee states: “the waiting period contributes to sometimes lengthy delays in claimants receiving their first payment. These delays put claimants at significant risk of falling into arrears.” (Recommendation 19)

- The Government should allow for greater flexibility in the frequency of Universal Credit payments in England and Wales so that, where monthly payments would contribute to a claimant’s financial exclusion, payments can be made twice-monthly, as will be possible in Scotland and Northern Ireland. This could be on the basis of a DWP decision-maker decision or on the basis of a Trusted Partner scheme with local authorities or social landlords. (Recommendation 20)

- Tenants in receipt of Universal Credit in England and Wales should be allowed to decide for themselves whether their housing costs

58 HL Paper 132 2016-17
should be paid to them or direct to their landlord. (Recommendation 21)

- Trusted Partner pilots should be rolled out more urgently to all registered social landlords and local authority landlords, “so that claimants experiencing vulnerability do not have to fall into arrears before having payment arrangements amended.”

More generally, the Committee recommended that the Government conduct a “detailed, comprehensive cumulative impact study of how changes in social security policy resulting from the Welfare Reform Act 2012 might have adversely affected financial wellbeing and inclusion. This research should consider the extent to which these changes have contributed to debt and arrears and to any greater reliance on high-cost lending.” (Recommendation 22)

3.6 Joseph Rowntree Foundation report 2017

On 6 April 2017 the Joseph Rowntree Foundation published a briefing providing “information and evidence on the latest developments as Universal Credit rolls out across the UK. It provides recommendations on how the system could be improved.”

The introduction to the report states:

Universal Credit (UC) remains the right thing to do. The current system is fragmented and traps people in poverty. The prospect of an integrated benefit system that responds to people’s changing circumstances is a prize worth having.

The roll out of UC is picking up pace and the millionth claim has been made. This is a time to be alive to the risks and opportunities of UC.

Welfare reforms are reducing the support on offer to many low-income families, both in and out-of-work. This poses a threat to the Government’s message about being on the side of those that are only just managing to get by.

The briefing highlights “three priorities for immediate action to ensure UC achieves its goals and helps reduce poverty.” The first area highlighted in the report relates to waiting times:

Risk of destitution while people wait for a first UC payment

Living for a sustained period with very low – or no – income and no savings to fall back on increases the risk of destitution. Destitution is when someone is unable to afford to eat, stay warm and dry, and keep clean (Fitzpatrick et al, 2016).

New UC claimants must wait at least five weeks for a first UC payment (an arbitrary seven-day wait before being allowed to claim, plus payment one month in arrears). As UC wraps multiple major benefits into one payment, this leaves people with few, or no, other sources of income to fall back on. Among the poorest fifth of households, 69% have no savings, and a further 10% have less than £1,500 to fall back on (Tinson et al, 2016).

59 Katie Schmuecker, Universal Credit: a Joseph Rowntree Foundation briefing, 6 April 2017

60 Ibid.
The early experience of delivering UC shows the risk of debt and destitution and the threat of eviction is heightened (Work and Pensions Committee 2017). In Croydon, which was a UC pilot area and has one of the largest UC caseloads in the country, the average wait time for a first payment is currently 12 weeks. During this time, the availability of benefit advances are not being effectively communicated (Work and Pensions Committee 2017). This appears not to be an isolated problem. Up to 40% of local welfare assistance applications are estimated to result from DWP advisers failing to inform people of support they might be eligible for (Work and Pensions Committee 2016).

The widespread use of benefit advances is not the solution to this problem, as they result in an accumulation of debt. To reduce debt and destitution, people who are entitled to, and in need of, income support should receive it quickly.

**JRF recommends the DWP gets rid of arbitrary waiting days in UC. In addition, the impact of payment one month in arrears should be monitored and reconsidered, if it results in rising debt and destitution.**

The other two immediate priorities include not going ahead with the two-child limit in UC, and a “devolution deal for employment support”. Further details of these proposals, and other areas of concern can be found in the report.

### 3.7 Work and Pensions Committee inquiry – UC roll-out 2017

Following the 2017 General Election, the Committee reopened its inquiry into the DWP’s preparedness for the scheduled acceleration of the roll-out of full service Universal Credit from October 2017. The inquiry is taking submissions up to 13 October 2017. Written submissions can be accessed on the Committee’s website.

An **oral evidence session** was held on 13 September. Councillor Fiona Colley, cabinet member for finance, modernisation and performance on Southwark Council, reported an additional £1.3 million in rent arrears attributable to tenants in receipt of UC. She said that this was primarily due to the time tenants have to wait for a payment. Witnesses from local authorities including Newcastle, Plymouth and Liverpool, argued for more flexibilities in the system, e.g. around verification of rent payments, and for all local authorities to be given trusted partner status. A desire for improved communication about the roll-out of full service was expressed. Councillor Colley said that early experiences of the landlord portal had been positive but said it was “just a start” as the information on it is still limited.

There was agreement amongst the local authority witnesses that temporary accommodation presents particular problems and should be...

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61 Ibid., p4
62 HC 336, 13 September 2017, Q3 and Q5
63 Ibid., Q16
taken out of UC altogether.\(^{64}\) There was also support for a pause or slow-down in the roll-out:

> My advice would be to slow it down, learn from the full service sites and enhance the partnership working there, which we can build on by working together. Put more investment into service centres for people who are calculating housing costs, and upskill them—either put Housing Benefit staff in there or bring the guidance more up to date.\(^{65}\)

The point was made that private landlords will not have access to the landlord portal.

> In terms of private landlords, in Plymouth there is a meeting next week with private landlords and the DWP, because a number of them have already said that they will not take Universal Credit claimants. That is the fear factor over having to wait for payments and so on.\(^{66}\)

Natalie Williamson of the Residential Landlord Association (RLA) elaborated on this point:

> Our real concern is the rising rent arrears for private landlords. The previous panel touched on the difference between the treatment of private and social landlords. The key difference is really the lack of support and information that is available for landlords where it might be going wrong. They are not in a position to be able to think, “Right, can we get a plan in place?” For example, if the tenant is coming from Housing Benefit, they do not get told. There is no communication there, so they could find that the payments stop completely for a number of weeks, and they are not given information from the local authority, and they are not given information because of DWP because of data protection, so they don’t know which way to turn. All the while, their rent arrears are accruing, because there is a seven-day waiting period plus the six weeks on top of that. Tenants are almost at risk of eviction at eight weeks before they have even started to manage their own money.

> If there was more available to give private landlords confidence in the system, and if they were treated the same as in social housing, perhaps, as was mentioned previously, evictions in the private rented sector and the unwillingness of some private landlords to operate within the welfare claimant sector would not be as severe.\(^{67}\)

The RLA is seeking flexibility so that rent payments can be made direct to landlords and is also interested in access to the landlord portal.

Witnesses argued that the built-in waiting period for UC is too long; there was support for a reduction to four weeks/28 days.

On 15 September the DWP published research commissioned from Ipsos MORI, *Universal Credit Test and Learn Evaluation: Families*, in which the five-week waiting period was identified as a key factor behind the accrual of tenant arrears after moving to UC.\(^{68}\) Data on claim processing

\(^{64}\) Ibid., Q32

\(^{65}\) Ibid., Q38

\(^{66}\) Ibid., Q21

\(^{67}\) Ibid., Q49

\(^{68}\) DWP, *Research into families claiming Universal Credit*, September 2017; Summary report: *Universal Credit Test and Learn Evaluation: Families*
times published by DWP on 15 September, Universal Credit payment timeliness: Jan 2017 to June 2017, showed an improvement in the number of claims paid in the first assessment period.

On 21 September 2017, Damien Hinds wrote to Frank Field to outline two measures aimed at tackling social landlords’ concerns about UC:

First, we have been developing and testing a Universal Credit Landlord Portal which allows social sector landlords to input information and receive it directly, helping us to further improve rent verification rates and identify those claimants who need direct payments. From October, we will begin by supporting the largest social sector landlords to enrol and engage with the portal, with the intention of covering 80% of tenancies. Eventually, we hope to expand the portal to all social sector landlords and retrofit it to those councils already working with the full service.

Coupled with the rollout of the portal, we intend to offer every social sector landlord the opportunity to become a ‘Trusted Partner’. We have been trialling this approach with a range of landlords over the last two years. By drawing on landlords’ knowledge of their tenants we can identify those who need to have their rent paid directly to their landlord, which we expect will help minimise the risk of arrears building up.

The National Federation of Housing welcomed the commitment to roll-out the landlord portal and Trusted Partner status to housing associations across the country, saying:

The Federation has pressed for these improvements and worked closely with members and DWP staff in their development over the last two years.

Trials of the landlord portal have shown that even in a very basic form it improves communication between the DWP and landlords, speeds up the verification of claims and cuts the burden of administration. Being a Trusted Partner allows landlords to make the recommendation for a tenant to have the rent portion of their Universal Credit paid direct to their landlord.

A review of the Trusted Partner pilot has been published (September 2017) and also a Q&A document for social landlords.

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69 Letter from Damien Hinds to Rt Hon Frank Field MP, 21 September 2017
70 NHF, Universal Credit update: landlord portal and Trusted Partner programme rollout, 27 September 2017
4. Calls to halt the roll-out

On 18 September, the Chair of the Work and Pensions Select Committee, Rt Hon Frank Field, called on the Government to pause the roll-out of UC, saying:

The Secretary of State still has it in his power to prevent a human and political catastrophe that we have heard about this morning.

We will hear from David Gauke in October but we must begin to wonder what more evidence the Government needs before it heeds the unanimous call we are hearing from front line providers to pause the rollout.

We know DWP is aware of these problems and working hard to find fixes but surely common sense says that you should halt extending this programme until those fixes are in place and demonstrably working. What is the point of having pilots otherwise?

Evidence from the first three Universal Credit boroughs shows they have amassed £8m in rent arrears, with more than 2,500 tenants in London claiming Universal Credit so far behind with their rent they are at risk of eviction from their homes.

We are hearing evidence of people being plunged into all sorts of vulnerability as a result of the debt, risk of hunger and homelessness, and resulting stress of being migrated onto Universal Credit, with its in-built 6 week delay in receiving a first payment and much longer waits for many people.

People already on low incomes simply cannot cope without any income for such a long period of time.

That people are as a result reliant on food banks, for example, is not an acceptable facet of our social safety net.

It must behove the Government now to declare at least a “Christmas truce”, and fix all these problems before progressing any further. 71

The 28 September 2017 saw the Telegraph report that 12 Conservative MPs had written to the Work and Pensions Secretary calling for a pause in the accelerated roll-out of UC. 72

In the week that roll-out of UC in Northern Ireland began, housing and charity sector leaders in the region wrote to Secretary of State, David Gauke, calling for an urgent review. 73

On 2 October 2017 the Observer reported that Scottish ministers had also written to David Gauke asking for a pause in the roll-out. 74

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71 Work and Pensions Select Committee, 18 September 2017
72 The Telegraph, “Tory rebellion throws Universal Credit reform into chaos”, 28 September 2017
73 Letter to David Gauke, 25 September 2017
74 The Observer, “Scotland calls for a halt on Universal Credit”, 2 October 2017
5. Support for home owners

Under UC, home-owners will receive help with mortgages and other eligible loans based on a standard rate of interest and subject to a set capital limit. Payments will also cover eligible service charges. This will broadly replicate the current system of Support for Mortgage Interest (SMI) with some differences:

- there will be no help where the owner-occupier (not including shared-ownership) is doing any paid work – referred to as the ‘zero hours rule;’
- there will be a waiting period of three months before owner-occupiers can claim help with mortgage costs.

Since January 2009 receipt of SMI has been limited to two years for Jobseeker’s Allowance claimants. The first draft of the Universal Credit Regulations published for consultation in June 2012 also included a provision limiting receipt of mortgage interest to two years for claimants subject to “all work-related requirements.” However, the paragraph containing the provision on time-limiting was omitted from the final version of the Universal Credit Regulations 2013.

The Work and Pensions Select Committee recommended that the Government should “look again” at the removal of support for mortgage interest as soon as any hours of work are undertaken:

> It could discourage claimants from entering part-time employment, especially the newly separated and those recovering after a long illness.

The Government rejected this recommendation:

> Only around 5% of those currently getting help with their mortgages work part time. Having a mortgage to pay provides a strong incentive for moving into full-time employment. Part time earnings cannot sustain mortgages in the long term, so those who would be worse off need to re-consider their position with regard to the amount of work they do or the level of their housing costs.

The zero earnings rule should not be looked at in isolation. Universal Credit will have more generous disregards than the current system. Unless someone has a very large mortgage, is working only a very small number of hours and receives a low rate of pay, they can still expect to be better off in work even though they lose their Support for Mortgage Interest (SMI). For example, a lone parent receiving the average level of support for mortgage interest who takes up a national minimum wage job will be better off after just 7 hours of work a week and better off than under the current system after 10 hours of work. Clearly such a person would be better off after even fewer hours if earning above the legal minimum.

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75 Schedule 5, paragraph 15 of the draft Universal Credit Regulations 2012 submitted by the DWP to the Social Security Advisory Committee for consultation in June 2012
77 Government response to Universal Credit implementation: meeting the needs of vulnerable claimants, Cm 8537, February 2013, paras 76-77
From April 2018, SMI will change from a benefit to an interest-bearing loan, secured against the mortgaged property. Provisions to implement this scheme are contained within the *Welfare Reform and Work Act 2016*. Full details can be found in Library briefing paper: [Support for Mortgage Interest (SMI) scheme](6618).

The *Social Security Loans for Mortgage Interest Regulations 2017* were considered by the [Social Security Advisory Committee on 8 March 2017](6618).
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