

Universal Credit (Transitional Provision) (Claimants previously entitled to a Severe Disability Premium) Amendment Regulations 2021

Background

The Severe Disability Premium “Gateway” (SDP) was introduced by DWP following a successful legal challenge to its practice of triggering existing “legacy benefit” claimants onto Universal Credit (UC), thereby losing the extra SDP top-up income they were previously entitled to. In January 2019, the High Court found this practice unlawful, obliging DWP to stop migrating those getting a SDP onto UC. In January 2020, the Court of Appeal upheld the original judgment. These new regulations end the SDP Gateway from 27th of January 2021, so that people in receipt of a SDP on legacy benefits are now liable to be moved onto UC if they have a change of circumstance.

Who is impacted?

Policy in Practice estimates that 528,000 working-age households are currently in receipt of a SDP in their legacy benefits, with approximately 500,000 of those (95 per cent) receiving Employment Support Allowance (ESA) – the main out of work benefit for disabled people.¹

When will people be impacted?

People in receipt of a SDP in legacy benefits will be moved onto UC when they experience a change in circumstance, such as moving into or out of employment; becoming responsible for a child; or moving to a new local authority area. Covid-19 has increased rates of redundancy and changes in working hours – in turn increasing the number of people on legacy benefits experiencing a change in circumstance. People in receipt of a SDP on legacy benefits are more likely to have experienced a change in circumstance due to Covid-19 - recent Citizens Advice research found that disabled people were almost twice more likely to be facing redundancy than the general public.²

With the “managed migration” project on hold, and Covid-19 accelerating the rate of natural migration, many disabled people are moving onto UC under natural migration and missing out on the full transitional protection to be provided under managed migration. SDP transitional payments provided under natural migration only compensate for the loss of a SDP, whereas full transitional protection compensates for all other losses like the enhanced disability premium (see below).

Transitional top-up payments

The Government has justified the removal of the SDP gateway with the provision of transitional top-up payments to compensate for the loss of a SDP, which are available to people who have received a SDP within their Income Support, Job Seekers Allowance (JSA) or ESA in the month before they claim UC and continue to meet the eligibility conditions for SDP. The amount of the transitional SDP element in the first assessment period is:

¹ Louise Murphy, Policy in Practise, 2021. [What the close of the SDP Gateway means for disabled people moving to Universal Credit.](#)

² Citizens Advice 2020. [Parents, carers and disabled people at least twice as likely to face redundancy, warns Citizens Advice.](#)

1. **£405 a month** where joint claimants were receiving the higher couple rate SDP in their legacy benefits.
2. **£285 a month** for single claimants not in the UC limited capability for work-related activity (LCWRA) group. This amount is also paid to couples where only one member is eligible for SDP and they are not receiving the LCWRA component in UC.
3. **£120 a month** for single claimants in the LCWRA group. These claimants receive a lower amount of transitional protection because they will be receiving the LCWRA element of UC. This amount is also paid to couples where only one member is eligible for SDP and they are receiving the LCWRA component in UC.

Three key issues with these transitional top up payments:

1. **Households receiving the SDP in their HB only do not get transitional protection.** These payments are only available to people who were receiving the SDP in their JSA, ESA or Income Support. This means that people who are disabled and in work, who are currently receiving HB and working tax credit, will lose their SDP if moved onto UC. This is especially concerning in the midst of the pandemic, when working disabled people are facing redundancy or cuts to their working hours.³
2. **Households who lose other elements of their legacy benefits when they move to UC.** The transitional element of UC only compensates for the loss of SDP. This means that people can still lose hundreds of pounds a month when they move to UC - people in receipt of the Enhanced Disability Premium (EDP) have never benefited from the SDP gateway and tend to receive less money under UC since there is no equivalent for the EDP within UC, and they do not receive any transitional payments.⁴
3. **Households whose transitional payments will erode quickly.** The SDP transitional element is designed to decrease over time, so that in the long run, no one will be receiving SDP in working-age legacy benefits or a SDP transitional element. If your circumstances change and any element of your UC (apart from the childcare costs element) increases, such as the cost of your rent, your transitional element will decrease by the same amount.⁵

Case study

Z2K's client, "Lee" was incorrectly moved onto UC, despite being in receipt of a SDP on a legacy benefit and the SDP gateway being in place. This led to her getting into serious debt and rent arrears. As one of the very few who have been moved back onto legacy benefits, Lee says *"I would not want to go back"* to UC.

This is because she feels that UC in its current state is inadequate. While on UC she was subject to the all too common occurrence of UC overpayments, as well as deductions for historic Tax Credits overpayments. When trying to resolve a question or concern via the UC journal, Lee found it frustrating when DWP didn't even acknowledge or respond to it. *"Their responses wouldn't always answer my questions, and there is absolutely no consequence [if they don't]."*

In addition, as Lee explains it often feels as though the people answering your queries are only dealing with the most recent one: *"they don't seem to read the past posts [when you contact UC]."*

³ Louise Murphy, Policy in Practise, 2021. [What the close of the SDP Gateway means for disabled people moving to Universal Credit.](#)

⁴ Louise Murphy, Policy in Practise, 2021. [What the close of the SDP Gateway means for disabled people moving to Universal Credit.](#)

⁵ Louise Murphy, Policy in Practise, 2021. [What the close of the SDP Gateway means for disabled people moving to Universal Credit.](#)

They only look at the one they are dealing with on the top...if they don't read the history and they are not the same person you were speaking to before, their answers are going to be completely irrelevant. I'm not sure that UC was actually made to deal with people."

Not only would her transitional top up payment be subject to erosion if moved back onto UC, but Lee would also be once again struggling to use an inadequate system, that currently isn't fit to support many people – especially those in some of the most vulnerable situations who are currently on legacy benefits and in receipt of a SDP. Disabled and seriously unwell people like Lee do not need the added stress of UC's failing system, especially in the middle of a pandemic.

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