

## **Written Evidence Submitted by Zacchaeus 2000 Trust (UCN0072)**

1. Zacchaeus 2000 Trust is an anti-poverty charity providing in-depth advice and long-term support for low-income Londoners, including those affected by the Government's cuts to Social Security benefits. This combination of casework and support informs our views about the policies pursued by national and local government and the issues we campaign on.
2. The majority of our clients live in the City of Westminster, which only went "full service" in June 2018, and so up until then, most people we saw were still on "legacy benefits" and we had seen relatively few Universal Credit (UC) claimants. Six months later, however, many of the clients we see are on UC. Some of those people are already struggling so badly that they are being threatened with eviction or are left without enough money to feed and clothe themselves and heat their home.
3. In our view, previous ministers simply ignored warnings from experts, civil society and the select committee itself about both the number of claimants who would be adversely affected by the move to UC and the severity of those impacts. These difficulties have continued even after the end of the extra seven day waiting period for UC and the introduction of the two-week run-on for Housing Benefit.
4. DWP's key concession later in 2018 – the two-week benefit run-ons for JSA, ESA and Income Support claimants – does not actually due to come into effect until July 2020. We believe it is bizarre to admit the current minimum five-week wait is so problematic that these benefit run-ons are required and yet wait nearly two years to implement them. Neither are we persuaded the £200 million Universal Support funding is in any way adequate to address the problems being experienced by those claimants struggling with the digital system.
5. Given these concerns, we welcome the current Secretary of State's recent admission that UC may have contributed to the exponential increase in the number of households who have been forced to turn to foodbanks and her seemingly more pragmatic approach. Like the committee, we were especially pleased to see the "managed migration" regulations and the requirement for fresh Parliamentary approval before managed migration is extended further.
6. In the meantime, however, the number of claimants moving onto UC continues through ongoing "natural migration". We feel that the flaws in UC like the insistence on digital, the minimum five-week delay, the default direct payment of housing element, are so fundamental that a genuine pause should take place before anyone else is migrated onto it. If the committee feels unable to support that proposal, we hope it will at least recommend much more limited "triggers" for natural migration so that vulnerable people are protected from its worst excesses until it is fixed.

## **Which groups of people stand to lose out most when they transfer to Universal Credit? What should the Government be doing to support those groups?**

7. Zacchaeus 2000 recognises that some households will be better off on UC than they were under "legacy benefits", especially those part-time workers able to increase their hours at work. However, we have always felt that almost everyone else was potentially at risk of losing out in some way or another from the move to UC and we are now seeing evidence of that. This section outlines our concerns in relation to four types of problems faced by our clients who have transferred to UC under "natural migration" – tenants struggling with

direct payments, disabled people who have failed the Work Capability Assessment (WCA), those previously in receipt of Severe Disability Premium and those with queries over their “Right to Reside”.

### Housing Costs / Direct Payments

8. Zacchaeus 2000 is especially concerned about the Government’s insistence that UC claimants handle the “housing element” themselves and make arrangements to pay their landlord instead of electing to have this paid directly to their landlord. While this can cause difficulties for those whose landlord is a local authority or housing association, it can be even more serious for those renting from a private landlord. In our experience, it is already leading to tenants falling into significant arrears and facing the prospect of possession action and even eviction.
9. This approach of forcing tenants to handle rent payments themselves is based upon that used for the pilot of the Local Housing Allowance (LHA) for tenants in the private rented sector 15 years ago. Like UC, that measure was adopted with the stated aim of increasing personal responsibility and financial inclusion. However, it ignores the fact that “direct payments” of LHA ended up being implemented more flexibly when it was rolled-out nationwide than it had been originally envisaged.
10. When the Work & Pensions select committee examined the LHA regime in 2009/10, it concluded that, while direct payments to the tenant should remain the default position, the Government should ensure local authorities were identifying potentially vulnerable tenants who might not handle this new responsibility easily, and also ensure more welfare benefits advice is available to help those struggling with it.[\[1\]](#)
11. These concerns were also reflected in the committee’s 2012 report into UC, which highlighted the additional difficulties tenants in social housing might experience dealing with direct payments, especially when they have never had to do so previously. That report specifically recommended that:

“... during the initial phases of implementation, claimants who currently have their housing costs paid to their landlord should have the option to continue with this arrangement” (and that) “the Government moves quickly to establish a clear definition of ‘vulnerable’ groups within UC for whom it will not be appropriate to include housing costs in their benefit payment. It also needs to establish a robust process for proactively identifying claimants who are struggling to manage their housing costs so they can be assisted before they fall into arrears and face eviction.”[\[2\]](#)

12. In our view, the architects of UC learned little from the experience with LHA direct payments and took insufficient heed of the vital safeguards recommended by the committee in its reports following those two inquiries. For example, in 2013, in contrast to the situation with LHA, DWP specifically ruled out introducing a definition of “vulnerable” for the purposes of UC, arguing that:

“Any attempt to do so would risk some people with complex needs falling outside of the prescribed definitions and then not receiving help that they may genuinely need. As a result full guidance, including financial and vulnerability factors that would trigger a conversation with a claimant about their budgeting needs (including whether they need an alternative payment), will be made available to support staff handling these cases.” [\[3\]](#)

Whatever intentions DWP had in theory, the reality for UC claimants has been very different in practice.

13. One of the most frustrating aspects of DWP's insistence on the default position of direct payment is its refusal to acknowledge that social tenants might have different characteristics to other parts of the population. That may well have been the case in the 1960s or 1970s. But for the past forty years, the Right to Buy and the failure to invest in building new social homes has meant that the allocation of social housing has been increasingly focussed on those who are deemed vulnerable either because they have been homeless or because of a disability or health condition.

14. Instead of accepting this reality and looking for ways to encourage or even incentivise social tenants to handle the housing element of UC, previous ministers have simply indulged in rhetoric and unsubstantiated assertions. Again in its response to the committee's 2012 report, DWP boldly states:

"Too often people in the social rented sector move into work and find they are unable to deal with managing their wages and paying their bills. This can often be the cause of them leaving work and subsequently being reluctant to take work." [\[4\]](#)

15. Zacchaeus 2000 questions basis for this assertion. But even if it is true, insisting that claimants who have previously found it difficult to manage their money when they are in paid work are forced to manage their more limited Social Security benefits is surely likely to result in many being unable to do so.

16. As UC is now full service across the whole country, there is growing evidence of a sharp increase in the number of social tenants falling into significant arrears. This was first documented by London Councils in its analysis of the impact on rent arrears amongst council tenants in Croydon, Hounslow, Southwark and Tower Hamlets, which went full service at an early stage. More recently, journalist Chaminda Jayanetti has shown that this is not just the switch from up-front payments under the HB system to UC payments in arrears. He has shown that 54 per cent of UC claimants in council housing are in rent arrears of at least one month and a third are in at least two-months arrears, compared to equivalent figures of 8 per cent and 5 per cent for tenants on HB. Perhaps most worryingly, the changes last April don't appear to have made any difference to the proportion of social tenants in arrears.[\[5\]](#)

17. While secure council tenants are theoretically protected from unnecessary possession proceedings by the rent arrears protocol, this doesn't always stop some authorities sending threatening letters demanding arrears are cleared. Worse though is the real threat to assured tenants of housing associations who have the power to seek possession for eight weeks rent arrears (Ground 8).

18. We believe the time has come for DWP to think again about its insistence the default position is direct payment or at least the flexibility with which it considers requests from social tenants to go on to Managed Payment to Landlord (MPTL), and hope the committee will make a recommendation along these lines.

19. More specifically, we are also concerned about the persistent incidence of the initial UC payment being made to the tenant even where we have helped them request MPTL on the basis of their vulnerability because of having previously been

homeless. Our *NextDoor* project, supports homeless and vulnerable clients to find accommodation in the private rented sector. For the majority of the clients we work with who move from homelessness to renting, managing resources such as income and bills after years without doing so, is trying at best and at worst, impossible.

### Case Study

Martin had been homeless for a number of years before moving into a studio flat brokered by Zacchaeus 2000. He felt particularly worried as he had not managed household bills such as council tax and utility payments in some time. Simultaneously, Martin had had ill health during the period of natural migration onto UC: he experienced a stroke and had further cardiac problems since then. Managing a tenancy alongside these health conditions was very overwhelming for Martin and he required a lot of care. Despite Z2K supporting his MPTL request on grounds related to his homelessness as set out in Tier One conditions for Alternative Payment Arrangements (APA), the first payment was still paid directly into his bank account.

20. While the guidance on APA seems clear, it is being interpreted inconsistently:

### Case Study

Zacchaeus 2000 brokered "Horace" a new tenancy after a period of homelessness and helped him put the following entry on his UC journal: *"I want to apply for an APA to allow direct payment of my housing costs to my landlord. I fulfil Tier One conditions as I have been homeless and this is my first tenancy in a long while. Please contact my landlord."* Instead of doing this, DWP sent Horace's new landlord a UC47 form so they could apply for MPTL on the basis of rent arrears. This is not only incorrect, it risks implying to Horace's landlord he won't be able to sustain the tenancy. Another tenant who made the same APA request that week had it quickly approved without any contact at all with the landlord.

### Employment Support Allowance (ESA) claimants

21. Like many others, Zacchaeus 2000 has been frustrated by the continuing problems with the Work Capability Assessment (WCA) for those applying for ESA because a disability, medical condition or ill health prevents them from working. These problems apply equally to those applying for the limited capability for work element of UC. Even more worryingly, existing ESA recipients are being drawn into the UC net when their award comes up for reassessment.
22. In the past five years, Zacchaeus 2000 has helped nearly a thousand disabled or seriously unwell ESA claimants appeal against DWP's decision that they are "fit for work" or that they are not entitled to Personal Independence Payment (PIP) despite having been in receipt of Disability Living Allowance prior to reassessment. While those decisions are still only rarely overturned at the Mandatory Reconsideration stage, our success rate at the independent appeal Tribunal in 2018 was 88 per cent.
23. We have found that those who have failed the WCA are usually told to apply for UC instead. While this advice is perhaps understandable in theory, it can have very serious consequences for claimants wanting to challenge that decision. Once someone has made a claim for UC, there is no going back onto legacy benefits even for those that go on to win their appeal. It is a one-way valve.

24. Worse still, claimants are only able to avoid the full range of job search conditionality if they produce a “fit note” from their GP. As our report last year showed, this can often be difficult because DWP itself is now writing to claimants’ GPs telling them their patient has failed the WCA and so they don’t need to provide fit notes any more (ESA65B letter).<sup>[6]</sup> In these circumstances, it can be very difficult for our client to persuade their GP they do still need a fit note, either for their disability or illness to be taken into account in any conditionality applied to their UC claim or even to obtain ESA-pending appeal. We are grateful that the committee chair has raised this issue with the Disabilities minister and look forward to her response.
25. In the meantime, our early experience last summer trying to help disabled clients challenge entirely inappropriate conditions applied to their UC claim and unravel the mess their finances had gotten into as a result of direct payments, means that we now encourage those who have failed a WCA, but have either savings or get Disability Living Allowance (DLA) or PIP, to submit a zero income-based HB claim and try to live off those monies while we seek to secure payment of ESA-pending appeal.

### Case Study

“Alba” failed her WCA in June 2018. She suffers with arthritis in her knees and cannot walk very easily. Her GP had previously given her a fit note, but when she requested a new one, she was told this wouldn’t be possible anymore because of the ESA65B letter they got from DWP. She will reach pension age in March 2020 and so feels even more frustrated by the ordeal she is being put through. She is very worried about not being able to receive ESA pending appeal. Her only option now is to make a claim for UC, but she knows the difficulties she will experience in terms of work search “conditionality” until her appeal is heard and thereafter as well as she will not return to ESA even if she wins.

26. We believe those who have failed a WCA should be formally advised about their right to obtain the ESA while any appeal is pending and any claimants switched on to UC should be allowed back on to ESA if their appeal is successful.

### Severe Disability Premium (SDP)

27. Zacchaeus 2000 believes that the removal of the Severe and Enhanced Disability Premiums was one of the most pernicious aspects of UC, and we therefore welcome the High Court’s judgment last June that this was discriminatory. While DWP’s acceptance of this decision and agreement not to move over any more of those SDP recipients onto UC was also welcome, thousands of those who lost that money through natural migration prior to June 2018 are still waiting to have it reinstated going forward and to be recompensed for what they lost up until this point in time.
28. The draft UC (Managed Migration Pilot and Miscellaneous Amendments) Regulations 2019 seek to remedy this injustice. However, in answer to a recent Parliamentary Question, the Disabilities Minister, Sarah Newton MP, has admitted that DWP is still only working towards a deadline of six months after the regulations come into effect.<sup>[7]</sup> This further delay is bad enough in itself, but given the experience on other occasions when DWP has been forced to change its policy as a result of legal challenges, for example claimants wrongly being put on contribution-based ESA instead of income-based, we fear it may actually take even longer.

29. We hope the committee will press DWP to make quicker progress in paying disabled claimants the money they are owed as a result of the unlawful denial of SDP.
30. One of the most frustrating and distressing problems some of our clients are experiencing are incorrect judgments on their Right to Reside resulting in decisions they are not entitled to UC. While we had seen a number of similar decisions for claimants of both JSA and ESA in the last year or so, the number under UC has increased dramatically. In most of those cases, DWP has accepted its mistake when challenged by our advisors. However, it has sometimes been necessary to pursue the challenge all the way to the independent Tribunal, which can take many months, leaving the claimant at risk of destitution. For those without access to support, such errors will be extremely difficult to challenge.

#### Case Study

Despite acquiring a right of permanent residence through continuous work and having been lawfully resident in the UK for a period exceeding five years, “Mathew” was deemed by DWP as *‘a person who must be treated as not in Great Britain’* and therefore not entitled to UC. He had to go through the appeals process to prove his legal status, work history and not being fit for work. During the appeals process Mathew was not able to pay rent and had only his PIP to live on, which meant his case was urgent. With detailed evidence and advocacy at his Tribunal, Mathew’s appeal was allowed and he was finally paid the money he was rightfully entitled to.

**What does the lack of a comprehensive list of “triggers” that can transfer people to Universal Credit mean in practice for claimants and the groups who support them? Should the Government produce a full list?**

31. Zacchaeus 2000 is seriously concerned that DWP still refuses to publish a full list of triggers to transfer claimants to UC. This determination to keep claimants in the dark about what changes to their circumstances will switch them over seems designed to ensure they are unable to make decisions that could see them drawn into the UC net unwittingly. We strongly support the committee in its demand for the publication of such a comprehensive list.

**Are the existing “triggers” for natural migration appropriate? If not, how should they be changed?**

32. No. As outlined above, Zacchaeus 2000 believes there should be a pause in the roll-out of UC, so that proper solutions to the systemic problems claimants face can be put in place. If the committee is not minded to support that, however, we hope it will at least make the case for a more limited package of triggers for natural migration. In those circumstances, we would accept that a claim for out of work benefit should be a trigger and that they should therefore be applying for UC rather than JSA. Similarly, a claim for what would have been Income Support or ESA should now be UC claims too, as should a Child Tax Credit claim from someone not already in receipt of tax credits.
33. However, some of the other triggers we have come across seem to be contrived simply to increase the number of claimants moving over onto UC to ensure DWP targets are met and the completion date is not put even further back than 2023. In particular, Zacchaeus 2000 feels strongly that natural migration arising from a change of address to somewhere in another local authority area is an especially inappropriate trigger. The following example illustrates why:

#### Case Study

“Grace” approached Z2K in a panicked and very confused state. Suffering from autoimmune diseases which are aggravated significantly by stress, she was triggered on to UC through a change of boroughs when she did a mutual exchange with another social housing tenant. The natural migration was anything but smooth, with issues from carrying over her entitlement for ESA / LCWRA to securing her housing element, to adjusting to the loss of her SDP. As a result, she now feels she has been punished for trying to better her life via a change of home. She is so anxious about being in debt she has refrained from spending hardly any of her money so she can avoid arrears. Grace is now considering moving to an elderly family relative where she would have no rent liability in order to avoid the stressful situation further. She wishes she had not thought of moving and never triggered the move over to UC.

**Has the Department for Work & Pensions done enough to help people understand what changes in their circumstances might cause them to transfer to Universal Credit, and what that might mean for them? What more could it do?**

34. No. Zacchaeus 2000 understands that Ministers will want to publicise this fundamental reform to the Social Security system, but we feel that recent advertising campaigns have been more about promoting the perceived benefits of UC to the wider public, rather than informing those who might be transferred to it about the triggers for natural migration or their rights to challenge decisions taken under it which are to their disadvantage. We would encourage the committee to recommend DWP adopt a much more balanced approach to its advertising in future.

*February 2019*

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[1] <https://publications.parliament.uk/pa/cm200910/cmselect/cmworpen/235/235.pdf>

[2] <https://publications.parliament.uk/pa/cm201213/cmselect/cmworpen/576/57612.htm>

[3] [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/221715/uc-wpsc-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/221715/uc-wpsc-response.pdf)

[4] [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/221715/uc-wpsc-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/221715/uc-wpsc-response.pdf)

[5] [https://www.independent.co.uk/news/uk/home-news/universal-credit-rent-arrears-delay-housing-citizens-advice-a8764696.html?amp&utm\\_medium=Social&utm\\_source=Twitter&\\_twitter\\_impression=true](https://www.independent.co.uk/news/uk/home-news/universal-credit-rent-arrears-delay-housing-citizens-advice-a8764696.html?amp&utm_medium=Social&utm_source=Twitter&_twitter_impression=true)

[6] <https://www.z2k.org/policy-work/disability-benefits/>

[7] <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-01-31/215192/>