

## **Z2K's response to the Work and Pensions Committee's inquiry into *Universal Credit: the wait for a first payment***

1. Zacchaeus 2000 Trust (Z2K) is an anti-poverty charity that uses advice and casework to prevent homelessness and support people to access the Social Security benefits they are entitled to. We use evidence from this work to campaign for change. A growing number of those we work with are now either already on Universal Credit (UC) or at risk of adverse effects if they move onto it.
2. Z2K submitted evidence to the committee last year for its inquiry into UC "natural migration"<sup>i</sup> and we were pleased that among the final recommendations was one that the DWP "should look at practical options to eliminate the five week wait".<sup>ii</sup> We are deeply disappointed with the Department's refusal to engage meaningfully with this recommendation and the growing body of evidence of the serious problems caused by this delay. In fact, both ministers and senior officials appear to be in complete denial.
3. In its report, the committee also highlighted Z2K's formal complaint to the Advertising Standards Authority (ASA) about DWP's "UC Uncovered" adverts in *The Metro* newspaper last year. The ASA subsequently upheld our complaint that these adverts were "misleading" and ordered DWP not to publish them again.<sup>iii</sup>
4. We welcome this new inquiry and hope DWP will finally be persuaded to properly address the problems UC causes many claimants, especially given the enormous number of new claims that have been made since the COVID-19 crisis began.

### **To what extent have the mitigations the Government has introduced so far (e.g. Advance payments) helped to reduce the negative impact of the five week wait for UC claimants?**

5. The two main mitigations that DWP has introduced are Advance Payments and two week run-ons of certain legacy benefits.
6. DWP upholds Advance Payments as the solution to the negative impact of the five week wait. In its advertising campaign last year, DWP claimed that it was a myth that you have to wait five weeks to get any money on UC, and that your jobcentre will urgently pay you an Advance if you need money. However, the ASA agreed with Z2K that these advance payments are essentially loans. They are given to claimants without any of the health warnings that are legally required of those operating in the commercial sector, and often without even specifying the impact on a claimant's subsequent UC payments. Claimants are not being given the information they need to make informed decisions. As our client, "Claire" told us,

*"The jobcentre offered me £1,500 Advance Payment .... I'm glad I didn't take that because I'm still paying the £1,000 Advance Payment I did take back now ... I wish I hadn't taken that much .... it's when I'm used to working and that and having a regular wage it's not knowing when your first payment's going to come through .... you get excited as well when you've got nothing and you're offered this amount."*

7. Z2K is seeing an increasing number of vulnerable claimants who like Claire were told at the start of their claim to obtain the maximum Advance Payment, and who are now faced with

fixed recovery rates that leave them without enough money to feed and clothe themselves each month.

*In July 2018, "Tom" had a change in his circumstances when he failed DWP's discredited Work Capability Assessment (WCA) and he was advised to make a new claim for UC. He came to us after all his benefits had stopped and he needed support with his claim. What confronted him was the dismal prospect of having to deal with at least five weeks of no money. Existing debts and a coincidental overpayment from his previous benefit meant this change happened at the worst possible time. Tom had no money at all. Prioritising paying his bills and managing other payments, Tom applied for a £500 Advance Payment. At the time, he was not fully aware of the implications that borrowing such a figure would have on his payment going forward. As a result, £48 was deducted from his standard allowance every month to repay the Advance Payment. This was coupled with £85 in other deductions that include a past overpayment and budgeting loan, so he was losing nearly half his standard allowance – leaving him just £40 a week to live on. Unsurprisingly, Tom had to resort to a foodbank and borrowing from family to heat his home.*

8. Whilst DWP allows Work Coaches discretion to put a hold on starting deductions for the first three months, it seems to be rarely used. More recently, the maximum Advance Payment deduction was reduced from 40 per cent of the Standard Allowance to 30 per cent. However, this is still a significant proportion of what is for many already an insufficient income. By the time UC is rolled out, it is estimated that two million families will struggle to meet basic living costs during the five-week wait. Around 700,000 of those will continue to face a shortfall as they repay their Advance over the following year.<sup>iv</sup>
9. The Government has also introduced a two week Housing Benefit (HB) run-on from HB to UC. However, due to issues with the initial UC claim, this rarely happens either. So far this two week run-on does not appear to have made any real difference to the proportion of social tenants in arrears.<sup>v</sup> The two week benefit run-on for Income Support (IS), income-based Job Seekers Allowance (JSA) and income-related Employment and Support Allowance (ESA) is also to come into effect in July 2020. Given that this was announced in 2018 in acknowledgment of how problematic the five week wait for UC is, it is extremely frustrating it has taken nearly two years to be implemented. Z2K was one of several organisations whose evidence on this point was highlighted by the committee a year ago. Again, senior officials have simply refused to accept a quicker timeframe was possible. It is now estimated that 69 per cent of those on these benefits as of November 2018 will not get this support because of having transferred to UC before the change comes in.<sup>vi</sup>
10. Neither of these two mitigating measures go far enough in reducing the negative impact of the five-week wait for UC claimants, and in the case of Advance Payments, claimants often suffer greater financial hardship due to inflexible recovery rates. This is why, as we outline in our response to Question 2, claimants should receive their first UC instalment within one week of the initial claim, not in the form of a loan, but as their first payment.

#### **What problems do claimants still experience during the five week wait?**

11. Many of our clients experience at least one of the following financial problems during the five week wait: not being able to pay their bills, not being able to heat their homes, having to take out loans, having to borrow money from friends and family, getting into debt, getting into rent arrears which leads to risk of eviction and homelessness, being unable to afford

food, and having to use foodbanks. With this, comes the equally severe non-financial impacts on mental health and family relationships.

12. For many, the change of circumstance that triggers a UC claim, such as a job loss or illness, means they are already financially vulnerable. The five week wait makes this situation worse.

*“Brenda” was advised by her occupational health consultant to take early retirement because of her deteriorating health. The statutory sick pay and half pay that she was receiving from her job were not enough to support her, so Brenda was advised to claim HB. However, after doing so, she received a letter saying that she would need to claim UC because she lived in a live UC area. Brenda then applied for UC but the jobcentre, despite having her up-to-date information from the council, sent her back to the council to apply for HB again. Brenda was back and forth between the council and the jobcentre four times, before the jobcentre finally processed her UC claim. The only thing that saved her during that period was the small income from her statutory sick pay and half pay, and that her landlord understood the rent arrears would get paid once Brenda received her ill health retirement payment.*

13. The five week wait is bad enough in itself, but many people actually have to wait even longer for their first UC payment. Over 70 per cent of a group of 500 disabled people who had claimed UC said they had to wait more than five weeks for their first payment, with almost 17 per cent saying they had to wait more than nine weeks.<sup>vii</sup> Flawed DWP decision-making and administrative errors often prolong an already difficult wait.

*“Paul” was on Severe Disability Allowance (SDA). He was re-assessed as being no longer eligible, and told to claim JSA instead, which he did. He was then told to apply for ESA, but when he went to the ESA assessment he was told that he wasn’t ESA compliant, and was made to go back on JSA. But then his work coach said that he needed to appeal this ESA assessment decision, which he did, but the DWP lost his paperwork. Paul was then just told to apply for ESA again, but ESA said that was a mistake, and told him that he had to claim UC instead. Paul had to wait six weeks for his first UC payment, on top on the 3 months that he was without any income due to being incorrectly told by the jobcentre to claim ESA. Paul had to borrow money from family members, who themselves were struggling financially.*

*“Carol” first applied for UC in 2017, but was wrongly denied on the basis of her Right to Reside. This meant that when she later approached her local authority after being evicted from a private rented tenancy, it refused to assist her because UC had incorrectly assessed her as not being entitled to benefits. Carol kept reapplying for UC, but was wrongly denied Right to Reside a total of six times, and as a result had to wait two years for her first UC payment. Throughout this period, Carol was homeless and had to stay with friends, and sometimes had nowhere to stay. It wasn’t until she applied for UC having got leave to remain, that her UC claim was approved. DWP has belatedly acknowledged its repeated mistake, and Carol was awarded a backdated payment for these two years.*

14. There are also circumstances where for people who make a mistake on their UC application and have to resubmit it, it becomes a new claim generating a further delay to receiving their first payment.
15. The current COVID-19 pandemic has reinforced how crucial it is to end the five week wait. For the million people and counting who have recently applied for UC since it was made

available to those not entitled to Statutory Sick Pay (SSP), five weeks is too long a wait for support from the state, and many will have to go without in this already challenging period. Whilst Advance Payments are available, those claiming UC for the first time will be having to adjust to the fact that, despite recent the increase to the standard allowance, £95 a week still does not cover the actual cost of living. Many will avoid taking an Advance Payment to avoid repayment deductions to this already minimal amount.

### **What is the best way of offsetting the impact of the five week wait?**

16. In the short-term, in light of COVID-19 we want to see Government make Advance Payments non-repayable grants, ensuring that people are adequately supported throughout this uncertain period and don't face deductions from their standard allowance.
17. In the long-term, the five week wait should be removed completely, and UC claimants should receive their first UC instalment within one week of the initial claim, not in the form of a loan, but as their first payment. This payment should be calculated as follows: a) for claimants in work, their last month's earnings should constitute their assessed income for their first UC payment; b) for those out of work, their legacy benefit entitlement should be converted to UC.
18. In addition to this:
  - Claimants should be able to choose whether they want to stay on legacy benefits (and reinstate the ESA Work-Related Activity Component) or move onto UC.
  - DWP should ensure transitional protection for every claimant moving from legacy benefits to UC.
  - Local authorities should use the date of a claim for UC for the calculating of Council Tax Support.
  - Claimants should be given the choice to make their claim bespoke to suit their individual needs, allowing them to decide how to handle their money. This should include all claimants being able to: set up Managed Payments to Landlords (MPTLs), decide how they manage their claim (digitally, via letters, face-to-face etc.), and choose how often they would like to be paid (for example, fortnightly).
  - For joint claims, separate payments and individual online UC journals should be the default.
  - People aged under 25 who have children should not be subject to the reduced under 25 UC rate.
  - If DWP maladministration has occurred, or a wrong decision has been made, UC claimants should not have to pay for this. They should also be compensated if they have suffered financial loss as the result of any DWP maladministration, including delays in payment beyond the five week wait. DWP should also be more transparent about when they have made an error, and stop retrospectively editing their errors from peoples' UC journals.
  - Claimants should be exempt from claimant commitments when appealing a negative WCA decision, and receive an equivalent of the ESA appeal rate.
  - DWP should ensure that people are adequately supported to live stable and dignified lives on UC, by removing the benefit cap and two child limit, increasing work allowances, and restoring UC rates to their true value so that they are proportional to the cost of living.

19. While we welcome the news that the “managed migration” has been paused because of COVID-19, we believe that the managed and natural migration of UC should be suspended entirely, not just during this pandemic, but until the reforms listed above are made, so that vulnerable people are protected and those on legacy benefits do not lose out.

**Is it possible to estimate any costs or savings to third parties (for example, support organisations)?**

20. Evidence demonstrates that the increased use of support organisations and services, and food banks, as a result of the rollout of UC is not solely because of people needing support during the five week wait, but because of wider issues with UC.<sup>viii</sup>

21. It is very revealing that food bank demand continues to rise long after UC went “live” in an area, rather than plateau, as might be assumed if hardship was limited to the initial five week wait.<sup>ix</sup> Six months after the introduction of UC in an area, there is a 20 per cent increase in the use of local food banks, and 24 months after the introduction of UC in an area, this use of local food banks increases to 48 per cent.

22. For our clients, the five week wait undoubtedly causes hardship, but this hardship does not stop there. The overarching impact is that they do not have enough money to live a stable and dignified life, and do not have enough control over how and when they receive their money. As “Callum”, explains,

*“Once I’ve paid off my share of the bills I’m left with normally between £120 and £150 a month .... normally by the end of the first or second week I’m down to about £20 or £30 and I try and keep that in the bank just in case there’s some kind of emergency.”*

23. While the recent £22 a week increase in the UC Standard Allowance provides welcome additional support, it is still not proportional to the cost of living. What’s more, it doesn’t apply to those on JSA, ESA and IS, which is inexplicable. And the 40,000 or so UC claimants subject to the Benefit Cap will not see any increase to their standard allowance.

24. The hardship that this already meagre amount of money causes is often exacerbated by Advance Payment repayment deductions, historic debt deductions, incorrect calculation of UC payments due to fluctuating income, sanctions and DWP overpayment deductions. Previously, overpayments as a result of Departmental error were not recoverable. However, people in receipt of UC, New Style JSA/ESA have to repay any overpayment of their benefit, regardless of how it occurred.

*“Alana’s” monthly UC income is very little as a result of deductions for, among other things, rent arrears that were accrued during a three month gap between receiving HB and UC, DWP overpayments of HB, and historic DWP overpayments of Working Tax Credit (WTC). As Alana explains, “I only have about £300 a month, so half of it is gone before I do anything.... so yeah I go to the back of restaurants [to get food], what can I do?”*

25. While the recently-announced temporary suspension of benefit overpayment deductions during COVID-19 is welcome, we would like to see Government go further and also suspend Advance Payment deductions for the duration of this pandemic.

26. Those UC claimants subject to the Benefit Cap also experience greater financial hardship than those on legacy benefits. Previously, a household could only have their HB capped. On

UC, the cap can be applied not just to a household's housing costs but to its whole award. This left one of our clients with absolutely nothing to live on.

*“Natalie” has severe mental health problems which make even leaving the house a massive hurdle. Despite this she was refused ESA. That decision automatically stopped her HB being paid and she was advised to make a claim for UC. Due to delays in the payment of her UC housing costs, Natalie was in rent arrears, so the local authority applied for MPTL so the housing cost element was paid directly to them. As she wasn't getting ESA, she was now subject to the Benefit Cap. All of her capped allowance was sent directly to her landlord with £0 left for her own living expenses. She was literally penniless. DWP's reply was that the MPTL “could be removed but it was not a good idea as all that would happen is Natalie would use the money and not pay her rent putting her at risk of getting evicted.” Clearly her need to eat was not considered as important as paying her rent.*

27. The risk of tenants subject to the Benefit Cap being left with nothing to live on is increased because of the five week wait, as landlords are more likely to ask the DWP to set up a MPTL to ensure that they receive the full rent when the first payment is received. This is something the landlord can do without consulting the tenant, and can result in all of a tenant's capped Standard Allowance being sent to the landlord.
28. In the last Parliament, the committee specifically recommended that *“the Department ring-fence elements of UC to ensure that claimants are not left without money for food ... Specifically the cap should not be applied to the Standard Allowance, Child Element or Limited Capability for Work element.”*<sup>x</sup> Ministers refused to accept this recommendation. With the number of benefit capped UC claimants likely to grow rapidly as a result of the COVID-19 crisis, DWP urgently needs to revisit this issue.
29. UC claimants who are disabled are estimated to lose an average of between £400 and £500 a year.<sup>xi</sup> However, many disabled people don't even get the UC rate that they are entitled to because of WCA decision errors. Challenging flawed decisions is a lengthy process, but under ESA rules, claimants who appeal a negative decision can claim the appeal rate of ESA while waiting for their tribunal hearing. No equivalent rules apply under UC. This means that when claimants fail a WCA, they are required to start actively seeking work for their Standard Allowance to continue. People can ask for their claimant commitment to be reviewed in light of their disability and that they are appealing a negative decision, but this is at the discretion of their work coach and there is little consistency. Three quarters of those who appeal against being found fit for work now see DWP's decision overturned at tribunal.

*“Darren's” arthritis limits his mobility and meant he had to stop work, yet at his UC WCA, he was told that he was fit for work. This was contrary to what his GP said. With the support of Z2K he successfully appealed this decision, and Darren is now in the Limited Capability for Work and Work Related Activity group. However, he was without this higher rate for 11 months and as a result had to take out his pension early to stay financially afloat. Darren was unaware that deductions would be taken from his UC payments each month because of this. His monthly income is now reduced, because of flawed decision-making by DWP.*
30. It is clear that there are a multitude of reasons, as well as the five week wait, that mean people on UC are having to turn to support organisations and services, and food banks. UC does not pay enough, too many people are losing out on it, and not getting what they're entitled to. This is why, as well as our proposed change to the five week wait, we have laid out in our response to Question 2 the additional reforms to UC required to give people the support they need to live a stable and dignified life. If these take place, it would also reduce

the pressure on support organisations and food banks who are currently having to pick up the pieces from this failing welfare reform.

### **Are different mitigating options needed for different groups of claimants?**

31. It is true that claimants moving over from legacy benefits are more likely to struggle with the five week wait as they rarely have enough savings to cover their costs during this period, causing many to get into debt and rent arrears, whereas someone who has recently left employment is more likely to have a final payment and potential savings to tide them over. However, we believe that everyone claiming UC should receive their first UC instalment within one week of the initial claim, not in the form of a loan, but as their first payment.

### **Are there barriers or potential unintended consequences to removing the five week wait—either for claimants or the Department? How can they be overcome?**

32. For our clients claiming UC, removing the five week wait and being able to receive their first UC instalment within one week of their initial claim would enable them to stay financially afloat and decrease their risk of getting into debt and rent arrears, and having to go without. It would also mean their subsequent UC payments would not be at risk of eye-wateringly high 30 per cent deductions for repayment of Advance Payments.

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<sup>i</sup> <https://www.z2k.org/universal-credit-written-submissions/>

<sup>ii</sup> [https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1884/188408.htm#\\_idTextAnchor067](https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1884/188408.htm#_idTextAnchor067)

<sup>iii</sup> <https://www.asa.org.uk/rulings/department-for-work-and-pensions-G19-1021769.html>

<sup>iv</sup> <https://www.jrf.org.uk/blog/end-five-week-wait-universal-credit>

<sup>v</sup> [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)

<sup>vi</sup> 2019. The Trussell Trust. *Five Weeks Too Long: Why We Need To End The Wait For Universal Credit*.

<sup>vii</sup> 2019. Disability Benefits Consortium. *Briefing on findings from Disability Benefits Consortium (DBC) survey #UCandMe: Experience of moving onto Universal Credit*.

<sup>viii</sup> 2019. The Trussell Trust. *Five Weeks Too Long: Why We Need To End The Wait For Universal Credit*.

<sup>ix</sup> 2019. The Trussell Trust. *Five Weeks Too Long: Why We Need To End The Wait For Universal Credit*.

<sup>x</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1477/1477.pdf>

<sup>xi</sup> 2019. Disability Benefits Consortium. *Has Welfare Become Unfair? The impact of welfare changes on disabled people*.