

Z2K response to Work and Pensions Select Committee inquiry: safeguarding vulnerable claimants

1. Z2K is an anti-poverty charity. We provide specialist advice, advocacy and casework to people facing housing and social security issues, and uses the insight from this work to campaign for change.
2. We welcome the Committee's inquiry into DWP's approach to safeguarding vulnerable claimants. It is evident from cases like those of Philippa Day, Jodey Whiting, Laura Winham and Errol Graham that DWP decisions or the operation of its systems can have extreme impacts on the people who rely on it. These are the most shocking and tragic stories – but they are only the tip of the iceberg. There is a far larger group of claimants who do not die, but who are nonetheless pushed even further into poverty and destitution as a result of DWP's actions and policies, often with substantial negative impacts on their health, relationships, and overall quality of life.
3. A common factor across the cases that prompted this inquiry was a sudden drop in income. In each case, this was due to a DWP decision – either to reduce or end an award after an assessment, or to end an award on the basis of 'non-engagement' with a review process. These should not be seen as unfortunate events that are the fault of the claimant, but as outcomes of active decisions or policy choices made by DWP.
4. **A key underlying risk across the benefits system is the range of ways in which someone's income can be suddenly and dramatically reduced.** This can happen either because of a decision made by DWP, or because a claimant has not done something they 'should' have. This can lead to someone having little or no money to meet basic living costs like food and energy, and/or to someone incurring substantial debt they cannot realistically hope to repay, which causes further anxiety and risk of enforcement action.
5. We recognize that there are circumstances in which DWP has committed to taking additional steps before making a potentially dangerous decision, such as removing someone's Limited Capability for Work and Work-Related Activity (LCWRA) status if they have not engaged with a review. However, provided these steps are followed, that decision can still be taken to remove a benefit on the basis of disengagement.
6. No approach that relies on a claimant being flagged as 'vulnerable' to DWP will ever avoid devastating outcomes for some claimants. This is partly because DWP cannot be aware of every claimant's circumstances, and partly because DWP's actions can *cause* someone to become vulnerable when they were not previously. **A 'safety first' approach would take far greater care over the administration of every claimant's case, and design systems that reduced the risk for every claimant.**
7. Key to this approach would be **reducing the possibility of a sudden reduction**, and introducing **up-front safeguards against an incorrect decision** leading to a reduction. Areas we would encourage the Committee to explore include:

- More gradually reducing disability benefits where a decision leads to a reduction – rather than it applying instantly and in full, as currently. This will be even more important if DWP’s White Paper proposals go ahead
- Dramatically reducing the immediate impact of a benefit sanction, as a safeguard against incorrect decisions
- Guaranteeing that no-one moving to Universal Credit under managed migration will have their benefits stopped in full without a successful Universal Credit claim having been made
- Allowing housing costs to be backdated for a longer period within Universal Credit
- Strengthening DWP’s accountability for its decision-making, and providing stronger incentives for it to get decisions right first time
- Ending the process of ‘suspending’ Universal Credit claims for lengthy periods of time and instead making decisions in reasonable timeframes, which can then be challenged if necessary

Sudden reductions in disability benefits

8. The system of reassessments for disability benefits currently carries with it a risk of a sudden drop of income overnight. This can be because:
 - A claimant has not returned the relevant re-assessment form;
 - A claimant has not attended a re-assessment; or
 - A claimant has been awarded a lower award or no award after an assessment
9. Sometimes, this will be because the claimant is genuinely no longer eligible, and so has, for example, made a conscious choice not to return the re-assessment form as their health has improved. In other cases, however, a ‘failure’ to return the form, or attend the assessment, will be because of other factors, including factors directly related to their health condition or disability.
10. There are also all too many cases in which someone’s disability benefit is wrongly stopped after a re-assessment. The Committee is well aware of this through its recent inquiry into disability benefit assessments.
11. The impact of any of these scenarios is a sudden and total overnight cut. If the decision relates to someone’s fitness for work, this can also lead to the reintroduction of inappropriate conditionality, as Steve’s story below demonstrates.

Sudden reductions due to a sanction

12. By design, benefit sanctions cause a sudden reduction in a claimant’s income. Although these decisions can be challenged, as with the termination of a PIP award, this is a ‘shoot first and ask questions later’ approach that inevitably places vulnerable claimants at risk. An appeals process should be the final safeguard in the system; all too often it is the front line.

Steve's story – being wrongly found fit for work

Steve has ongoing physical, neurological, and mental health problems following a car crash several years ago. He previously had Limited Capability for Work-Related Activity, but after a new Work Capability Assessment in late 2022 he was found fit for work.

This meant an overnight cut to his Universal Credit of over £300, which he had been using to fill the gap between his rent and his Local Housing Allowance. It also meant he was subject to conditionality and the threat of sanctions, and had to regularly attend Jobcentre appointments. All of this had a significant impact on his mental health and led to him becoming extremely angry and anxious, and struggling to sleep or eat.

Z2K supported Steve to request a Mandatory Reconsideration, and when that led to no change, to lodge an appeal. After seeing written arguments the Tribunal re-awarded the LCWRA element on the basis of substantial risk, without a hearing being needed.

13. The rate of sanctions in Universal Credit remains far higher currently than before the pandemic¹, and DWP is expanding conditionality (and therefore the possibility of sanctions), including by placing greater requirements on parents of young children, and by repeatedly raising the Administrative Earnings Threshold in recent months. This inevitably increases the risk of a decision being made that places someone at risk by depriving them of their Standard Allowance (or their share of a joint claim's Standard Allowance).

Samir's story – being wrongly sanctioned

Samir is a refugee who speaks little English. He has significant mental health problems and chronic back pain. He claimed Universal Credit, and was placed in the full conditionality group because he had misunderstood the instructions on the UC50 form.

He had a good attendance record for his jobcentre appointments, but missed one in September 2022 because of his back pain. The next day he explained this in his Universal Credit journal, but he was still sanctioned.

He was sent a message in his journal to say the sanction would end once he scheduled a new work search appointment. He didn't understand this, so it took two months before he did so. Because his housing element was being paid directly to his landlord, this meant he received £4 of Universal Credit into his bank account in November, and £21 in December.

This obviously resulted in extreme financial hardship, which greatly worsened his mental health problems and forced him to rely on food vouchers. Z2K helped Samir to successfully appeal against the sanction because he had a good reason for missing the appointment – he was repaid the money he was sanctioned, but that can't undo the hardship he faced for those two months.

¹ <https://www.gov.uk/government/statistics/benefit-sanctions-statistics-to-may-2023-experimental/benefit-sanctions-statistics-to-may-2023-experimental>

The Enhanced Review Team

14. For some time, Z2K has had concerns about the DWP's Risk Review Team², now renamed the Enhanced Review Team. This team is a fraud detection team, but its operation leaves people sometimes with no money at all to live on, and with no route to understand the allegations against them. Because claims are suspended (not closed), no 'decision' has been made, and so the client cannot request a Mandatory Reconsideration. This situation often continues for months – but in some cases it has been for over a year, as Mostafur's story demonstrates.

Mostafur's story – the Enhanced Review Team

Mostafur has a learning disability as well as mental and physical health conditions. He claimed Universal Credit in early 2022, but never received a payment as his claim has been suspended. He has been asked repeatedly for the same verification documents, and has provided them on many occasions. Each time, he received a message in his journal saying the Enhanced Review Team did not consider them sufficient.

He has no way of contacting the Enhanced Review Team directly. During this period he was made homeless along with his elderly mother, and has been living in Travelodges.

Until April 2023 he received PIP, his sole source of income. However, this was also then suspended with no explanation or decision being made.

Z2K's adviser eventually wrote a Judicial Review pre-action letter. This led to a claimant commitment appointment, which the adviser also attended. Mostafur provided his information and documentation, and accepted his claimant commitments. Shortly after, he received a backdated decision refusing his original claim due to his 'ineligibility'. No further detail was provided, but having finally received a decision, Z2K is in the process of challenging this.

At time of writing, Mostafur has been destitute for over 18 months.

Other sudden reductions

15. Another way in which someone's income can be substantially and quickly reduced is if they are claiming legacy benefits, and their circumstances change so they need to claim Universal Credit, but don't do so. As Kobir's story below demonstrates, this can easily lead to a reduction in parts of someone's benefit income that can't be recovered under current rules.

² <https://askcpag.org.uk/content/207851/risky-business-dwp-fraud-reviews>

Kobir's story – moving from Temporary Accommodation to a standard tenancy

Kobir is 64 with multiple severe physical and mental health conditions, and was initially receiving ESA and Housing Benefit, as well as PIP. He was evicted from his private sector property, and after a spell in Temporary Accommodation, moved into a new privately rented property in a neighbouring London borough.

At this point he tried to claim Housing Benefit, but was correctly told to claim Universal Credit instead. He then went twice to the Jobcentre to do so, but was wrongly told that only Housing Benefit could help him. This led to months' delays in making a claim during which time he received no support with housing costs. It was only in February of this year, when he contacted Z2K, that he did so. Universal Credit rules meant he could only get one month's unpaid rent backdated, even though there is no dispute over his eligibility if he had made a UC claim earlier.

Kobir now has several months' rent arrears that he can't repay, and is extremely anxious about being evicted again. He was given no support from the council to make a UC claim upon leaving his Temporary Accommodation, nor when he contacted the Housing Benefit department, and incorrect advice from the Jobcentre when he tried to do so himself.

Risks of upcoming DWP activity and policy proposals

Managed migration

16. DWP is currently undertaking a programme of 'managed migration', to move claimants of legacy benefits on to Universal Credit. This requires claimants to respond to a Migration Notice by actively making a claim within a certain deadline. If they do not do this, and are not granted a deadline extension, **all of their legacy benefits will be stopped**.
17. DWP figures show that nearly 30% of claimants sent Migration Notices between November 2022 and March 2023 had their legacy claims closed without a new Universal Credit claim being made³. These were Tax Credit-only claimants, who may have other sources of income available to them, but we are deeply concerned about the potential for claimants whose primary or only source of income is benefits to have this support entirely cut off, particularly claimants receiving ESA⁴.

Health and Disability White Paper

18. The Health and Disability White Paper proposals, if taken forward, will also increase the risk of sudden, significant drops in income. They would introduce a **single point of failure** into disability benefit decisions: if someone is wrongly denied PIP, or a valid PIP claim stops being paid, they will not only lose that award, but also lose their additional Universal Credit (which is currently awarded through the separate Work Capability Assessment process). Combined, that amount is currently worth up to £1,140 a month. Currently, receipt of either PIP or LCWRA also exempt someone from the Benefit Cap. If PIP becomes the only disability-related

³ <https://www.gov.uk/government/statistics/move-to-universal-credit-statistics-july-2022-to-may-2023>

⁴ ESA claimants receiving Tax Credits are due to be sent a Migration Notice by the end of 2024. ESA-only and ESA + Housing Benefit-only claimants are due to be sent a Migration Notice by the end of 2028.

route to exemption from the Benefit Cap, then some claimants who lose it will be even more affected: they will suffer the direct financial loss caused by the loss of that benefit & the Universal Credit Health Element, as well as a further reduction in their Universal Credit from the application of the Benefit Cap.

19. The White Paper also suggests that Work Coaches will be expected to ‘tailor’ conditionality to a claimant, rather than the Work Capability Assessment placing people in different categories of conditionality. Currently, fewer than three quarters of Universal Credit claimants say their personal circumstances were taken into account in their Claimant Commitment, while ESA claimants are less likely than Universal Credit claimants to say that DWP staff understood their needs, or that DWP tailored services to their personal circumstances.⁵
20. Disabled people who are subject to conditionality are also disproportionately likely to be sanctioned⁶, while other evidence has found significant variability in how well Work Coaches tailor Claimant Commitments⁷. Taken together, this raises the alarming prospect of Work Coaches placing inappropriate or impossible conditions on large numbers of seriously ill or disabled people who are currently shielded from conditionality altogether, leading to sanctions and therefore drops in income when those conditions aren’t met. While claimants will be able to challenge a specific decision to impose a sanction (after it has been applied and the claimant has suffered a loss of vital income), because a Claimant Commitment is theoretically ‘co-produced’, there could be no way to formally challenge an inappropriate requirement that *leads* to a sanction.

Work Capability Assessment activities and descriptors

21. Ahead of planning to scrap the Work Capability Assessment, DWP recently also announced plans to modify various parts of the assessment to make it more difficult to be placed in the Limited Capability for Work-Related Activity group.
22. Most concerning to Z2K, and most relevant to this inquiry, is the proposal to modify or even remove the ‘substantial risk’ route into LCWRA. Currently, this enables someone who does not score sufficient points in the activity descriptors to nonetheless be placed in the LCWRA group if there would otherwise be a substantial risk to the mental or physical health of any person (whether the claimant or someone else). Steve’s story, set out above, is just one of many cases where this has been crucial to someone being placed in the right category.
23. The fact that government is considering restricting or removing access to LCWRA on this basis is deeply alarming, and demonstrates it has not learned the lessons of previous safeguarding failures. If these proposals go ahead, it is almost certain that more such failures will occur.

⁵ <https://www.gov.uk/government/publications/dwp-customer-experience-survey-benefit-customers-2020-to-2021/dwp-customer-experience-survey-benefit-customers-2020-to-2021>

⁶ <https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Sanctions%20report.pdf>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/833426/sac-occasional-paper-21-effectiveness-of-claimant-commitment-in-universal-credit.pdf

Lack of uptake of disability benefits

24. The examples above relate to people's benefits being *stopped*. But another absent safeguard relates to claims not being *started*. Figures released earlier this year showed that over 500,000 people in England and Wales received LCWRA but not PIP. And of the 380,000 in that position in February 2019, half were still in that position in November 2022, more than three-and-a-half years later.⁸
25. Because LCWRA and PIP have different eligibility criteria and descriptors, it's not possible to say how many of these claimants are actually eligible for PIP – but it is likely, in our view, that many will be. Crucially, we are aware of no steps DWP has taken to investigate whether this group have previously applied for or received PIP, whether this group would have valid current claims for PIP, or whether it could do more to encourage people to apply.⁹
26. While not receiving a benefit does not have the same immediate impact as a loss of a benefit, it nonetheless leads to the same financial situation, and should be considered a safeguarding issue, particularly where a claimant's primary source of income aside from PIP is benefits (which necessarily means they are on a low income).

Conclusion

27. Unless these multiple design features and policy decisions are addressed, it is inevitable that claimants (vulnerable and not) will see sudden large reductions to their income, with related risks to health, wellbeing, and in some cases life. There is too little security in the social security system, and the risks of this are borne by those least able to do so.
28. Crucially, these structural problems can affect anyone – whether or not they are recognised as 'vulnerable'. We would urge the Committee to recognize that **addressing these features of the benefits system for everyone is the most effective way to ensure that vulnerable claimants are protected.**

⁸ <https://www.gov.uk/government/statistics/health-and-disability-benefits-based-on-data-from-2019-to-2022>

⁹ See for example: <https://questions-statements.parliament.uk/written-questions/detail/2023-09-01/196331> and <https://questions-statements.parliament.uk/written-questions/detail/2023-09-01/196330>