



Call for submissions: Thematic report to the UN General Assembly on digital technology, social protection and human rights

May 2019

About Child Poverty Action Group

Child Poverty Action Group (CPAG) is a national charity working for the abolition of child poverty in the UK, and for the improvement in the lives of low-income families. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good. Information about our work is on our [website](#).

About CPAG's Early Warning System

Our Early Warning System (EWS) helps us get a better understanding of how changes to the social security system, including the introduction of universal credit, are affecting the lives of children and families. We gather information from advisers about the experience of children and families, and identify recurring problems. This intelligence informs much of our policy, research and campaigns work on universal credit, and also feeds into the advice we give frontline staff through our training, publications and advice service.

About this submission

This submission focuses on the impact of universal credit, a 'digital by default' benefit, on social protection and human rights for some of the poorest people in the UK. Our submission is based on a recently published CPAG report, [Computer Says No! Stage One: information provision](#). The report is the first in a series looking at the problems with understanding decisions, challenging errors, and protecting the rights of people claiming universal credit. The report is based on themes identified in case studies submitted to the EWS. Our submission focuses on two key questions outlined in the call for submissions and includes sections of our report which we have determined to be most relevant to these questions. The full report is included as an annex to this submission.

3. What human rights concerns might arise in connection with the introduction of digital technologies in social protection systems?

What impact has the introduction of digital technologies in social protection systems had on people living in poverty. How are their rights, such as to privacy and social security, affected and how are they impacted differently by comparison with people who are not poor? Is the prohibition on discrimination on the basis of property, birth or other status (see e.g. article 2 (2) of the ICESCR & ICCPR) relevant in this context?

Debate on the impact of digital technologies on human rights generally focuses on a limited range of civil and political rights, such as privacy, data protection, and freedom of expression. In addition to identifying specific civil and political rights that might be implicated in the social protection context, how are economic and social rights (such as the right to social security and the right to an adequate standard of living) affected?

Introduction

The introduction of universal credit (UC), a 'digital by default' benefit that replaces the six main working age benefits for people in the UK, has far reaching consequences for people's civil and political rights, as well as their economic and social rights. An overarching concern is that an automated decision-making system such as the one used in the UC system reduces the scope of the social security system to respond to the individual needs and circumstances of claimants. This is particularly worrying from a human rights perspective. Below we have outlined some of our key concerns about specific aspects of the digitisation of UC.

Access

People claiming UC are managing on low incomes and many will be living in poverty. In order to access support from the state and exercise their economic and social rights (such as the right to social security and the right to an adequate standard of living) UC claimants are required to interact with the UC online system, where the vast majority of claimants are expected to manage their claims online. The decision to make UC a 'digital by default' benefit has consequences for people living in poverty, many of whom do not have access to the internet. The government's own survey of UC claimants found that 15% do not have access to the internet at home.¹ In addition, claimants are expected to have adequate IT skills in order to be able to manage their UC claims online, as this case study from the EWS highlights (unpublished).

A client with a mild learning disability and difficulties with literacy and IT notified his work coach at the Jobcentre of a change in circumstances which required him to sign a new

¹ DWP, [Claimant Service and Experience Survey 2017 –2018](#), January 2019

claimant commitment. The work coach did not tell the client at the time, instead noting it in the client's journal. The client didn't sign it because he couldn't read the message and was unable to access his journal without support. His UC stopped and he was supported to make a new claim, but he didn't see a further message asking him to sign a new claimant commitment. His UC stopped again and the decision was unchanged at mandatory reconsideration.

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For those claimants able to overcome the hurdles of being IT literate and having access to the internet in order to manage their claims online, there are further problems that relate to the automated decision making system that UC relies on, and the quality of information that is provided to claimants about these decisions.

Functionality

The universal credit system relies on automated decision making that calculates the financial support an individual is entitled to based on the information the Department for Work and Pensions (DWP) has about a claimants' circumstances. This is then applied to a complex set of rules regarding entitlements under UC. Cases received via the EWS suggest that significant numbers of claimants have experienced errors with decision making in relation to their UC claim. Below is an excerpt from the [Computer Says No!](#) report which highlights the hardship that can be caused as a result of problems with decision making in the UC system which, in turn impacts on individual economic and social rights:

When errors do occur in the UC system, the implications for people's lives can be serious. Delays in payments can push people into crisis and drive them to food banks. Errors in calculating housing costs are causing people to fall into rent arrears, and in some cases people are facing eviction and homelessness. Erroneous reduced payments for disabled people are causing hardship for people in vulnerable circumstances. It is therefore essential that any errors which are made in determining UC entitlement can be identified and rectified quickly.

UC, by design (combining six different benefits into one payment), is a complex system to understand. By adding payments for different entitlements together, the system itself makes it difficult for claimants to understand the decisions that have been taken about their claim and how their award has been calculated each month, as the following example illustrates.

A man with terminal cancer was claiming employment and support allowance, which included the support component. He moved in with his partner and they started a new claim for UC, which should have included a limited capability for work-related activity element (the UC

equivalent of the support component). The UC statement showed a standard allowance and the couple assumed that this was their full entitlement, including any additional amount paid because of the man's illness. After several months of trying to manage on a restricted income, they sought advice. The benefits adviser spotted that the limited capability for work-related activity element was missing and helped them to get it included in their award. It is worth £328 per month.

Another problematic aspect of the digitisation of universal credit is the fact that it relies on the Real Time Information (RTI) system (a system used by HM Revenue and Customs; another government department) to provide information about people's earnings each month, which is then used to calculate people's UC claims and how much financial support they are entitled to. Case studies submitted to the EWS (unpublished) demonstrate that this information feed can be inaccurate which in turn can lead to mistakes in UC payments causing hardship and stress for claimants who are struggling to meet their basic living costs.

*A UC claimant has had earnings taken into account in his claim even though his job ended over 3 months ago, and he has provided his P45. The DWP said that his UC entitlement won't be changed until his previous employer sends the correct information to HMRC. The claimant has asked HMRC and his previous employer to correct their figures, but hasn't heard back from them. In the meantime, he has had no income at all for months; he is destitute and is currently in hospital. He prefers to stay in hospital where he is warm and receives hot meals.
EWS case P193 | Worcester CAB | December 2018*

*A single mother works part-time for McDonalds and has variable hours. The earnings figure that was used for her UC entitlement was £1,500 more than she actually earned, resulting in her receiving about £560 per month less than she should have. She took payslips and bank statements to the Jobcentre showing the amount she actually earned but they refused to change her entitlement unless and until the RTI dispute process had been exhausted. The claimant was expected to make do on substantially less than she needed to live on for around 3 months (the amount of time an RTI dispute takes to resolve, on average).
EWS case P170 | Laura Pidcock MP | November 2018*

Transparency

There is a lack of transparent information provided to claimants on the UC online account about their UC claim which can make it very difficult for claimants to understand how their UC award has been calculated. Below is an excerpt from our recent [Computer Says No!](#) report which highlights some of the problems with the quality of information that is provided to people about payment decisions.

The lack of accessible information provided to claimants makes it very difficult for people to work out how their payments have been calculated, and therefore if these payments are correct. One universal credit (UC) claimant who we spoke to explained the difficulty he experienced trying to calculate his UC payment, despite having some experience of accountancy.

.I would say there have been five periods [five one-month assessment periods in UC] at least, which required a lot of untangling. I'm not an accountant, but I'm used to dealing with... numbers. I've found it quite incredible the amount of burden that's required to untangle some of these situations. I can't possibly see how an average person with less than an accounting degree can deal with all this stuff because it was complicated for me. For someone who doesn't have free time, has kids, it's... next to impossible to untangle the mistakes.

The problem was the summary statement... I find it quite rudimentary. It doesn't go into much accounting and calculations. The untangling ended up with me looking at the rules of what the payment is supposed to be. There's a formula of 85 per cent or whatever for childcare, plus ceilings and floors that they set up. Basically, trying to work out what I think it should have been and if it looks incorrect. Sometimes I haven't got a big salary and my wife didn't get big earnings, but somehow the payment is very small. I have to go back to them and ask, "Why is this so low?"

I would do [this] both on the journal and the helpline. My experience of the journal was not so good. I got the impression the people who are on the other end of the journal are not particularly qualified and they're there just to give fairly basic advice. I received quite a lot of incorrect information through the journal and incorrect statements.'

Self-employed father claiming UC in London, autumn 2018

At present, there is no easy way for claimants to identify whether the information the DWP has about their circumstances is correct, which can be the reason why mistakes are made in relation to their claim. There is nowhere in the UC online account for a claimant to easily check the circumstances on which their entitlement is based, and claimants wishing to check the DWP's understanding of their circumstances have to scroll through all their journal entries looking for entries marked 'New claim details submitted' or 'Change of circumstance submitted'. This scattering of information used to calculate the award throughout the journal means claimants cannot easily match the circumstances they have reported to the DWP with their UC award.

This is causing confusion for claimants. Government survey results show that 25 per cent of claimants did not agree with the statement: ‘The payments I receive through universal credit match what I would expect to receive.’² As illustrated in the case studies above, claimants can be underpaid or overpaid without realising that something has been incorrectly calculated. The EWS has heard about cases where errors are eventually identified by welfare rights advisers, but it is possible that many other claimants are receiving incorrect awards without being aware of it.

Since publishing our [Computer Says No!](#) report (May 2019) we have been informed by the DWP that some changes will be made to the UC online system that may address some of these concerns regarding the adequacy of the information provided to claimants about their UC award. We await these changes with interest.

Challenging decisions

The information provided to claimants about their appeal rights and what to do if they wish to challenge a decision is currently unlawful. Below is an excerpt from [Computer Says No!](#) which outlines our concerns about appeal notices:

The DWP is providing (appeal) notices that are unlawful to hundreds of thousands of claimants each month. It is self evident that fairness requires that where a legal deadline applies, those subject to the deadline are notified of it. A person who does not know that there is a time limit (or wrongly thinks that the time limit has expired when it could be extended) may either not bring a challenge because s/he thinks there is still time to do so in the future or because s/he does not realise s/he still can. Where decisions affect the income that is provided to people in particular circumstances, for example to meet their basic needs and the needs of their children, and to pay for housing, the importance of correctly notifying claimants of these time limits is critical. However, the consequences of not respecting legal rights are broader than the impact on individuals. As this report has outlined, the social security system is built on a rights-based framework, and by not upholding these standards within the design of the UC system the DWP risks undermining the law.

Conclusion

The introduction of universal credit, a ‘digital by default’ benefit, is problematic from a legal and human rights perspective. The key areas of concern affecting the rights of people living in poverty relate to:

- 1) **Access:** UC claimants may not have access to the internet or have the IT skills to manage their claims online;

² DWP [Universal Credit Full Service Survey](#), June 2018

- 2) **Functionality:** errors are happening in the automated decision-making processes that are built into the UC system and the consequences are serious for claimants when they do not receive the financial support they are entitled to (hardship, destitution, homelessness);
- 3) **Transparency:** the UC online system does not provide claimants with enough information about their UC claim and how it has been calculated. This can make it difficult to identify and resolve errors when they have been made.
- 4) **Legality:** the notices that are currently provided to claimants about their appeal rights and what to do if they don't agree with a decision do not comply with the law.

Please do not hesitate to contact CPAG for further information or clarification about any of the issues raised in this submission.

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