

# **MAKING ADJUSTMENTS?**

**The experiences of universal credit claimants with  
mental health problems**

**February 2022**



## Executive summary

People experiencing mental ill health face specific problems claiming support from our social security system. This is particularly the case with universal credit (UC) because it is fully digital, and because it is the same benefit for all working-age people, whether or not you have a mental health problem. To ensure everyone can access the financial support they need, there should be a robust and prompt system within UC to identify those who need additional support to claim, or different treatment to access support. And a requirement that the Department for Work and Pensions (DWP) acts on that information.

We undertook research to find out whether the DWP is meeting the needs of people with mental health problems and making adjustments to their service as required by law. UC was promoted in its early stages as a personalised service, providing support to meet people's needs. We wanted to find out whether it has lived up to this ambition.

The provisions in the Equality Act 2010 should mean that this is already happening: the DWP has to anticipate and plan how to meet the needs of disabled people, such as those with mental health problems. The DWP, like any service provider, is required by law to make 'reasonable adjustments' for disabled people. These adjustments need to fit the particular needs of each individual person, so the DWP must ask each person to find out what their needs are. Examples of a reasonable adjustment might be offering a telephone appointment rather than a face-to-face meeting, or offering a private interview room within a busy job centre so sensitive information is kept private.

There is little research about how the DWP upholds its Equality Act duties towards claimants with mental health problems. The DWP's policy on reasonable adjustments directs staff to ask claimants at each and every opportunity whether they need a reasonable adjustment, and to record on the UC IT system that a claimant has been asked about reasonable adjustments. But the department doesn't keep a central record of when it offers or provides reasonable adjustments, so we lack evidence of whether it is meeting its duties. In this project, we set out to explore the experiences of 27 UC claimants with mental health problems. We asked them if they were proactively asked whether they needed reasonable adjustments at the various stages on their claimant journey.

**No claimant we spoke to reported being expressly asked whether they needed a reasonable adjustment.** Claimants were not asked if they needed alternative methods of communication, nor how their mental health affected their ability to interact with the UC system.

What this meant in practice for these claimants was that they faced problems throughout the process of claiming UC and managing that claim. The process of setting up a claim was itself challenging. The telephone claim process was not made available to any of the claimants we spoke to, and some reported frustration and communication challenges in corresponding via an online journal with an unknown DWP worker.

When it came to assessing work-related requirements, the claimants we spoke to felt the UC system is geared up to those looking for work. This created stress and anxiety about whether they would qualify, because their mental health makes working difficult or impossible. There was also a fear of sharing information about health issues in case their application would then be refused and they would have no income. By not feeling able to share information, claimants were sometimes put into the incorrect work requirement group. While some claimants did have their work search requirements reduced or removed, many did not, which affected their mental health. There is clearly inconsistency in how this is managed.

To both make and maintain a UC claim, you have to attend appointments. There was some evidence of making adjustments for the claimants we spoke to when it came to attending appointments. For example, telephone appointments were sometimes granted, and a taxi was arranged for one claimant to attend his initial interview.

But other claimants reported not knowing about, or being denied, adjustments that would have made attending appointments easier. For many of the people we spoke to, the threat of sanctions, which reduce or stop UC, for example if you are late for an appointment or do not satisfy your work-related requirements, were a particular concern.

Claimants also faced administrative and communication challenges in maintaining their UC claim, as well as problems because of the way UC is designed. Claimants reported being messed around with appointments, with last minute cancellations for example, and receiving confusing and conflicting communications about what the DWP expected of them. There was also a feeling among the people we spoke to that there was no tailoring of communications to meet their needs. The lack of personalised support left claimants struggling to resolve often complex problems with their claim, and not knowing where to turn for help.

Problems with work capability assessments have been well documented, and some of the claimants we spoke to who had been through the assessment reported insensitive questioning by the assessor, such as being asked how they planned to end their life or when they last self-harmed. There were also practical problems relating to the assessments, such as a claimant requesting a home visit but not being able to afford £25 to pay for a GP letter to support the request.

Work coaches are employed by the DWP to meet with claimants and support them to return to work, if they are deemed able to following their work capability assessment. But the people we spoke to reported mixed experiences of their work coach. Some were able to develop good relationships, but many faced barriers, which made it harder to share information. These barriers included a fear of being sanctioned or a lack of trust, a finding confirmed by other studies. Some claimants reported that their work coach had a poor understanding of mental health, perhaps not surprising when work coaches see claimants with a wide range of issues which may require a specialist understanding. Only two claimants were asked by their work coach about their mental health and how it affects daily functioning. If work coaches aren't asking about claimants' mental health, and they don't feel able to raise it, how can the DWP meet its legal obligations to consider and offer reasonable adjustments to those disabled by their mental health?

A claimant won't always be able to communicate with the same work coach, so it's really important for the DWP to ensure any adjustments that are made are recorded and then very visible within the UC computer system to ensure continuity. Many claimants we spoke to reported having to repeat their circumstances to different workers. It seemed that new workers had either not looked at their file or that relevant information wasn't there.

When a claimant thinks they have a case for unlawful discrimination and a breach of the Equality Act, there appear to be few accessible remedies. For example, challenging through the courts has to happen within a three-month period, and might require bringing two cases – in the social security appeal tribunal and the county court. This is an obvious barrier and deterrent, and means these issues are unlikely to be brought to the DWP's attention.

Our research paints a picture of a benefit system where the needs of claimants with mental health problems are not taken into account in a systematic way when they access UC. Some DWP staff appear to misunderstand the concept of equality of access to the social security system. As a result, claimants are not getting the support they need, and some are reporting this having a negative effect on their mental health. Disabled people and those with health issues are over-represented in the social security system compared with the general population. The DWP must make sure it is systematically ensuring that all claimants' legal rights under the Equality Act are met.

## 1. Introduction

The social security system should be there for all of us when we need it. But we know that people experiencing mental ill health face specific problems claiming support. We wanted to understand how well universal credit (UC), which is now the main benefit for working-age people, supports those experiencing mental ill health. In particular, we wanted to find out whether the Department for Work and Pensions (DWP) responds to the needs of people with mental health problems to ensure they can access UC fully. To learn more, we spoke to individuals claiming universal credit about their experience, and we focussed on understanding whether the DWP was complying with its requirements under the Equality Act 2010.

CPAG's casework experience, cases reported to our Early Warning System<sup>1</sup> and other research have alerted us that claimants with mental health issues experience specific problems with the social security system during their claimant journey. There is some evidence that UC has exacerbated these difficulties, partly due to its 'digital by design' nature and partly because it is a general benefit for claimants in a variety of circumstances, including those with and without health issues. However, UC was promoted in its early stages as a personalised service, providing support to meet people's needs.<sup>2</sup> We wanted to find out whether it has lived up to this ambition.

The DWP, as a public body, has a duty under the Equality Act 2010<sup>3</sup> to anticipate and respond to disabled claimants' needs for a 'reasonable adjustment' and failing to provide reasonable adjustments is unlawful discrimination.

You are considered to be disabled under the Act if you have a 'long-term' condition – lasting or likely to last longer than a year – that places you at a substantial disadvantage (see Appendix 3 for further information about the definition of disability). A mental health condition is defined a disability under the Act if it has a long-term effect on your normal day-to-day activity.<sup>4</sup> The aim should be to remove the disadvantage and barriers disabled claimants face, and any adjustment therefore needs to fit the particular needs of each individual person.

Given that the DWP receives applications for UC from those with health problems and those without, ensuring equality of access to UC for all claimants means identifying promptly and consistently which claimants require additional support or different treatment.

This new research with people experiencing mental ill health found problems with the (lack of) support they were receiving. No claimant we spoke to reported being expressly asked whether they needed a reasonable adjustment. We found no evidence of systems in place to ensure the needs of claimants with mental health problems are taken into account when they access UC.

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<sup>1</sup> Our Early Warning System helps us get a better understanding of how changes to the social security system are affecting the lives of children and families. We gather information from advisers about the experience of children and families. This intelligence informs much of our policy, research and campaigning work, and also feeds into the advice we give frontline advisers. See more at <https://cpag.org.uk/policy-campaigns/early-warning-system>

<sup>2</sup> National Audit Office, *Supporting disabled people to work*, 2019, <https://www.nao.org.uk/wp-content/uploads/2019/03/Supporting-disabled-people-to-work.pdf>

<sup>3</sup> Equality Act 2010, <https://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>4</sup> <https://www.gov.uk/when-mental-health-condition-becomes-disability>

## 2. Our research

There is significant research<sup>5</sup> on the impact that sanctions,<sup>6</sup> welfare conditionality<sup>7</sup> and work capability assessments<sup>8</sup> have on claimants with mental health problems. And there is evidence about some of the kinds of reasonable adjustments that might be useful to claimants. The Money and Mental Health Policy Institute reported that 75 per cent of people who have experienced mental health problems have serious difficulties engaging with at least one common communication channel, such as using the telephone, face-to-face contact or opening post.

But little research has been carried out into how, in practice, the DWP upholds its Equality Act duties towards claimants with mental health problems. For a number of reasons, including the greater number of claimants with health problems moving onto UC as part of the ‘natural migration’ process<sup>9</sup>, and the risk of worsening health if people aren’t supported appropriately, it is important to get a better understanding of the DWP’s practice in this area.

As of May 2021, five million households were receiving UC (single people or couples with or without children).<sup>10</sup> Thirty per cent of UC claimants reported having a disability or long-term health condition<sup>11</sup> (compared with 15 per cent in the general population in 2014 who reported a mental health issue).<sup>12</sup> This means people with disabilities or health issues are over-represented in the social security system compared with the general population.

### 2.1 DWP information

We made a freedom of information request to the DWP to ask how many reasonable adjustments had been made and in what circumstances. The government response explained that no figures were available because this data is recorded as ‘text’. The only way to extract the information would be to access and read every individual claimant’s file (see Appendix 5). The lack of information has been confirmed by the public accounts committee and work and pensions committee.<sup>13</sup>

<sup>5</sup> S Wright (ed), *Mental health, welfare conditionality & employment support: Policy recommendations & key findings*, University of Glasgow, 2020, <https://eprints.gla.ac.uk/224227/1/224227.pdf>; P Dwyer, *Welfare Conditionality Final Findings*, University of York, 2018, [http://www.welfareconditionality.ac.uk/wp-content/uploads/2018/05/40414\\_Overview-HR4.pdf](http://www.welfareconditionality.ac.uk/wp-content/uploads/2018/05/40414_Overview-HR4.pdf); and SAMH, *Universal credit and mental health: recommendations for change*, 2019, [https://www.samh.org.uk/documents/ItWasAConfusionReport\\_ONLINE\\_VERSION.pdf](https://www.samh.org.uk/documents/ItWasAConfusionReport_ONLINE_VERSION.pdf)

<sup>6</sup> A reduction in UC for failing to meet work-related requirements without a good reason or because the person has committed an offence.

<sup>7</sup> What claimants are required to do in return for their UC.

<sup>8</sup> A medical assessment with a healthcare professional who makes recommendations leading to a decision by the DWP about whether a claimant is able to look for work, or has limited capability for work or limited capability for work-related activity. See Glossary in Appendix 2.

<sup>9</sup> Natural migration is the process whereby people whose entitlement to one or more of the legacy benefits which UC replaces ends because of a change in their circumstances make a claim for UC as they are prevented from making new claims for any of the legacy benefits. Managed migration, a process which involves the ending of legacy benefit entitlement with the express intention of prompting a claim for UC rather than in response to a change in circumstances is due to begin in 2022.

<sup>10</sup> Department for Work and Pensions, *Universal Credit statistics, 29 April 2013 to 8 July 2021*, 2021, <https://www.gov.uk/government/statistics/universal-credit-statistics-29-april-2013-to-8-july-2021/universal-credit-statistics-29-april-2013-to-8-july-2021>

<sup>11</sup> See note 2

<sup>12</sup> NHS, *Adult Psychiatric Morbidity Survey: Survey of Mental Health and Wellbeing, England, 2014*, 2016, <https://digital.nhs.uk/data-and-information/publications/statistical/adult-psychiatric-morbidity-survey/adult-psychiatric-morbidity-survey-survey-of-mental-health-and-wellbeing-england-2014>

<sup>13</sup> House of Commons Committee of Public Accounts, *Universal Credit, Sixty-fourth Report of Session 2017–19*, HC 1183, 2018 and House of Commons Work and Pensions Committee, *Benefit sanctions, Nineteenth Report of Session 2017–19*, HC-955, 2018, pp28-29

The DWP acknowledged in its recent annual report<sup>14</sup> that this is an area that requires improvement. It reported that its equality and disability team are working towards ‘*better consistency in the way we capture and record the accessibility needs of customers so that we hold information in one place about the reasonable adjustment needed*’.

We know what DWP staff are expected to do to meet the department’s Equality Act duties, thanks to freedom of information requests made by CPAG and a third party. DWP guidance, *Delivering Equality for customers - Access to DWP services*<sup>15</sup> provides good detail for staff about how to meet the duties, including outlining that during all interactions with claimants, staff should check whether, because of a disability, claimants need any ‘additional support’ or a ‘reasonable adjustment’. It also includes a ‘List of DWP Reasonable Adjustments’. The document *Reasonable adjustments*<sup>16</sup> provides less detailed instruction to staff.

Information for claimants about reasonable adjustments is available via the gov.uk website on accessibility, but there are no links to specific benefits such as UC.<sup>17</sup> This means that the information provided is not directly relevant to specific benefits, nor are claimants instructed on the procedure they should follow to ask for a reasonable adjustment.

## 2.2 Interviews with claimants

We spoke to 27 UC claimants with mental health problems (see Appendix 6 for details) over a period of six months in 2021. We interviewed 15 women and 12 men; of these, eight were in their 20s, seven in their 30s, five in their 40s, five in their 50s, and one in their 60s (one did not answer). Participants were geographically spread across England and Wales. One-quarter had dependent children, and five were either working part-time or were self-employed.

Participants reported a wide range of health issues, including depression, anxiety, psychosis and post-traumatic stress disorder. Most were receiving medication or mental health support from their GP or mental health worker, but this was not a requirement to take part in the study. No participant reported being told they did not qualify for an adjustment because they did not meet the Equality Act definition of disability. This suggests the Act’s definition is not in itself a barrier to being offered a reasonable adjustment.

All the participants we spoke to reported having a mental health problem, and over two-thirds had indicated this on their application for UC (some could not remember whether they had, so this figure may have been higher). At least eleven people had limited capability for work or work-related activity as assessed by a work capability assessment (again this may have been higher as some people were unsure or had chosen not to have an assessment), and three were waiting for their work capability assessment.

We explored with the participants whether they were asked explicitly or implicitly if they needed reasonable adjustments at the various stages of their claimant journey.

<sup>14</sup> Department for Work and Pensions, *Annual Report & Accounts 2020-21*, 2021, p76, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1005399/dwp-annual-report-and-accounts-2020-2021-web-ready.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005399/dwp-annual-report-and-accounts-2020-2021-web-ready.pdf)

<sup>15</sup> Department for Work and Pensions, *Delivering Equality for customers - Access to DWP services*, available at <https://www.whatdotheyknow.com/cy/request/315614/response/795676/attach/5/Delivering%20Equality%20for%20Customers.pdf>

<sup>16</sup> Department for Work and Pensions, *Reasonable adjustments*, available at [http://data.parliament.uk/DepositedPapers/Files/DEP2020-0646/120\\_Reasonable\\_Adjustments\\_v4.0.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2020-0646/120_Reasonable_Adjustments_v4.0.pdf)

<sup>17</sup> Department for Work and Pensions, *Get help with benefits and pensions if you have accessibility needs*, 2020, <https://www.gov.uk/guidance/get-help-with-benefits-and-pensions-if-you-have-accessibility-needs>

We also asked participants about:

- making an application for UC;
- communication with their work coach, especially in relation to the claimant commitment (setting out what they must do in return for receiving UC);
- the ongoing management of their award including which work-related requirements they are subject to (and therefore what risk of being sanctioned they face);
- communication with UC staff via the journal and phone line; and
- the work capability assessment, for example, how long they waited, how the appointment was arranged.

We also sought the views of mental health organisations, several experienced welfare rights advisers and other organisations with an interest in this area.

### 3. Findings from the research

The key finding from our research is that no participant reported being asked whether they needed a reasonable adjustment to be made in connection with applying for and maintaining a claim for UC. Participants were not asked if they needed alternative methods of claiming or communicating, or how their mental health affected their ability to access the UC system. This omission had an impact on claimants at all stages of the claimant journey, starting with the initial application. Participants themselves did not ask for adjustments by citing the Equality Act as they were unaware of the rights it confers.

The very first claimant we spoke to described a scenario where she was told she could not have such an adjustment. She told us how distressing she found attending appointments at the job centre. She asked her work coach for a telephone appointment instead of a face-to-face meeting. Demonstrating an apparent failure to understand his duty under the Equality Act to change standard practices for disabled people, the work coach told her *'I can't make an exception for you.'* In fact, based on the information shared by the claimant, the opposite applied and he ought to have made an exception for her (or at least considered the request and explained why it could not be met).

#### 3.1 Making a claim

##### 3.1.1 Online claims

As a fully digital benefit, there is an expectation that claimants will apply for UC online through a digital portal, and manage and maintain their award through an online journal. A third of participants we interviewed said they needed assistance from friends or the job centre to make their online UC application. Fourteen of the participants found the online claim process straightforward, however the majority described it as 'daunting', even if they generally felt technologically confident. Participants with anxiety spoke of a fear of making mistakes and 'getting it wrong', and being unsure how to answer questions correctly. Participants felt there was insufficient information about the process and what was required of them.



*'[The application] was so long and so complicated, and some of the questions, you just had to give a best guess because you didn't know what they were actually meaning or what they were actually wanting. So, yes... I mean I've got multiple degrees and I still had to go to the Citizens Advice Bureau and ask for their help to fill in a form.'*

Grace,<sup>18</sup> aged 25-29, with depression and anxiety (Case study 17)

Another participant reported not realising she had not submitted her application, leading to her missing out on two weeks' benefit. She made the application online but *'got very confused'* and did not realise there was a 'submit' button to press to complete the application. The emotional distress she was experiencing when she applied, following the end of her marriage, was exacerbated by the application process.



*'I think I was so distraught that, emotionally, I wasn't in a good enough place to be able to do things thoroughly, and some help or some support would have been really helpful.'*

Julie, in her early 50s with a diagnosis of depression, anxiety, psychosis and post-traumatic stress disorder (Case Study 2)

Twenty per cent of new applications for UC fail for administrative reasons, most commonly failing to book an initial appointment to confirm their identification or other aspects of the claim.<sup>19</sup> Although we do not know how many of these claimants would come within the Act's definition of disability, any disabled claimant unable to complete the claims process due to their disability is at a substantial disadvantage and therefore requires a reasonable adjustment to ensure their access to UC.

The number of failed claims shows a need for more support to ensure that those who start claims complete the process. However, despite 16 of the 27 claimants we interviewed reporting a health issue on the application form, none were asked in interactions with the DWP whether they needed assistance or alternative methods of applying.

### 3.1.2 Telephone claims

UC regulations allow for claims to be made by telephone<sup>20</sup> however the claimants we spoke to all reported not being aware of this. When they rang the UC helpline for assistance in claiming (usually as they had previously claimed a benefit which provided telephone assistance with applying), they were told that *all* claims had to be made online. None of the participants were asked if they needed additional support with making an application nor given information about the telephone claims process.

<sup>18</sup> All names have been changed.

<sup>19</sup> Disability Rights UK, *One in five Universal Credit claims fail*, 2018, <https://www.disabilityrightsuk.org/news/2018/may/one-five-universal-credit-claims-fail>

<sup>20</sup> Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013, <https://www.legislation.gov.uk/uksi/2013/380>

Information provided by the DWP in response to a freedom of information request outlined the circumstances in which a claimant may be able to make a claim by phone:<sup>21</sup>

- being unable to make a claim online independently, perhaps due to a health condition or not having the digital skills
- not having anyone to support them to make a claim online
- being unable to claim online with in-house job centre support
- being unable to claim online even with support from Citizens Advice/Citizens Advice Scotland using the Help to Claim Service (in these cases, Citizens Advice/Citizens Advice Scotland will have identified that the claimant cannot use online services and a claim by phone is appropriate)
- not having access to a digital device or internet access to be able to make and maintain a claim online

Telephone claims may also be considered in other circumstances.

It is worth noting that there are reported problems with the telephone service:

*‘Approximately 25,000 claims are maintained over the DWP’s helpline. However, we heard that this system can cause further problems for claimants and frontline staff. Professor Sharon Wright explained that a telephone claim “is not properly on the system and cannot later be accessed digitally.” Giles Elliott, Advice Service Manager at Manchester Mind, told us that waiting times were on average 30 minutes and that he had heard instances of people using the helpline being refused support to which they were entitled.’<sup>22</sup>*

Some claimants we spoke to preferred to use the UC telephone helpline rather than their journal because of the journal’s impersonal nature, literacy difficulties or feeling that they did not know how to phrase a request or share information. Some preferred being able to expand on answers given and to have the opportunity to ask questions. Participants noted that the long wait times (up to an hour) to speak with UC staff were a deterrent to using the helpline.



*‘Normally it takes anywhere from 40 minutes to an hour... that's a standard thing. They say it isn't, but it is. Everyone who experiences it, it's normally a 40-minute wait.’*

David, 35-39, with post-traumatic stress disorder (Case study 16)

One participant, Jane, reported waiting for an hour and 25 minutes before hanging up the phone in despair at not being able to get through. (Case study 27)

### 3.1.3 Using the online journal

The claimants we interviewed had varied experiences of using the UC journal. Some participants – around four - reported finding the journal easy to use, and reported fast response times from UC staff to their messages. Some preferred the online journal as there was then a record of what was said, and also there was time to consider the wording of an entry, or to ask for help with what was written.

<sup>21</sup> Universal Credit, *UC114 NS Claims by phone*, available at

[https://www.whatdotheyknow.com/request/712272/response/1695833/attach/5/UC114%20NS%20Claims%20by%20phone%20v34.0.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/712272/response/1695833/attach/5/UC114%20NS%20Claims%20by%20phone%20v34.0.pdf?cookie_passthrough=1)

<sup>22</sup> House of Lords Economic Affairs Committee, *Universal Credit isn't working: proposals for reform*, 2020, p75,

<https://publications.parliament.uk/pa/ld5801/ldselect/ldeconaf/105/105.pdf>



*'On the flip of the [difficulties applying], now [the claim is] in place, I find it a lot easier than the other benefits because everything's online. So, it's sort of swings and roundabouts because rather than having to sit for, like, 300 hours trying to get through to an adviser, you just fill in a journal entry on your universal credit claim and then they get back to you within 24 hours. So, that seems revolutionary.'*

Jocelyn, 40-44, bipolar disorder and binge eating disorder (Case study 19)

Others however noted the impersonal nature of the system, and the frustration in being unable to resolve breakdowns in communication when they occur via the journal.



*'It's hard to get any help when the only help is on a computer and you don't know who is on the other side.'*

Grace, 25-29, anxiety and depression (Case study 17)

Participants reported different preferences according to their differing needs. As noted by the work and pensions committee: *'The support on offer must reflect the differing needs of disabled people, with home visits and telephone support available where necessary at no additional cost to the claimant'*.<sup>23</sup>

The DWP has commissioned the 'Help to Claim' scheme from Citizens Advice — which offers some support to claimants to help them apply for UC. The social security advisory committee noted this was likely to be insufficient for those claimants with additional needs,<sup>24</sup> and that help should also be available to maintain an award.

### Box 1: A need for additional support

In addition to having mental health problems, it was notable that around half of the claimants we spoke to made applications for UC at traumatic and emotionally charged times in their lives, such as following a bereavement, domestic abuse and the loss of a job. This meant they were grappling with challenging circumstances and feeling under financial pressure at the same time as managing their mental health and any treatment, as well as having to learn how the UC system works, both technologically and practically.

The uncertainty inherent in making a claim potentially has a greater impact on claimants with mental health problems than those without, especially those with anxiety-related conditions. Rather than creating more fear and anxiety, the social security system should support and safeguard people at these crisis moments.

Some participants also described the stigma of claiming benefits and that this impacted their mental health:

*'I feel really guilty about being on benefits. Like I said, I have worked from being 16 all the way through to, well, 40, 41 years of age and these last six, seven years have been the worst in my life. Not just financially but also mentally, because I am having to depend on handouts.'*

Kevin, 45-49, bipolar disorder and borderline personality disorder (Case study 8)

<sup>23</sup> House of Commons Work and Pensions Committee, *Universal Credit: support for disabled people*, 2018, p4, <https://publications.parliament.uk/pa/cm201719/cmselect/cmworkpen/1770/1770.pdf>

<sup>24</sup> See note 22, p24

### 3.2 Receiving UC – ensuring claimants receive the correct award

Once they have made their initial application (usually online), the claimant must then accept a claimant commitment tailored in discussion with their work coach. This usually takes place at a meeting at the job centre within seven days of completing the online application. The claimant commitment contains information about what claimants are expected to do in return for receiving UC, known as work-related requirements. If the claimant fails to meet the expectations set out, they are at risk of losing money from their benefit (being sanctioned). Therefore, work-related requirements may be detrimental to a claimant's health if not correctly tailored to their needs.

In order to ensure the correct level of benefit is awarded and the correct work related requirements are set, work coaches need to be aware of relevant information about claimants' circumstances. Claimants in turn need to feel able to share relevant information about their mental health with the work coach. If information is not shared, it cannot be acted on.

Asking about, and putting into practice, reasonable adjustments for claimants with mental health concerns would help ensure the meeting to decide the claimant commitment is fully accessible and that disabled claimants can participate properly. Given that being able to share information with work coaches underpins the claimant commitment process, we report first on the barriers that claimants described in doing this, and how reasonable adjustments may help, before turning to the content of the claimant commitment itself.

#### 3.2.1 Barriers to sharing information with work coaches

Work coaches are the job centre staff who meet with claimants to draw up their claimant commitment and to assist in their return to work, if they are deemed able to do so. Work coaches are usually the staff who should identify and put into practice the DWP's Equality Act duty to provide reasonable adjustments, both in terms of how claimants access the service and in tailoring work-related requirements to their needs and abilities.

The DWP holds an organisational obligation to support work coaches and other UC staff to apply the Equality Act correctly from the initial claim onwards. We know that work coaches' caseloads have increased, particularly since UC claimant numbers doubled during the COVID-19 pandemic.

Work coaches see claimants with a wide range of issues which may require a specialist understanding, such as domestic abuse, homelessness, drug addiction, and physical and mental ill-health. They are not specialist in any one field, although work coaches' training includes information about mental health.<sup>25</sup> In contrast, under jobseeker's allowance, claimants were seen by specialist disability employment advisers if needed. As the work and pensions committee noted: *'Throughout successive inquiries, we have heard repeatedly that work coaches are expected to perform a range of tasks that require in-depth understanding of disability and of the barriers to employment that can accompany a health condition. Selecting appropriate discretionary support... and setting conditionality all require a level of expertise. The department told us that while all work coaches undergo basic training on disability, this expertise is provided predominantly by DEAs [disability employment advisers] and community partners.'*<sup>26</sup>

Under UC, advanced customer support senior leaders trained in complex needs, safeguarding and mental health may be consulted by work coaches, but do not usually meet directly with claimants.

<sup>25</sup> Response to parliamentary question, <https://questions-statements.parliament.uk/written-questions/detail/2021-03-25/176015/>

<sup>26</sup> See note 22, p36

According to papers recently deposited in the House of Commons library, disability employment advisers and disability employment adviser leads are employed in job centres, though it is unclear if their role is to speak directly with claimants or to support DWP staff.<sup>27</sup>

A recent Mind report<sup>28</sup> highlighted findings from a 2015 study<sup>29</sup> which reported that staff were not confident identifying 'vulnerable' claimants: 'evaluation of a set of Jobcentre trials in 2015 found that Jobcentre staff were concerned that they could not adequately judge whether work requirements were appropriate for people who are very unwell. The report said that *"at the extreme, some claimants presented themselves as being suicidal and work coaches had to handle such cases with particular care. Some work coaches raised concerns that it could be difficult for them to judge how claimants are affected by their health conditions, particularly in relation to mental health."*

Despite 16 of the claimants we spoke to reporting mental health problems on their initial application form, only two were asked by their work coach about their mental health and how it affects daily functioning.

Having not been asked about their mental health, the onus was on the majority of participants to raise the subject with their work coach. The claimants we spoke to reported a number of barriers that made it harder to share information with their work coach, a finding confirmed by other studies.<sup>30</sup> The barriers reported included:

- fear of being sanctioned
- not being clear what may or may not lead to a sanction
- difficulties in trusting their work coach for fear that they would be found not to qualify for UC, that information would be distorted and used against them, or that they would be sanctioned
- feeling powerless
- fear of not being taken seriously or believed
- work coaches not understanding mental health
- the perception of UC as a benefit for those seeking work, and therefore fear of not qualifying
- the environment of the job centre – open plan, lacking privacy, feeling intimidating
- claimants not knowing which of their circumstances is relevant when tailoring their work-related requirements

Our research showed the impact this has on claimants. An experienced welfare rights adviser we spoke to reported that many of his clients experience an exacerbation of symptoms of anxiety and post-traumatic stress disorder merely from having contact with the user journey system. He reported this led to claimants becoming distressed and tearful, or aggressive and angry. Claimants fear they are going to be asked to do something they are unable to do.

The claimants we spoke to reported the level of understanding they perceived their work coach to have about mental health problems as often insufficient.

<sup>27</sup> Universal credit, *Alternative Access Routes for Vulnerable Customers*, available at

[http://data.parliament.uk/DepositedPapers/Files/DEP2021-0836/201-UCPB\\_14-05-19-BTL02-Access\\_Routes-Vulnerable\\_Customers.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2021-0836/201-UCPB_14-05-19-BTL02-Access_Routes-Vulnerable_Customers.pdf)

<sup>28</sup> A Manji, *People, Not Tick-Boxes*, Mind, 2020, <https://www.mind.org.uk/media/6483/people-not-tick-boxes-october2020.pdf>

<sup>29</sup> Department for Work and Pensions, *The 2015 ESA Trials: A synthesis*, 2017

<sup>30</sup> B Glover, *Pathways from Poverty*, Demos, 2019, <https://demos.co.uk/wp-content/uploads/2019/03/Pathways-from-Poverty.pdf>



*'You just feel that, If I say, "I've got depression", if I talk about my depression, they're not going to be sympathetic, because they're not trained.'*

Jean, 50-54, depression (Case study 21)

Some participants reported poor practice by their work coach in relation to mental health.



At a recent work-focused interview (he is waiting for a work capability assessment), a work coach told Ian to *'be positive'*. He feels affronted that she thought a *'positive mental attitude'* would solve his mental health problems. Ian described this as *'patronising mental health advice'*.

*'It's about triggering feelings of inadequacy, that sort of thing. You know, I do feel that I'm being abused. You know, why are they doing this?'*

Ian raised the question of how staff are trained in mental health.

Ian, anxiety and depression (Case study 20)

Participants also described more general difficulties establishing trusting relationships with work coaches.



*'They were just like being an automaton. They didn't have any, what's the word – humanity.'*

Steven felt his work coach was OK, but that he couldn't fully trust her not to use information against him.

Steven, 16-24, anxiety and agoraphobia (Case study 9)

Some participants reported finding the job centre environment unwelcoming.



Grace claimed UC for the first time when she had a breakdown and had to leave university. She felt like job centre staff treated her with contempt. She said the process of drawing up the claimant commitment was *'very impersonal... It's pretty hard to go from being at uni and working to going to a place where they just look at you with complete disregard.'*

Grace had several work-focused interviews while waiting for a work capability assessment, and found the job centre environment itself unwelcoming with intimidating security guards: *'It's like where souls go to die.'*

Grace, 25-29, with anxiety and depression (Case study 17)

Another claimant described her distress at having to go to the job centre, and how staff responded to her once she was there.

“

*‘Because I was worried about what we were going to do financially and everything, my mental health just went down the pan, and I just hate the job centre. It’s just not a nice place to go. It feels very combative. As soon as you go in, it’s just a horrible place. So, before I even got through the door, I was in floods of tears. I just didn’t want to be there. I can feel myself getting panicky just talking about it... So, we went in and I was obviously upset. So, they took us to the side, which is where they take claimants who are being aggressive and stuff. So, you had some clients who were being aggressive in the same sort of corridor... and then they were good enough to find a side room for me.’*

Jocelyn, 40-44, bipolar disorder and binge eating disorder (Case study 19)

The open plan office was a barrier for some participants. Several mentioned they would have preferred to speak with their work coach in a private room. For some, this was because they wanted privacy to feel more able to share sensitive information, and for others it was the fear of being overheard.

“

*‘You think, “Ah, the person next to us could be listening”, or like, “The next work coach that’s pretending to type on a laptop could be listening.”’*

Jessica, in her 30s, anxiety, depression and post-traumatic stress disorder (Case study 25)

A minority of participants spoke of positive working relationships with their work coach, and how it helped them.

“

*‘I had been a carer, and [my work coach] was very supportive when I’d had to go to the psychiatric hospital, backwards and forwards appointments, and to care homes and all that stuff to deal with stuff. Yes, so she was really, really supportive with that and if I couldn’t make signing-on appointments.’*

When Jean cancelled appointments due to caring responsibilities or illness, she did not feel worried about being sanctioned because she had confidence her work coach understood her situation. She spoke with other UC claimants through her work: *‘we had a conversation where we realised that actually it’s really due to individual staff, and how sympathetic and how knowledgeable they were about your individual situation. I just, yes, concluded that I was just very, very lucky, really.’*

Jean, 50-54, depression (Case study 21)

“

*‘I find him [work coach] very supportive and very friendly and very helpful.’*

Charlotte, in her 30s, anxiety and depression (Case study 11)



*'I know that when [my work coach] called me she used to spend a lot of time... She would have extra time, sometimes, for me, not all the time but sometimes I'd have longer than ten to 15 minutes with her.'*

Jagath reported that when his work coach went on maternity leave, she did a good handover to the new work coach. He appreciated this as it meant he did not need to repeat his situation to someone new. He found the longer appointments and private room beneficial and more possible for him to share information about his health.

Jagath, 16-24, anxiety and panic attacks (Case study 3)

### **3.2.1.1 Not meeting communication needs: 'this is a service and you must fit the box'**

Most participants did not know they could ask the DWP for a change in the arrangements for administering their UC claim, such as having a meeting on the phone instead of in person. They felt powerless and frustrated in feeling caught up in an inflexible system which they depended on for money to survive.

Rather than feeling that a tailored, personalised approach was being taken, participants often described a 'one size fits all' experience. Many spoke about the distress caused by having to fit into a seemingly inflexible system, in contrast to the stated aim of UC to provide a personalised service, and in contrast to the demands of equality legislation.



*'The government does not put the person at the centre of the need. They say, "This is a service and you must fit the box."'*

*'We just get the one broad brush approach. And that could be difficult for somebody with my needs and other needs. And I am not an isolated case locally.'*

*'The communication, the extra support, making reasonable adjustments. I see it, very simply, as making it a level playing field. And whatever elements I have there needs to be a form of equity where they enable me to get to the same level and not be, you know, like, mistreated as somebody - that I shouldn't be treated any less because I have got a disability. And that has just not happened. It has just not happened.'*

The participant, Kevin, stopped work when he had a breakdown, and received employment and support allowance. He was assessed as unlikely to return to work in the medium term. Kevin had to apply for UC during a separation from his partner, and then experienced several problems with his UC including difficulty finding out about help with a loan for his mortgage, an incorrect award of benefit caused by DWP's failure to account for his son in calculating his entitlement and an overpayment. He said he is at risk of losing his home due to mortgage arrears, and is £200 a month worse off since transferring from employment and support allowance to UC.

*'We have tried to do everything by the book – but we are worse off.'*

When asked about his communication needs, Kevin said clarity is the most important factor as without this he can become frustrated, distressed and *'get people's backs up'*. He needs to speak to someone who can explain complex issues in a measured calm way, for example the problems with his mortgage or correcting the miscalculation of his entitlement, in a way that he can understand. He reported previously working for two large organisations with inclusion and diversity teams where people with additional needs could be referred, and suggests the DWP do the same.

Kevin, 45-49, bipolar disorder and borderline personality disorder (Case Study 8)

Other participants reported having communication needs which required a more specialist response. David (case study 16) said he was banned from job centres locally due to his challenging behaviour. He said his mental health condition manifested partly in being unable to refrain from using swear words, and that telephone staff would put the phone down on him. This raises the question of how claimants whose behaviour is perceived as challenging access the service.

A further example was a participant who was distressed by not being able to understand the calculation of her UC. Staff who answered the UC helpline and or responded to his journal posts were not able to meet her needs, perhaps because (as she felt) they were reading from a script.



*'They say, "We cannot pay you the full amount as the amount we pay cannot be more than your local housing allowance." I don't understand what that means. These are things that I ask them and they don't explain to me, they just either ignore me or give me an even more confusing answer.'*

Jennifer, in her 50s, depression, anxiety and chronic fatigue (Case study 24)

Many of the issues raised by participants in relation to work coaches and the job centre environment could be improved, or removed altogether, by consistent and proper consideration of reasonable adjustments throughout the claimant's UC journey. Systems could be designed and implemented to anticipate and adapt to these needs, such as providing additional time for meetings by default, as well as responding to the specific needs of individual claimants.

Mental illness is referred to as a 'hidden disability', which may be less apparent than some physical disabilities. Those with mental health problems may find it more difficult to articulate the impact of the impairment of their daily life. There is also often a social stigma attached to mental ill health. This means there is a greater need for claimants to feel able to comfortably share sensitive information with the DWP, so they can access the service and receive the correct level of benefit.

It is important that all claimants are routinely asked whether they need a reasonable adjustment, regardless of whether they have reported a disability, because of the stigma of mental ill health and the difficulty speaking about it.

### 3.2.2 The claimant commitment and work-focused interviews

The claimant commitment is a record of claimants' responsibilities while receiving UC, and includes the claimant's work-related requirements and any other information the DWP deem relevant. The claimant commitment is drawn up by a work coach allocated to each claimant. As described above, the majority of claimants we spoke to reported barriers to sharing relevant information about their disabilities or health issues with their work coach. Key barriers included not being asked about health issues by work coaches, and not knowing which of their circumstances may be relevant to the process of drawing up a claimant commitment.

UC legislation sets out circumstances in which work-related requirements may be reduced or removed.<sup>31</sup> Guidance issued to DWP staff confirms that claimants with complex needs (including mental ill health) may, at the discretion of their work coach, have work-related requirements suspended for a period of time.

Consistent and proper provision of reasonable adjustments in relation to how claimants communicate with work coaches, and access UC communication systems, would assist in providing the right conditions for claimants to be able to engage more fully with this process.

UC differs from the benefits it is replacing, in that work-related requirements are the default for new claims from day one. Under employment support allowance, claimants do not undertake work-related activity for 13 weeks, or until they had had a work capability assessment. This safeguard does not exist under UC: physically or mentally unwell claimants are usually referred for a work capability assessment on the 29<sup>th</sup> day of their award. Wait times for assessments are reported to be several months and sometimes longer.<sup>32</sup>

<sup>31</sup> Section 17(4) and (5) Welfare Reform Act 2012

<sup>32</sup> <https://committees.parliament.uk/committee/164/work-and-pensions-committee/news/154960/committee-writes-to-minister-for-disabled-people-on-delays-to-workplace-capability-assessments/> and <https://cpag.org.uk/policy-and-campaigns/report/assessment-delays-ill-health-and-disability>

### 3.2.2.1 The perception of UC as a benefit for those seeking work

One of the barriers to reporting mental health problems for many participants was the perception that UC is a benefit for those looking for work, and if a claimant is unable to look for work they will not qualify for the income they depend on. For those with mental health problems, this created stress and anxiety, and led to a fear of sharing information.



*'It's a system that's designed to get people into work, and that's not a system that fits people like me who, for the moment, are not capable of doing that.'*

Ian, depression and anxiety (Case study 20)

The language used around UC reflects participants' anxieties. For instance, having a 'work coach' implies being coached into work; and being asked to attend 'work-focused interviews' for those whose are deemed to have no work-related requirements provokes uncertainty and anxiety about what is expected of them.



*'Equally, the appointments, they're called work search reviews. When I queried about why it's called that, they said every single appointment's called that, regardless.'*

Jack finds the title 'work search review' stressful as it makes him anticipate being told to search for work although it is accepted he is not able to at the moment.

Jack, in his early 20s, anxiety, depression and additional learning needs (Case study 14)

This message is reinforced in DWP's online materials. For example the DWP's online video guide for new UC claimants begins with the title 'Universal Credit – Opening Up Work'.<sup>33</sup> It does not refer to adjustments available to those with mental health conditions and other vulnerabilities, nor the fact that many UC recipients who have mental health problems are not expected to work, some for duration of their claim, in reference to the claim process or the claimant commitment.

### 3.2.2.2 Attending appointments - impact on mental health and fear of sanctions

Participants highlighted serious difficulties in meeting the requirement to attend meetings with their work coach. The effort involved in attending an appointment often had a significant impact on their health.



*'I had an appointment... at 9:00 in the morning at the job centre and I couldn't sleep the whole night... because I knew that I had the appointment. I was literally, maybe, a few minutes late, like, three or four minutes late. She just was like, "I'm not going to see you now, you have to reschedule. Your benefits might be affected," which is how she said it. I screamed, because I hadn't slept the whole night...'*

Lindsay, 30-34, anxiety, depression, psychosis, panic attacks (Case Study 7)

Often participants raised the fear of being late for appointments (and the risk of being sanctioned).

<sup>33</sup> Universal Credit, *Making a claim*, <https://www.understandinguniversalcredit.gov.uk/making-a-claim/before-you-claim/>



*'Quite a lot of the time, I'd really panic about actually going out and I would be late. Even if I was one minute late, I would be really panicking that they might sanction me or something. I even didn't go to a few appointments because I just was so upset.'*

Jagath, 16-24, anxiety and panic attacks (Case study 3)

Participants reported difficulty getting to the job centre, or having to walk for over an hour as they were unable to use public transport. One person reported asking for a taxi to take him to the job centre, and this was arranged. However, in general it seems that the process of asking for assistance with travel or changes to practice is unpredictable and depends on each individual work coach's approach to dealing with a claimant's request and the work coach's understanding of the extent and implications of the claimant's mental health condition.

### 3.2.2.3 Changes to appointments

The importance of claimants being on time for their appointments to avoid the threat of being sanctioned led to a feeling of frustration and unfairness when UC staff did not keep to appointment times, or cancelled appointments at short notice. It also caused distress when claimants had steeled themselves for an appointment which was subsequently cancelled, often at the last minute.

One participant was told to attend a meeting about self-employment. The meeting was cancelled on the day of the appointment, and rebooked for three weeks later. Later the appointment was cancelled a second time, with two days' notice. The appointment was not rescheduled at all, causing the claimant great anxiety and uncertainty about what was going to happen next.



*'I couldn't believe it, the one that was cancelled on the same day. Yes, and I most probably would have cried.'*

Julie, in her early 50s with a diagnosis of depression, anxiety, psychosis and post-traumatic stress disorder (Case study 2)

Having appointments cancelled, rearranged, or take place earlier or later than the scheduled time risks having a more negative impact on those with mental health problems, such as anxiety. Coaches who understand and reflect the needs of individuals had a valuable and recognised impact on those they supported.



*'Because my work coach is always punctual... so I did not have to do this whole waiting around thing, which for someone with autism, that would have been incredibly stressful because, for me, everything has to be quite rigid and structured.'*

Caroline, 45-49, bipolar disorder, suicide attempts and psychosis (Case study 5)

Many of the problems reported above could be resolved if the DWP gave proper consideration to enquiring about, and providing, reasonable adjustments to claimants. This includes consideration of the time or location of meetings, whether or not claimants are able to travel, and how the process of changing appointments could be managed better.

### 3.2.3 Setting the right conditionality – work-related requirements

One of the key features of UC is conditionality – the idea that to receive the benefit, a claimant must do something in return. The UC Regulations 2013 set out the work-related requirements that claimants must meet. There are four types of work-related requirements: work-focused interviews, work preparation, work search and work availability which may be imposed on a UC claimant.<sup>34</sup> There are circumstances in which no work-related requirements may apply,<sup>35</sup> or claimants may be required only to attend periodic work-focused interviews.<sup>36</sup> Standard requirements are that a claimant should undertake 35 hours a week of work-search activity, and attend weekly work-focused interviews. These may be reduced in certain circumstances.

Under UC, work-related requirements begin by default soon after a claimant's application is accepted. Staff must actively 'switch off' work-related requirements on the system for those they determine a particular work related requirement should not apply. This presents several issues: staff must be able to recognise when adjustments should be made, they must ask appropriate questions to obtain relevant information from claimants and claimants must be aware of what information is relevant to deciding their work related requirements, so they can share it with their work coach.

As noted above, UC is a benefit for those with and without health problems, for those looking for work and for those currently unable or limited in their ability to look for or take up work. Claimants identify themselves as having additional needs on the initial application form by answering the question '*Do any of your conditions restrict your ability to work or look for work?*'. The application form also asks what support at work is needed. Failure to answer this question or to recognise the significance in deciding their work related requirements may lead to demands that cannot be met being imposed on the claimant and risk of loss of critical income through sanctioning.

A claimant is unable to appeal to a social security appeal tribunal (the usual way claimants challenge matters relating to benefits) about the level of their work-related requirements. They must instead rely on negotiating, making a complaint, or using judicial review. This means it is more challenging for a claimant to attempt to put

<sup>34</sup> See Appendix 2 for Glossary explaining terminology.

<sup>35</sup> The system of conditionality in UC provides many situations where if a claimant in the all work conditionality group falls within a certain circumstance then the conditionality imposed on them must or may be reduced, including but not limited to:

- Someone who has caring responsibilities can reduce their hours of work search to those considered by the decision maker to be compatible with the caring responsibilities provided they still have reasonable prospects of employment (reg. 88(2)(a) UC Regs 2013)
- Someone with a health problem can similarly reduce their work search hours – in this case not needing to also show reasonable prospects of obtaining employment (reg. 88(2)(c))
- Someone with a child under 13 can reduce caring responsibilities to those compatible with child's normal school hours (reg. 88(2)(b))
- Further deductions from hours of work search can be made on a week to week basis to deal with temporary childcare responsibilities, domestic emergencies, funeral arrangements or similar situations (reg. 95(2)(b)).
- Victims of domestic violence who meet certain conditions can have a period of 13 weeks with no conditionality requirements imposed (reg. 98).
- A further easement can be applied in cases of bereavement or where a child who the claimant cares for has been a victim of or witness to a violent or abusive incident (reg. 99(4A))
- Those who are temporarily ill and provide a medical certificate can have work search disapplied for a two-week period (reg. 99(4)).
- Those who are ill for a longer period and provide medical certificates can have work search disapplied for so long as reasonable (reg. 99(5)).

<sup>36</sup> The number of people on UC whose circumstances mean they have no requirements to work ('no work requirements') rose to 1.3 million (22 per cent of all people on UC) in July 2021 from 1.2 million (20 per cent of all people on UC) in April 2021. This gives an indication of the numbers of people accepted as not being able to undertake work-related activity, including those with health issues. See note 10.

right incorrect levels of work-related requirements, and makes it all the more important to get it right in the first place.

The claimants we spoke to reported difficulties in getting the right level of work-related requirements. This finding has been reported elsewhere, such as the House of Lords economic affairs committee.<sup>37</sup> Getting work related requirements wrong has a significant impact on claimants' mental health. Despite reporting their health issues to the DWP, participants in our research consistently reported that their work coach failed to ask them about their mental health or whether they needed a reasonable adjustment when setting work-related activity.



*'No, I can't recall them asking about my health. I remember trying to explain to them that my health was poor and that I was getting very stressed by the conflicting messages [about looking for work].'*

Julie, in her early 50s with a diagnosis of depression, anxiety, psychosis and post-traumatic stress disorder (Case study 2)

### 3.2.3.1 The impact of getting work-related requirements wrong

Getting work-related requirements right is critical – if the wrong requirements are imposed and claimants are mandated to undertake activities they are unable to, they are at risk of being sanctioned which causes financial hardship and often exacerbates mental health conditions.

During our research we uncovered examples of claimants who struggled to get the right work-related requirements applied to their award, with a serious impact.



Despite reporting mental health problems, when Steven claimed UC his conditionality was initially full work search of 35 hours a week.

*'I know they do tailor it, but it took a little bit of effort to get them to actually listen to you. It took a good, I'd say, three or four months for them to listen.'*

Steven described several months of *'banging his head against the wall'* until they listened to what he was saying. He had to go in every two weeks for a work-focused interview, and he said he dreaded it and was exhausted by it.

Steven had been forced to claim UC when his employment and support allowance stopped while he (successfully) challenged a decision that he was fit for work.

Steven, 16-25, anxiety and agoraphobia (Case study 9)

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<sup>37</sup> See note 21, p58



*'I was really struggling. Because... I was just on put on 35 hours a week, or work-related requirements group. I couldn't really cope with it. Eventually, it all imploded... It very much felt like something I had to agree to, and that I couldn't negotiate.'*

*'I didn't know that I could say, "This is too much for me," until [after several months] my work coach said, "It seems that the time is a bit too much for you. How about we reduce that?" I didn't know that that was possible. Had I known, I would have asked for it, because I would have said, "Look. This isn't helpful." Also, I felt like when my work coach did that, it was because she was being generous. I didn't feel like that was something that I could ask for, or expect.'*

Rachel, 25-29, depression, anxiety and self-harm (Case study 6)

Rachel initially refused to have a work capability assessment because she so feared the adverse effect this would have on her mental health.

### 3.2.3.2 Transferring conditionality from employment and support allowance to UC

Some participants had received employment and support allowance prior to claiming UC. Work-related requirements agreed while receiving employment and support allowance should be transferred to their UC claim. This should be a straightforward process, as set out in legislation and DWP guidance, but claimants reported delays in having the previous work-related requirements transferred over to UC, leaving them subject to inappropriate conditionality in the interim.



Dean had been on employment and support allowance in the support group, but this was not transferred over when he applied for UC. This meant that for three months following his UC claim he was required to attend work-focused interviews and was put on full work search for the first five weeks. After repeatedly informing his work coach that he had been receiving employment and support allowance in the support group, all work-related requirements were eventually 'switched off'. He said that the stress caused by this meant he had had to go back onto medication for his mental health.

Dean, 40-44, depression, anxiety, personality disorder (Case study 15)

The provision of reasonable adjustments applies to all disabled claimants, including those who are able to work and those who are not. But our findings indicate that there is inconsistency in the application of work-related requirements. This is supported by the recent JUSTICE report<sup>38</sup> which reports that the DWP needs to do more to ensure claimants understand how and when the easements which underpin appropriate conditionality are applied and the reasons they may be sanctioned.

### 3.2.4 Sanctions

In addition to the risk of being sanctioned for being late for an appointment with the work coach, sanctions may also be imposed if a claimant fails to meet the expectations set out in their claimant commitment. The National

<sup>38</sup> JUSTICE and the Administrative Justice Council, *Reforming Benefits Decision Making*, 2021, <https://justice.org.uk/wp-content/uploads/flipbook/50/book.html>

Disability Strategy<sup>39</sup> reports that the DWP is working to include voluntary actions in place of mandatory actions (with the possibility of a sanction), and this is to be welcomed. It is however unclear to what extent this proposal has been rolled out, and whether claimants are aware of this (none mentioned it for this study).

We found that claimants feared sanctions and were often uncertain what ‘failures’ on their part might lead to a sanction.



*‘From day one. Yes, [sanctions were] in my mind every single time I thought about the job centre.’*

Rachel reported not knowing where the line was in terms of what may or may not lead to a sanction, and this also increased her anxiety.

Rachel, 25-29, depression, anxiety and self-harm (Case study 6)



*Upon receiving the standard notification about sanctions, Julie described ‘the fear that I’d get in trouble when you’re trying to do your best.’*

Julie, in her early 50s with a diagnosis of depression, anxiety, psychosis and post-traumatic stress disorder (Case study 2)

Conditionality – the mandating of work related requirements under threat of sanction – was suspended for three months in early 2020 in response to Covid-19 lockdown measures, and was then reintroduced with a ‘light touch’ in July 2020. During our research we were interested to learn about the impact this withdrawal had on claimants’ mental health. Most participants did not report feeling a sense of relief during the time of no conditionality, but rather they merely felt anxious about when conditionality would resume and what would be expected of them.

The impact of sanctions on those with mental health problems has been well documented. The work and pensions committee,<sup>40</sup> Mind<sup>41</sup> and several other organisations have called for an end to sanctions for those with mental health problems.<sup>42</sup>

### 3.2.5 Work capability assessments – arranging and attending appointments

Claimants who report health problems and provide medical certificates will usually have to attend a medical assessment to determine whether they have limited capability for work, limited capability for work-related activity, or whether they have full capability for work. Work capability assessments are currently carried out by a DWP contractor.

Two claimants we spoke to had chosen not to have a work capability assessment as they so feared the impact it would have on their mental health. This was a concerning finding, given that assessments should be the gateway

<sup>39</sup> Department for Work and Pensions, *National Disability Strategy, Part 1: practical steps now to improve disabled people’s everyday lives*, 2021, <https://www.gov.uk/government/publications/national-disability-strategy/part-1-practical-steps-now-to-improve-disabled-peoples-everyday-lives>

<sup>40</sup> See note 22

<sup>41</sup> See note 27

<sup>42</sup> ‘Scrap benefits sanctions or risk mental health crisis, psychologists warn’, *The Independent*, 26 February 2017, <https://www.independent.co.uk/news/uk/politics/benefits-sanctions-letter-mental-health-crisis-british-psychological-society-a7600596.html>

to receiving the correct financial and other tailored support in accordance with individual needs. Similarly, Stella (case study 1) did not wish to ask the DWP for her UC records (as part of this study) because she feared doing so would lead to being called for another assessment.

Of those who did have an assessment, participants reported insensitive questioning by the assessor, such as questioning how they planned to end their life or when they last self-harmed.



Rachel declined to have a work capability assessment when she first applied for UC:

*'I'd heard that dying people were being judged fit for work. I figured, "They're not going to take my mental health seriously." I didn't go for it.'*

After several months, the work-focused interviews became so detrimental that she decided she would have to attend a medical assessment.

*'Yes, the assessment itself was really traumatising. It was extremely triggering... The assessor kept asking me about self-harm and saying that you have to give all the details about suicidal feelings. They ask why you haven't killed yourself yet?*

*'They obviously ask you, "What was the last date on which you self-harmed?" I said, "I don't know. I was experiencing a really severe depressive episode. I was in bed all day. I didn't open my curtains... I didn't have any appointments, or anything, so I have no idea what the time or the date was. Every day blurs into another one, and I was in a very dark place." She said, "No. But you must know. You must know the date when you self-harmed." She had this really disbelieving tone in her voice.'*

The arrangements for the medical assessment itself were stressful:

*'I waited a few months... Then I was given the time, and there was a problem with it, because they'd booked it on a day when I'd said my mum was working. That really made me feel like, "Did they actually read what I said?" So, I had to rebook, and that was one of the times you're allowed to rebook. Then I think something happened, and I had to rebook it again... They only allow you twice for rebooking. But then my grandmother died, and her funeral was coming up, and it would have been during that time. So, I had to beg them to reschedule. They did though... It was very stressful.'*

Rachel, 25-29, depression, anxiety and self-harm (Case study 6)



Ian described how the experience of a previous work capability assessment affected him when they were called for another assessment, which was then cancelled:

*'[Previously] they wanted to know how I was going to kill myself. They wanted to know... exactly what... you know, everything. It was so intrusive and so damaging to my mental health at the time, but it's a process and I had to psych myself up to it and go through it, as I have done [before]. You know, I was prepared [for another one], and then [they] cancelled last minute...It was cancelled an hour before.'*

Ian, anxiety and depression (Case study 20)

Several participants reported that requests for a home visit were refused despite citing their mental health in support of the application. Others could not afford the £25 GP charge for the required letter of support.

### Box 2: Claimants who are able to work, with adjustments in place

Claimants are asked on the UC application form whether they have a health condition or disability that affects their capability for work. One of our participants said that for her, this question was worded incorrectly. She works part time, and is able to tailor her work to her health needs. Her view was that these adjustments means that she is not excluded from work.

*‘But there was nowhere in the application – the universal credit application – to actually say, “This is me” or, “This is my reasonable adjustments.” There’s nowhere for you to say that. The only question I remember was, “Do you have a disability or health condition that prevents you from seeking work?” Because I wasn’t able to put that – well, I didn’t feel able to put that, because my working in mental health, my lived experience is actually my work. It’s flexible, so I work remotely... It’s as flexible as I need [it to be].’*

Jean, 50-54, depression (Case study 21)

If the UC application form and work coaches asked claimants about their needs at an early stage, and throughout the UC award, those able to work might be better supported into appropriate jobs, with the correct reasonable adjustments in place.

## 3.3 Recording information and data collection – ‘If the customer has to tell us twice, we may have failed in our duty’

### 3.3.1 Recording information

Information about a client’s mental health is key to establishing an appropriate level of conditionality and making adjustments to facilitate equal access to the benefit. It is therefore key that this information is accurately and consistently recorded on the UC system. Doing so avoids the need for claimants to repeat sensitive information to new members of staff and makes meeting Equality Act duties practically possible.

The DWP’s policy reminds staff of the need to record a reasonable adjustment:

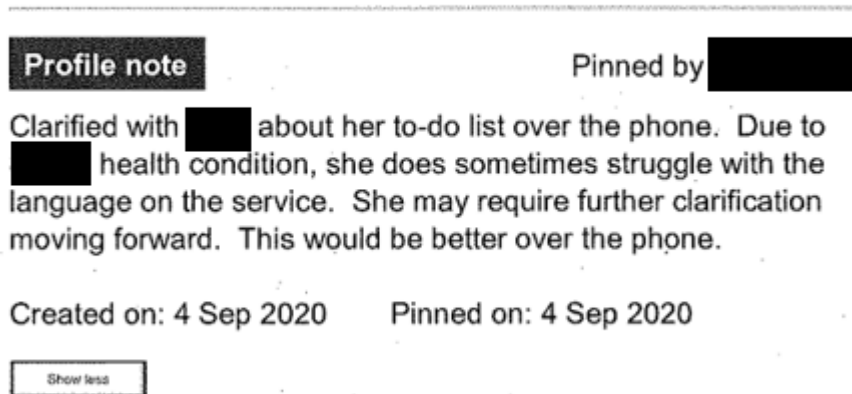
*‘...so other colleagues engaging with this customer will know what to do... If the customer has to tell us twice, we may have failed in our duty’.*<sup>43</sup>

Once information is shared, it should be prominent on the UC IT system so that work coaches can see at a glance what claimants’ needs are. This provides reassurance that sudden changes in work-related requirements or different expectations should not arise when a claimant’s usual work coach goes on leave or is absent. It means work coaches do not need to ask claimants for more details than are necessary. Information recorded may be of more practical use to DWP staff if adjustments are noted, such as a preference for phone calls or the need to allow longer time for interviews.

<sup>43</sup> See appendix 4 para 43 and note 15

Having a clear record of communication and other access needs assists with all aspects of the UC award, such as making arrangements for attending a work capability assessment or assisting a claimant to look for appropriate work. One of our subject access requests provided an example of a ‘pinned note’ on a UC file:

## Pinned notes



Using pinned notes is one way to ensure some recording takes place, however the system needs to be consistently applied by staff in order to be helpful.

Participants reported having to repeat their circumstances to different work coaches and members of DWP staff. It appeared to them that new workers had either not looked at their file or that relevant information wasn't available on file.



Marie described how each time she contacts the UC helpline, staff are unaware of her health issues and needs: *'they don't know. I have to explain all over again.'*

Marie, 45-49, anxiety and depression (Case study 26)

### 3.3.2 Data collection

The DWP has introduced a 'complex needs' process for claimants, a definition which includes mental health problems. The DWP has committed to introducing a claimant profile within the UC IT system which would enable 'tracking' the progress of those identified as having complex needs. Further measures need to be taken to ensure data on claimants' protected characteristics and complex needs is accurate and relevant so that the DWP can understand and report on its progress in this area.

The freedom of information request response received from the DWP (Appendix 5) indicates that the UC IT system does not have a 'tick box' to record that a reasonable adjustment is needed. However, the DWP reasonable adjustment policy refers to a 'reasonable adjustment marker' on the IT system. It would be useful to know whether this is available on the UC IT system, and to have data regarding its use.

## 4. Reasonable adjustments: accountability and alternative remedies

### 4.1 How to challenge a failure to make a reasonable adjustment

#### 4.1.1 Negotiation

The first way for a claimant to challenge a failure to provide a reasonable adjustment would be to negotiate with the DWP, usually with their work coach. However, as described above, there are a number of significant barriers to effective communication between claimants and work coaches. There are other ways for claimants to challenge a failure to provide reasonable adjustments, each with its own limitations.

#### 4.1.2 Complaints

Claimants may make a formal complaint to the DWP regarding the failure to consider or implement a reasonable adjustment. However, this is contingent both on claimants knowing their Equality Act rights and on the DWP responding to complaints made. Two participants had made complaints to the DWP (not regarding Equality Act issues); one received a response and the other did not. One of these claimants made complaints via two different routes: on his journal and through the Gov.uk website. He did not receive a reply. This raises the question of whether the complaint process is robust enough to resolve a failure to implement the Equality Act's duty to provide reasonable adjustments.

#### 4.1.3 County court

The usual route for a claimant to challenge a benefit decision is an internal review followed by an appeal to the social security appeal tribunal. However, social security appeal tribunals are not allowed to consider alleged breaches of the Equality Act. Section 114 of the Act mandates that, in England and Wales, the appropriate jurisdiction for discrimination claims brought under the Equality Act is the county court.<sup>44</sup> Benefit claimants would therefore be required potentially to bring two cases, one to the social security appeal tribunal and one to the county court. For example, at the social security tribunal they would be appealing to stop a sanction and at the county court they would be appealing to have their work-related requirements re-written in accordance with the Equality Act.

There is a time limit of three months for a claim to be made in connection with the Equality Act (section 123). A claimant unaware of their legal rights under the Act may find it challenging to seek legal advice and to take action within this time frame, which could be a further barrier to accessing justice in cases of potential unlawful discrimination. There is also a costs risk to claimants in bringing a county court claim.

#### 4.1.4 Other oversight of Equality Act provisions

The Equality and Human Rights Commission (EHRC) is notified of any claim made under the Equality Act, and has a duty to investigate. The EHRC is able to order the DWP to improve practices and provision. For example, the EHRC recently worked with the DWP to improve services to deaf claimants.<sup>45</sup> A report from JUSTICE noted the legal agreement between the DWP and the EHRC also includes an undertaking to '*record and share internally disabled people's communication needs, and improve the use of Equality Analysis in the design and delivery of all changes*'.

<sup>46</sup> Claimants cannot apply directly to the EHRC.

<sup>44</sup> By contrast, s.120 of the Act says an employment tribunal can consider the provisions of the Act in deciding whether an employee has been discriminated against.

<sup>45</sup> Equality and Human Rights Commission, *DWP enters legal agreement to improve services for deaf customers*, 2020, <https://www.equalityhumanrights.com/en/our-work/news/dwp-enters-legal-agreement-improve-services-deaf-customers>

<sup>46</sup> See note 37

The Public and Health Services Ombudsman investigates maladministration in public services including the DWP. The Ombudsman could investigate matters such as the DWP's implementation of (or failure to implement) its own policy, or the lack of recording of information pertinent to the policy. The Ombudsman route of redress is not widely understood or used by claimants or their advisers, compared to other routes used to change decisions or administration of UC. Furthermore, before bringing cases to the Ombudsman, claimants must have exhausted the DWP's complaint procedure including consideration by the Independent Case Examiner, as well as having sponsorship of an MP, meaning it is not a quick route to resolve concerns.

The Equality Advisory Support Service<sup>47</sup> runs a helpline that provides advice on matters of discrimination, including failure to provide reasonable adjustments. It has a number of standard letters available on its website.

The barriers to challenging a failure to provide a reasonable adjustment described would likely preclude all but the most well-informed and well-supported claimant from bringing a county court claim. This situation may contribute to there being insufficient robust oversight of the DWP's equality practices, and contribute to a failure to ensure that claimants' rights are enacted and upheld.

Given the difficulties for claimants in accessing justice and resolving issues of unlawful discrimination, it is all the more important for the DWP to uphold its legal obligations to provide the adjustments needed by disabled claimants in the ways described throughout this report.

## 5. Conclusions

Many of the problems that disabled claimants report with UC could be minimised or removed altogether if the DWP positively enacted its legal duties as set out in the Equality Act. Our research paints a picture of a benefit system where the needs of claimants with mental health problems are not taken into account in a systematic way when they access UC, and illustrates the negative impact that this failure has on the experience of people with mental health difficulties at a time when they most need support.

While there were incidents of good practice reported, the majority of participants said that there had been no enquiries about their communication or other needs in respect of accessing the UC service. None were asked if they needed a reasonable adjustment. In some cases, this failure led to a great deal of distress and a deterioration in the participant's mental health. There is a need for DWP staff to be better trained in understanding and putting into practice their Equality Act duties to offer and provide reasonable adjustments.

Not only were participants not asked about nor widely aware of reasonable adjustments, it was also notable that several large scale reports into the functioning of UC cited in this report do not refer to claimants' rights to a reasonable adjustment under the Equality Act. This is despite the fact that many of the difficulties experienced by claimants could be remedied by putting reasonable adjustments into practice consistently and effectively.

The discretion that work coaches have when tailoring work-related requirements means that they are ideally placed to make reasonable adjustments in a mentally ill claimant's UC award, work-related activity imposed on the claimant and in looking for appropriate work. But some staff appear not to understand their duty under the Act, as an officer of a public body, to explore and remove the barriers faced by the claimant arising from the DWP's systems and practices. This suggests that awareness of these duties it is not embedded in the culture or office practice of DWP staff.

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<sup>47</sup> Equality Advisory & Support Service, <https://www.equalityadvisoryservice.com/app/answers/list>

Working out both reasonable adjustments and UC easements should be a dynamic process between work coach and claimant: this is why the relationship is of such importance. However, the range of adjustments which may be provided through the Equality Act duty is far broader in scope than easements to conditionality. Work coaches could be better supported to make adjustments and easements through the routine use of a checklist during their meetings with a claimant. This would assist work coaches and also inform claimants about which of their circumstances are relevant to mention.

The DWP's policy says staff should record that a claimant has been asked about reasonable adjustments and any adjustments subsequently made. Our research suggests that claimants with mental health problems are not routinely asked if they require a reasonable adjustment, and that relevant information is not routinely recorded. In the absence of any data provided by the DWP, it seems likely that this experience is replicated more broadly across the country. This means work coaches, being responsible for the primary relationship with the claimant, are failing to apply both the law and their own policy.

The DWP should also systematically collect data about all protected characteristics in the Act in order to understand how one characteristic intersects with another. For instance, while we have been unable to explore matters of race and mental health in this study, further research in this area is indicated and having data on relevant characteristics would assist with this. These different factors (sex, race, mental health) are highly likely to interact to shape people's experience of accessing DWP services, but without sufficient data in place it is difficult to be more categorical.

In addition to participants reporting that they were not asked about their mental health, significant barriers exist to claimants raising the issue of their mental health themselves. If work coaches do not ask claimants about their mental health and claimants feel unable to raise it, the DWP cannot meet its legal obligations to consider and offer reasonable adjustments to those disabled by their mental health.

There appear to be few accessible remedies for claimants who think they have a claim for unlawful discrimination and a breach of the Equality Act. It would take a determined and well-resourced claimant to challenge the DWP through the courts. This makes it all the more important that DWP staff uphold their legal duties towards claimants in asking them whether reasonable adjustments are needed.

The findings from our research are supported by other studies and indicate that it is highly likely that the DWP is systematically failing to put in place standard working practices that ensure claimants' legal rights under the Equality Act are met. This is concerning both from a legal perspective and because it affects claimants' mental health and wellbeing, and their ability to access the UC system, to receive correct levels of benefit, and to avoid being sanctioned wrongly.

Participants in our research told us what practical steps DWP could take to assist them with their UC claim, which we have incorporated into our recommendations.

## 6. Recommendations and next steps for the DWP, advisers and claimants

### Summary of findings and recommendations for the DWP

**Finding 1:** Participants report not being asked by work coaches if they need a reasonable adjustment. Staff may not understand their responsibilities to enquire about reasonable adjustments. Claimants are unaware of their right to a reasonable adjustment.

**Recommendation 1:** The DWP should train and support staff to ask all claimants at each interaction whether they need a reasonable adjustment, both in how they communicate with their work coach and in how they access the UC service. The DWP needs to make clear that adjustments and easements are available to claimants with mental health problems, so that claimants are confident that they can access the UC service. As outlined above, this could also be incorporated into the UC application form, and in the UC journal in the same way other notifications are made, for instance regarding sanctions.

**Finding 2:** Participants report not feeling able to share sensitive information, especially with work coaches. Many different types of barriers were reported by participants, which affected them being able to discuss reasonable adjustments as well as other aspects of their UC award such as tailoring the claimant commitment or attending appointments with their work coach.

**Recommendation 2:** The DWP should create an environment in which claimants feel safe sharing sensitive information. This could be done through both staff training and a review of the physical space where the DWP meets with claimants – primarily job centres – to assess privacy and other environmental factors that may inhibit disclosure of sensitive information. Communication needs should be explored properly so that the service is tailored to the needs of claimants with mental health problems.

**Finding 3:** Some claimants report that their communication needs are not met through the standard UC channels. They need staff able to explain and communicate in a way that makes sense to them. They may need staff to understand that mental health problems may present themselves as someone appearing aggressive or rude. Claimants report that long wait times on the telephone to speak with a UC call handler are a significant barrier to communication.

**Recommendation 3:** The DWP should consider setting up an ‘extra care team’ providing more specialist support to claimants with additional communication needs so they can fully access the UC service. Alternative methods of communicating should be fit for purpose. Home visits should be provided when needed, and should not require a GP’s letter, which are often only provided to claimants for a fee (typically £25). Phone lines should be answered within reasonable times, making it easier for appointees and advisers to assist claimants with ongoing matters.

**Finding 4:** Some claimants find the job centre environment threatening and unwelcoming, to the extent that this causes them to feel panicky or tearful, or is otherwise harmful to their wellbeing.

**Recommendation 4:** DWP staff should be trained in identifying claimants whose mental health is affected by attending the job centre. Alternative appointments should be available, for example by phone, a home visit, or at a different office. Holding open appointment sessions to help claimants become familiar with the job centre may assist, as may the recently initiated trials of providing a video tour of the job centre ahead of a first visit<sup>48</sup>.

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<sup>48</sup> <https://dwpdigital.blog.gov.uk/2021/05/12/podcast-digital-innovation-at-the-uks-largest-government-department/>

**Finding 5:** Participants report a perception that UC is a benefit for those seeking work, and that they may be refused it if they indicate they are unable to work. The language used in UC such as ‘work coach’ and ‘work-focused interviews’ supports this impression. Claimants report this language inhibits sharing information about mental ill health and how their daily life and capacity to work are affected.

**Recommendation 5:** Claimants need to have clear information about their entitlement to UC, and to be reassured that it is a benefit for those with health issues who are unable to work. The DWP could consider changing the name of meetings for those deemed unable to work.

**Finding 6:** Participants report being asked to attend work-focused interviews with their work coach in the job centre, when they are unable to or when doing so would be detrimental to their mental health. If they do manage to attend, the anxiety and stress caused to claimants means that they will likely be unable to engage in a meaningful way with their work coach.

**Recommendation 6:** Work coaches need to explore how a claimant’s health affects their ability to travel, and to use public transport and to come to the job centre building. Alternatives should be offered to enable proper access to the service.

**Finding 7:** More than half of the claimants we spoke to repeatedly raised their anxiety about the possibility of being sanctioned and how this affected their relationship with their work coach. Participants were aware that their work coach is the person who initiates the sanction, and thus holds a lot of power in terms of removing a part or all of their income. Claimants fear that arriving even a few minutes late will lead to being sanctioned, causing significant stress and anxiety.

**Recommendation 7:** Claimants should not be sanctioned for being a few minutes late to DWP appointments. Alternative arrangements might include:

- offering a ‘window of opportunity’ appointment slot (for instance of an hour), during which time they would not be classed as late (this may mean claimants having to wait until their work coach is free);
- offering Zoom or phone meetings if necessary at short notice if a claimant is having a mental health crisis and the opportunity to rearrange meetings on crisis days;
- offering appointment times and a range of venues to meet claimants’ needs.

**Finding 8:** There is inconsistent practice among work coaches in applying the correct adjustments and easements to a claimant’s award, leading to the wrong work-related requirements being applied.

**Recommendation 8:** The DWP should support work coaches to implement a more standardised approach to applying discretion. The DWP should design and make publicly available a checklist for work coaches to assist them in identifying which circumstances should be explored with claimants (mental and physical health, but also domestic abuse, caring responsibilities etc.).

**Finding 9:** Claimants report not knowing how to challenge inappropriate conditionality requirements.

**Recommendation 9:** Claimants should to be provided with information about how to challenge work-related requirements that they do not agree with, including information about their rights, and the steps they can take to exercise these rights in practice (eg, having an informal conversation with your work coach, submitting a mandatory reconsideration, submitting a complaint etc.).

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**Finding 10:** The DWP appears not to collect, monitor or report data on the provision of reasonable adjustments to claimants.

**Recommendation 10:** The DWP should improve its IT system so that it can monitor and report on how many reasonable adjustments have been offered and in what circumstances. This data should be made publicly available.

## Appendix 1 – Screenshot of UC journal

20 Aug 2020 at 11:39am Review commitments due to a health condition completed by [REDACTED]

20 Aug 2020 at 11:38am Work coach changed from [REDACTED] to [REDACTED]

20 Aug 2020 at 11:38am Prepare commitments completed by [REDACTED]

20 Aug 2020 at 11:31am Attended - First Commitments - 30 minutes by phone on 20 August 2020 at 12:00pm by [REDACTED]

19 Aug 2020 at 10:35am **Claim history note** [REDACTED] is IRO of PIP and ESA. by [REDACTED]

Pinned to claimant overview

Unpin

19 Aug 2020 at 10:34am Book first commitments appointment completed

19 Aug 2020 at 10:34am First Commitments - 30 minutes by phone booked for 20 August 2020 at 12:00pm by [REDACTED]

## Appendix 2 – Glossary

|                                                              |                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Claimant commitment</b>                                   | Most UC claimants must accept a claimant commitment which sets out what they are expected to do in order to receive full UC, before their UC entitlement is calculated and paid                                                                      |
| <b>Limited capability for work</b>                           | A group on UC where you are not expected to look for work right away                                                                                                                                                                                 |
| <b>Limited capability for work and work-related activity</b> | A group on UC where you are not expected to look for work or to prepare for work                                                                                                                                                                     |
| <b>Sanctions</b>                                             | A reduction in UC for failing to meet work-related requirements without a good reason or because the person has committed an offence                                                                                                                 |
| <b>Welfare conditionality</b>                                | What claimants are required to do in return for their UC                                                                                                                                                                                             |
| <b>Work capability assessment</b>                            | A medical assessment with a healthcare professional who makes recommendations leading to a decision by the DWP about whether a claimant is able to look for work, or has limited capability for work or limited capability for work-related activity |
| <b>Work coach</b>                                            | Frontline DWP staff based in job centres                                                                                                                                                                                                             |
| <b>Work-focused interview</b>                                | A meeting between claimant and work coach to discuss moving into work, what support is available, and what steps may be taken towards work                                                                                                           |

## Appendix 3 – About the Equality Act 2010

The Equality Act provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. It sets out a number of duties on public services in relation to eight protected characteristics, which, if not followed, may be unlawful discrimination. Disability is one such protected characteristic (along with sex, gender reassignment, race, marital status, religious belief, sexual orientation and age).

The Public Sector Equality Duty at section 149 of the Act also imposes a duty on the DWP to eliminate discrimination and to advance equality of opportunity. This means they must consider the impact on people with protected characteristics when making or amending policy and practice, including on those with disabilities.

The duty in the Act is anticipatory – this means the onus is on the public body to anticipate and plan how to meet the needs of disabled people as a group. Furthermore, it should be ready to make inquiries of all disabled people individually to ascertain and meet their needs by providing practical changes in how they access the service. The Act is not prescriptive about what adjustments a public body must make: the aim is to remove the disadvantage and barriers disabled claimants face in accessing a service. The adjustment therefore needs to fit the particular needs of each individual person.

### Definition of disability

Disability is a protected characteristic under the Equality Act 2010. Section 6 of the Act defines a person as disabled if they have a physical or mental impairment that has a 'substantial' and 'long-term' adverse effect on their ability to carry out normal day-to-day activities. An impairment is long-term if it has an effect on a person that lasts at least 12 months, is likely to last for at least 12 months, or is likely to last for the rest of the life of the person affected (Sch. 1 para 2 (1)). Substantial means more than minor or trivial (s. 212(1)). For example, a mental health condition such as depression or schizophrenia would be classified as a disability if that condition has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

It is worth noting that schedule 1, part 1 (6) of the Act says that some medical conditions are automatically treated as disabilities (HIV infection, cancer, multiple sclerosis) and (at (7)) sensory impairments (registered blind etc). However no mental health conditions are similarly classed. Some conditions are excluded, including substance addiction.

Disabled people are protected against discrimination (both direct and indirect, and including discrimination arising from disability) and a failure to comply with the duty to make reasonable adjustments.

This definition is broader than definitions of disability used in welfare benefits: more people may come into the scope of the provisions than are entitled to claim benefits or access provisions in benefits which are designed to support disabled people.

### Reasonable adjustments

Section 20 of the Act says that disabled people have a right to 'reasonable adjustments' to make jobs and services available to them. It imposes a duty to make 'reasonable adjustments' on employers and public and private services. Failing to comply with the duty to make reasonable adjustments for a disabled person is discrimination.

There are three parts to the duty to provide reasonable adjustments (s.20 (2)-(5)). Failing to comply with any one of these parts means failing to comply with the duty to make reasonable adjustments. The three parts of the duty are:

- 1 If a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage compared to a non-disabled person, then A must take such steps as it is reasonable to have to take to avoid the disadvantage.
- 2 If a physical feature (defined as a feature arising from the design of a building, an exit or entrance, furniture or equipment, or any other physical element, s.20 (1)) puts a disabled person at a substantial disadvantage compared to a non-disabled person, A must take such steps as it is reasonable to have to take to avoid the disadvantage.
- 3 If a disabled person would be put at a substantial disadvantage compared to a non-disabled person if they are not provided with an auxiliary aid, then A must take such steps as it is reasonable to have to take to provide the auxiliary aid.

In the case of mental health, the first part of the duty is most relevant.

Schedule 2 of the Equality Act 2010 states that, where a duty to provide reasonable adjustments is imposed on a public body or service provider (A), A must comply with the three parts of the duty listed above (Sch. 2 para 2 (1)).

There is no set definition of what is 'reasonable' in the Equality Act. What counts as a reasonable adjustment depends on what the disabled person needs, the organisation or service provider, and the situation. However, there is no obligation on a public body to take steps which would 'fundamentally alter' the nature of the service they are providing (Sch. 2 (2) (7)).

To have a legal right to reasonable adjustments, you need to fall under the definition of 'disabled' and be at a substantial disadvantage because of the lack of reasonable adjustment.

For example, if a person with mobility issues is put at a substantial disadvantage when attending appointments at the job centre because the job centre is not wheelchair accessible, the person can request that the job centre installs a ramp, which would be a reasonable adjustment. If the job centre refuses to install the ramp, the disabled person could try to negotiate with the job centre over what reasonable adjustments the job centre will provide. If this is not successful, the person could bring a formal complaint against the job centre or challenge the decision in the County Court. Ultimately, only the court can decide what is a 'reasonable adjustment' under the Equality Act, and what steps the job centre needs to take.

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The government's Office for Disability Issues produces [\*Guidance to the Equality Act\*](#), 'guidance on matters to be taken into account in determining questions relating to the definition of disability.' This guidance includes reference to mental health in section A5:

- mental health conditions with symptoms such as anxiety, low mood, panic attacks, phobias, or unshared perceptions; eating disorders; bipolar affective disorders; obsessive compulsive disorders; personality disorders; post-traumatic stress disorder, and some self-harming behaviour
- mental illnesses, such as depression and schizophrenia

In line with the social rather than medical model of disability, it is the effect of the impairments which is relevant, rather than the underlying health issue itself.

The Appendix of this guidance contains 'an illustrative and non-exhaustive list of factors which, if they are experienced by a person, it would be reasonable to regard as having a substantial adverse effect on normal day-to-day activities'. On the face of it, many of these were described as features of the lives of the claimants we spoke to.

Reasonable adjustments are not a replacement for making decisions relating to benefit entitlement, or to determine the outcome of a work capability assessment (for example). They are a means by which a level playing field may be created so that disabled claimants have equal access to the service. This would also assist the DWP to make correct decisions and provisions, and avoid many of the difficulties experienced by claimants.

## Appendix 4 – DWP policy on reasonable adjustments

Extracts from *[Delivering Equality for customers - Access to DWP services](#)*, Department for Work and Pensions:

38. DWP has a legal duty under the Equality Act to make reasonable adjustments in all the following circumstances:

- Where a disabled person is at a substantial disadvantage in relation to a relevant matter in comparison with a non-disabled person we must remove or alter what we do to avoid the disadvantage. This could be a certain practice or physical feature.
- Where, but for the provision of an auxiliary (supporting) aid, a disabled person would be put at a substantial disadvantage in relation to a relevant matter in comparison with a non-disabled person we take reasonable steps to provide the auxiliary aid or service.
- Where the adjustment relates to the provision of information, i.e. letters and correspondence, then this should be provided in an accessible format. For example this could be large print, braille, audio. It could also include the contents being read to the customer by a friend, representative or a member of staff.

39. The duty to make reasonable adjustments is anticipatory: we must not wait until a disabled person wants to use our services before we consider the type of reasonable adjustments needed. We must anticipate the requirements of disabled people and the adjustments that may have to be made for them.

**40. Every time that there is customer contact by phone, online or in writing, staff must actively seek to find out if the customer needs additional support or a reasonable adjustment.**

41. What is a reasonable adjustment depends on the circumstances of the case and will be specific to the needs of the disabled customer. DWP considers the type of service being provided; our size and resources; and the effect of the disability on the individual disabled person. A variety of reasonable adjustments is available to offer to customers. See list below.

42. A reasonable adjustment can be put in place on a temporary, short term or long term basis. For example, there may be a temporary situation affecting the symptoms of the disability so the customers requires support now to enable them to access benefits and services but may not require this support when their circumstances change.

**43. Remember: you must record the reasonable adjustment so other colleagues engaging with this customer will know what to do. This will help to provide consistent service delivery and stop the customer having to repeat their request. If the customer has to tell us twice, we may have failed in our duty.**

44. The requirement for a reasonable adjustment should be regularly reviewed to ensure it continues to meet the needs of the customer and is in line with the current range of support offered by DWP

...

### Mental Health conditions: Reasonable Adjustments

113. The definition of disability under the Equality Act includes physical and mental impairments. Mental illness can therefore be a disability and reasonable adjustments must be considered.

114. Difficulties experienced are quite variable depending on the nature and severity of the disorder. Forgetfulness, lack of motivation and distress may affect the ability to make decisions and manage a claim. Some claimants may lack mental capacity

115. Discuss with the customer if they require any support to enable them to access benefits and use our services. Do not assume or put a reasonable adjustment in place without discussion with the customer. Consider, does the individual require extra support to complete their claim, comply with processes or make decisions about their claim? How much support is required and will this change? Do they have mental capacity? Take the appropriate action to implement the required support and record the details on the customer record

116. Please see the Mental Health Advisor Toolkit for further help on supporting customers with Mental Health conditions.

- Changing the time and date of interviews
- Private Interview Rooms
- Representatives and Intermediaries

#### Disability, Records, Computer System Markers and Reasonable Adjustments

122. Once a customer's need for a reasonable adjustment such as an alternative format has been identified, the customer's records must be marked in such a way that it is easily seen each time a member of staff looks at that record or takes action on the case.

123. If the case is clerically maintained, the reasonable adjustment need must be prominently displayed on the case papers.

124. If there are system records for the customer, the relevant reasonable adjustment field must be completed. If the system does not have a field for this purpose then the Notepad or equivalent must be used to record the need. Refer to the benefit specific guidance.

125. It is very important that the reasonable adjustment is consistently provided for the customer. Therefore, each time that action is taken on a case, staff must check to see if there is a reasonable adjustment marker on the case. The record of the reasonable adjustment must make it clear to colleagues what has to be done, when and how.

126. Remember that data relating to Disability is sensitive information under the Data Protection legislation. You must follow benefit specific guidance for how to record this data. Direct any questions or concerns you may have to the Advice Line/guidance owners in the first instance, including if you feel you have identified a gap.

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[Reasonable adjustments](#), Department for Work and Pensions:

## Contents

Why consider a reasonable adjustment?  
Reasonable adjustment – what do we mean?  
Why it is important  
Recognising when a reasonable adjustment might be required  
Type of reasonable adjustment?  
Recording reasonable adjustments  
Other sources of information

## Why consider a reasonable adjustment

The Universal Credit service has been designed to meet accessibility standards and to work with commonly used assistive technologies including screen magnifiers, screen readers and speech recognition tools. This has reduced the need for claimants requesting information by email and for correspondence in large format.

Claimants who cannot make or maintain their claim online can use the 'Claims by phone' process. A message added to the top of their journal, identifies claimants as being non-digital which prompts work coaches and case managers to use alternative ways to communicate with the claimant. These claimants will also receive their monthly award statement by post.

There may be other reasonable adjustments that support or complement the service that we can consider.

## Reasonable Adjustment- what do we mean?

If a disabled claimant is at a disadvantage in comparison with a non-disabled claimant, we must remove or alter what we do to avoid the disadvantage. We call this a reasonable adjustment.

If the claimant requires an adjustment to the way we send them information (for example, a notification) we must provide it in an alternative format that suits the claimant. This could be provided as braille, audio, large print or, a member of staff can read the contents aloud to the claimant.

## Why it is important

Under the Equality Act 2010, all DWP staff have a legal duty not to discriminate against claimants. For our disabled claimants, this means staff must know how to recognise who may need additional support to access DWP services. Staff must know how to put the necessary support in place for claimants and how to ensure this is consistently applied.

## Recognising when a reasonable adjustment might be required

Disabled claimants may require additional support from us in order to make and maintain their claim. This may be because they:

- are blind, partially sighted, colour blind
- are deaf, hard of hearing, hearing impaired.
- have difficulty walking, difficulty or inability to use their hands

- have difficulties with memory retention, memory attention, logic skills, problem solving
- have learning disabilities or learning difficulties such as dyslexia or autism

This list is not exhaustive.

### **Type of reasonable adjustment**

There are a number of options you can discuss with the claimant to help you provide a reasonable adjustment.

The List of DWP Reasonable Adjustments gives further details for some of the following options:

- braille – letters and forms are available in Type 1 and Type 2 braille
- audio CD
- audio DVD
- audio MPS
- for non-digital claims, where the claimant has a visual impairment, information read to the claimant and their statement issued in their required format, for example large font Arial 16-48, braille etc.
- Relay UK (previously Next Generation Text) facility
- a hearing loop
- TextBox
- offering an interview in an area that suits the claimant's needs, for example- a quiet space
- allow the claimant to record their interview in order to be able to play back information they cannot retain- the member of staff must agree to this and care should be taken to ensure no other conversations are overheard and recorded
- home visit (in exceptional circumstances)

How to request Alternative Format products: **Alternative Format Guidance**

Alternative Format ordering portal: **Online web portal**

### **Recording reasonable adjustments**

To ensure we provide continued and consistent support for claimants, we must record the reasonable adjustment and the reason it is required in the claimant's history. We must consider the claimant's preferred way of communicating at all times.

### **Other sources of information**

DWP Operational Instructions **Reasonable adjustments**

Working in DWP **Communication Support Services- Guidance**

Universal Learning **Learning disabilities or learning difficulties** guidance

## Appendix 5 – Freedom of information request

Dear XXXX

Thank you for your Freedom of Information (Fol) request received on 29 April.

You wrote: “Please could you provide me with the following information: \* As per the Equality Act duty, how many UC claimants have been asked by their Work Coach whether they need a reasonable adjustment; \* how many reasonable adjustments were subsequently made; \* how many of these adjustments were in relation to claimants' mental health needs; \* how this information is recorded on claimants' records.”

DWP Response

We can confirm that we may hold some of the information falling within the description specified in your request. However, we have estimated that the cost of meeting your request would exceed the cost limit of £600 specified in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. This represents the estimated cost of one person spending 3½ working days (equivalent to 24 staff-hours) in determining whether the Department holds the information, and locating, retrieving and extracting it. Under Section 12 of the Fol Act the Department is not therefore obliged to comply with your request and we will not be processing it further.

The reason being is that your request would involve the extraction of every Universal Credit claim to determine whether the information requested has been recorded. Under Section 16 of the Fol Act we should help you narrow your request so that it may fall beneath the cost limit. However, as your overall request requires access to every Universal Credit claim, we are not able to provide adequate advice on how you can narrow your request to a point where you might reasonably be expected to receive a response.

We are sorry that we are not able to provide more specific advice under Section 16 of the Fol Act. In the interest of being helpful, you can find the Universal Credit guidance for Reasonable Adjustments by using the following link: [http://data.parliament.uk/DepositedPapers/Files/DEP2021-0349/117\\_Reasonable\\_Adjustments\\_v4\\_0.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2021-0349/117_Reasonable_Adjustments_v4_0.pdf)

If you have any queries about this letter, please contact us quoting the reference number above.

Yours sincerely,

DWP Central Freedom of Information Team  
Department for Work and Pensions

## Appendix 6 – Participant information

The people we spoke to were provided with a participant information sheet setting out the purpose of the research. This contained a consent form, and included information about data usage and storage, confidentiality and anonymity. Claimants received a voucher of £25 as thanks for taking part. We sought to ensure, as far as possible, that claimants were well enough to participate and that they were not adversely impacted by doing so.

|    | Name      | Time on UC     | Age        | Gender | Ethnicity       | Mental health problems                                                                       |
|----|-----------|----------------|------------|--------|-----------------|----------------------------------------------------------------------------------------------|
| 1  | Stella    | 2 years        | 16-24      | F      | White UK        | Depression, anxiety                                                                          |
| 2  | Julie     | 1 year         | 50-54      | F      | White UK        | Depression, anxiety, psychosis and post-traumatic stress disorder                            |
| 3  | Jagath    | Not stated     | 16-24      | M      | Sinhalese       | Anxiety and panic attacks                                                                    |
| 4  | Hamza     | 18 months      | 25-29      | M      | Pakistani       | Low motivation, depression                                                                   |
| 5  | Caroline  | Not stated     | 45-49      | F      | White UK        | Bipolar disorder, psychosis, suicide attempts                                                |
| 6  | Rachel    | 3 years        | 25-29      | F      | White UK        | Depression, anxiety, self-harm                                                               |
| 7  | Lindsay   | 2.5 years      | 30-34      | F      | Not stated      | Anxiety, depression, non-organic psychosis, panic attacks                                    |
| 8  | Kevin     | Not stated     | 45-49      | M      | White UK        | Bipolar disorder, borderline personality disorder                                            |
| 9  | Steven    | 2.5 years      | 16-24      | M      | White/mixed     | Anxiety, agoraphobia                                                                         |
| 10 | Pete      | 2.5 years      | 30-34      | M      | White UK        | Depression, anxiety                                                                          |
| 11 | Charlotte | 2 years        | 30s        | F      |                 | Depression, anxiety                                                                          |
| 12 | Celia     | 2 years        | 35-39      | F      | White other     | Post-traumatic stress disorder                                                               |
| 13 | Paul      | 1.5 years      | 35-39      | M      | White UK        | Anxiety, panic attacks                                                                       |
| 14 | Jack      | A few weeks    | Early 20s  | M      |                 | Anxiety, depression, learning needs                                                          |
| 15 | Dean      | 2.5 years      | 40-44      | M      | White UK        | Anxiety, depression, personality disorder                                                    |
| 16 | David     | 18 months      | 35-39      | M      | White UK        | Post-traumatic stress disorder                                                               |
| 17 | Grace     | Previous award | 25-29      | F      | White UK        | Anxiety, depression, tearfulness on going out                                                |
| 18 | Michael   | 1 year         | 30-34      | M      | Not stated      | Depression, health anxiety, general anxiety, post-traumatic stress disorder, Crohn's disease |
| 19 | Jocelyn   | 18 months      | 40-44      | F      | White UK        | Bipolar disorder, binge eating disorder                                                      |
| 20 | Ian       | 6 months       | Not stated | M      | Not stated      | Depression, anxiety                                                                          |
| 21 | Jean      | 18 months      | 50-54      | F      | Black Caribbean | Depression                                                                                   |
| 22 | Rob       | 6 months       | 60-64      | M      | White UK        | Stress, depression                                                                           |
| 23 | Nicola    | 3 years        | 55-59      | F      | White other     | Post-traumatic stress disorder                                                               |
| 24 | Jennifer  | 3 years        | 50-54      | F      | White UK        | Anxiety, depression, chronic fatigue                                                         |
| 25 | Jessica   | 1 year         | 30s        | F      | Not stated      | Anxiety, depression, post-traumatic stress disorder                                          |
| 26 | Marie     | 2 years        | 45-49      | F      | Black African   | Anxiety, depression                                                                          |
| 27 | Jane      | 1 year         | 50s        | F      | White UK        | Psychosis, anxiety                                                                           |

## Acknowledgements

We wish to thank all the UC claimants who took part in this study for sharing their experiences with us. We wish to extend our thanks to all the advisers and organisations which supported this project, in particular:

Brian Dow, Jasmine Wyeth, Kirsty Archer, Will Johnstone at Rethink Mental Illness; Billy Durrant at Calderdale Healthy Minds; Andy King at Bristol Law Centre; Public Law Project; First Love Foundation; Dave Feast at Mind Bromley; WISH; Jo Chimes; Tara Hopper at Cornwall Citizens Advice; Rob Jenkins at Stockport Council; Dan Manville at Greater Manchester Law Centre; Jigna Marzell at Colchester Borough Homes; Inclusion London; and Royal British Legion.

## About CPAG

Child Poverty Action Group (CPAG) works on behalf of the more than one in four children in the UK growing up in poverty. It doesn't have to be like this. 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. We provide training, advice and information to make sure hard-up families get the financial support they need. We also carry out high profile legal work to establish and protect families' rights.

CPAG is grateful to the Fusion21 Foundation for funding this project.

## About the Fusion21 Foundation

An integral part of national social enterprise and procurement organisation Fusion21, the Fusion21 Foundation is passionate about funding research aimed at finding new solutions to complex societal challenges. As a foundation, one of our strategic priorities is to help tackle deprivation across the UK and we are proud to have supported Child Poverty Action Group, investing in this powerful research report which shines a spotlight on the experiences of people with mental health problems when navigating the social security system. We know that this is an important issue and area of interest for many Fusion21 member organisations.

We hope the findings and recommendations from this report will pave the way for positive change, benefiting families and the residents of many Fusion21 members across the country. This research will be of specific relevance to professionals working in financial inclusion services, reflecting their collective experiences while informing the vital work they do within communities.

*Please note, public sector organisations are eligible for Fusion21 membership, and our services support the housing, local authority, education, health and blue light sectors.*

