



Resolution Foundation

Conditions Uncertain

*Assessing the implications of Universal
Credit in-work conditionality*

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Executive Summary

Universal Credit (UC) is the government's flagship welfare reform project. From October 2013 it will be the UK's main working-age benefit, bringing most existing means-tested benefits and tax credits together into a single system. For the first time, UC will extend conditionality within the benefits system to claimants who are already in work. Working claimants will be expected to meet a new, "higher" conditionality earnings threshold equivalent to a 35 hour week at national minimum wage rates through a combination of additional employment, higher hourly wages or increased hours.

Like many aspects of UC, the extension of conditionality to working claimants has been more debated than understood. Yet perhaps more than most, the question of what in-work conditionality will mean in practice is uncertain. And surprisingly, given the significant nature of the change, the government has not published any estimate of how many people will be affected.

This briefing note addresses that absence by estimating that the extension of conditionality to working claimants will affect just under 1.2 million individuals.

An extension of welfare conditionality on this scale (representing a major expansion of the caseload of Jobcentre Plus advisors) is unprecedented. It also renders the question of what type of system should underpin conditionality for working claimants even more pressing. The Department for Work and Pensions has given some indication that working claimants with earnings above a lower cut off will not be subject to UC's intensive conditionality regime. Yet, if that is the case, it is unclear how a less stringent conditionality system for working claimants will work in a fair and consistent manner. A poorly resourced conditionality regime runs the potential risk of failing to provide high quality employment support and advice and, from the government's point of view, lacking robust enough conditions to ensure that working claimants take on extra work – which could lead to increased expenditure on Universal Credit.

Larger questions remain about whether an extension of conditionality to working claimants can function in the current context of a chronically weak labour market in which millions of people want to work more hours but are unable to do so. With little over a year until implementation it is of concern that little has been said about how a fair, consistent and adequately resourced conditionality system for working claimants will be implemented. Extending conditionality to working claimants was always going to be difficult – this is uncharted territory – but the risks involved mean that the government will need to think extremely carefully about the practical implications of the system before proceeding.

Introduction

UC is the government's flagship welfare reform project. From October 2013 it will be the UK's main working-age benefit, combining most of the existing in- and out-of-work support currently provided to working-age people in a single benefit.¹ The transition to UC will begin by processing new claims from those out-of-work and will then proceed to process new claims for people in work from April 2014 with a view to completing the entire transition process by 2017.

Improving incentives to work and incentives to progress through work are a core rationale underpinning UC. The system seeks to remove barriers to employment, smooth transitions back to work and remove distortions in the current system that prevent people from taking on extra hours when available. According to the Department for Work and Pensions, UC will achieve these aims in three ways²:

- ❖ UC seeks to lower participation tax rates (PTRs) – the effective tax rate of moving into work – thereby increasing the proportion of earnings people receive on entering employment.
- ❖ UC seeks to lower marginal deduction rates (MDRs) – the proportion of any increase in earnings which are lost due to tax or reduced benefit payments – thereby increasing the proportion of earnings people keep when they take on additional hours.
- ❖ UC seeks to be a simpler system which will remove some of the risks associated with transitions into work while also aiming to make the financial gain from work clearer to claimants.

In practice, while UC removes some of the distortions in the current system it also creates distortions of its own. The result is a complex mix of winners and losers. For example, working households not currently receiving Working Tax Credit (WTC) but receiving other benefits will tend to have higher entitlements under Universal Credit.³ In contrast, working households currently only in receipt of tax credits – households that currently face a 41 per cent taper rate on gross income (a 73 per cent MDR after tax and NI) – will lose out

¹ The Welfare Reform Act 2012 abolished the following benefits: income-based jobseekers' allowance under the Jobseekers Act 1995; income-related employment and support allowance under Part 1 of the Welfare Reform Act of 2007; income support under section 124 of the Social Security Contributions and Benefits Act 1992; housing benefit under section 130 of that Act; council tax benefit under section 131 of that Act; child tax credit and working tax credit under the Tax Credits Act 2002, see section 33 of The Welfare Reform Act 2012, <http://www.legislation.gov.uk/ukpga/2012/5/section/33>.

² Department for Work and Pensions, Universal Credit: Impact Assessment (IA) (2011), <http://www.dwp.gov.uk/docs/universal-credit-wr2011-ia.pdf>

³ According to the DWP these households benefit from the fact that the Universal Credit taper is likely to be lower than the combined taper on their current suite of benefits, but they do not experience an offsetting reduction due to the removal of Working Tax Credit.

under UC by seeing their taper rate increase to 65 per cent on net income or a 76 per cent MDR after tax and NI.⁴

Despite the distortions embedded in the new system and the complex mix of winners and losers it creates, UC does contain strong incentives for claimants to take up low-hours work. Since April 2012,⁵ to qualify for Working Tax Credit (WTC) claimants have had to work a minimum of 16 hours per week and claimant couples with at least one child have had to work 24 hours between them (with one working at least 16 hours per week). Under UC these thresholds will be abolished and claimants will gain entitlement to an appropriate amount of in-work support for working *any* number of hours. Other elements of UC also incentivise low-hours work. For example, while second earners are broadly looking set to lose out under UC in a number of other ways,⁶ potential second earners will see their PTRs lowered if they consider entering work at 10 hours at the NMW.⁷

To counter the clear financial incentives for low-hours work in the new system (although not solely for this reason) UC introduces, for the first time, a bolstered system of ‘personalised conditionality’ – directed mandatory activity to prepare for and obtain work and tough sanctions for non-compliance – including for claimants already in work.⁸ All claimants will be required to complete a ‘Claimant Commitment’ that sets out the steps that they will take to move into (or closer to) work.

Working claimants will be expected to meet a new, “higher” conditionality earnings threshold through a combination of measures that can include:

- ❖ Increasing their hours or their hourly wage with their current employer.

⁴ Department for Work and Pensions, Universal Credit: Impact Assessment (IA) (DWP: 2011), <http://www.dwp.gov.uk/docs/universal-credit-wr2011-ia.pdf>, p.15

⁵ The change did not affect lone parents, for whom the 16 hour threshold for WTC still applies. This reduction was one of a number of measures announced in the June 2010 Budget and 2010 Spending Review aimed at “controlling the costs of tax credits” in order to “provide a fair and affordable platform for the introduction of the Universal Credit.” Prior to April 2012, to qualify for Working Tax Credit (WTC) a claimant would have to work a minimum of 16 hours per week and couples with at least one child would have to work 30 hours between them, with one working at least 16 hours per week

⁶ The Government’s own estimates make clear that 1.5 million second earners who are currently in work will see their PTRs rise from 30 percent to 45 percent on average, see Brewer, M. et. al., *Universal Credit: A Preliminary Analysis*, IFS Briefing Note 116, IFS (2011); *Universal Credit Policy Briefing Note 5: Second Earners*, DWP (2011). It is worth noting that these calculations do not include the impact of childcare costs. UC will retain the basic structure and levels of the existing childcare element of Working Tax Credits, but extend this to those working fewer than 16 hours per week. Compared to the results set out above, this would slightly improve work incentives for those working fewer than 16 hours per week. See *Universal Credit Policy Briefing Note 10: Childcare*, DWP (2011)

⁷ 300,000 on the government’s estimates see, *Universal Credit Policy Briefing Note 5: Second Earners*, DWP (2011)

⁸ *Universal Credit Policy Briefing Note 12: Conditionality under Universal Credit: the work search and work availability requirements*, DWP (2011)

- ❖ Finding one or more additional jobs alongside their existing employment.
- ❖ Finding a new job with a higher income.⁹

The precise nature of the system that will underpin conditionality for working claimants is not yet known. However, the government has given some indication that at the launch of UC it is not intended that those with earnings above a lower cut off will be subject to an intensive conditionality regime.¹⁰ As a result it is not clear what sanctions will apply to working claimants who are deemed to be non-compliant but it should be borne in mind that UC's core or intensive conditionality regime is premised on tougher sanctions for non-compliance.¹¹ Non-compliance under UC's intensive conditionality regime includes:

- ❖ Failure to prepare for work. Non-compliance in this instance will lead to 100 per cent of payments ceasing until claimants re-comply with their work-related requirements and for a fixed period after re-compliance (these fixed period sanctions will begin at one week, rising to two, then four weeks with each failure to comply).
- ❖ Failure to actively seek work or be available to start work. Non-compliance in this instance will lead to ceased payments for four weeks for the first failure and up to three months for a second offence.
- ❖ Failure to apply for a job, accept a reasonable job offer, or attend the new Mandatory Work Activity. Non-compliance in these instances will lead to payments ceasing for a fixed period of three months (longer for repeat offences).

⁹ The DWP have confirmed that there will be no requirement for a claimant to move jobs unless doing so will raise a claimant's gross earnings, see *Universal Credit Policy Briefing Note 13: Extending conditionality under Universal Credit to working claimants: safeguards within the new regime*, DWP (2011). However, the possibility of claimants being required, on pain of non-compliance, to leave one job for another raises a host of issues about the relationship between Jobcentre Plus and employers that have not yet been addressed.

¹⁰ Explanatory Memorandum for the Social Security Advisory Committee: Universal Credit regulations 2012 (DWP 2012) see <http://www.dwp.gov.uk/docs/uc-draft-regs-2012-memorandum.pdf>

¹¹ Universal Credit: welfare that works (DWP White Paper, 2010), chp. 3

The conditionality threshold for people in work¹²

The new, higher UC “conditionality threshold” that working claimants must meet will be set at the earnings equivalent of a 35-hour week at the relevant national minimum wage for the age of the claimant. Using the 2011-12 main NMW rate (£6.08 per hour) the threshold would therefore equate to £212.80 per week. On this basis a single UC claimant would be subject to conditionality if their gross taxable pay was under £212.80 per week while joint claimants would be subject to conditionality if their combined gross taxable pay was under £425.60 per week.

Working claimants earning below this new earnings threshold will be subject to work-related requirements. In the case of joint claimants with combined earnings below the derived joint threshold, it is expected that the earnings of each claimant will be assessed individually to determine whether one or both claimants will need to seek additional employment or increased working hours. Any single claimant earning above the threshold or any joint claimants earning above the derived joint threshold (regardless of what they earn individually) would fall into the no conditionality group meaning that their UC payments would carry no work-related requirements.

Single or joint claimants with caring commitments or those with health-limiting health conditions will have their conditionality threshold lowered by agreement. For example, lone parents with children between five and 12 will only be expected to look for work that is compatible with school hours. Similarly, couples with young children will be able to nominate a principal carer who will be treated as a lone parent and expected to look for work that is compatible with caring responsibilities while the second earner would be treated within the benefit unit as a single claimant and subject to work-related requirements. It is also intended that rules will be developed to determine whether claimants with fluctuating or variable earnings fall above or below the threshold.

¹² Information in this section is drawn primarily from *Universal Credit Policy Briefing Note 11: Extending conditionality under Universal Credit to working claimants: setting a new conditionality threshold*, DWP (2011)

The impact of extending conditionality to working claimants

As Table 1 shows, we estimate that just under 1.2 million adults will be subject to in-work conditionality under Universal Credit, comprising around 0.7 million single people and 0.5 million living as part of a couple.

Table 1: Adults potentially subject to in-work conditionality under Universal Credit

Family type	000s of affected adults ¹
Single, no children	510
Single parent	190
Couple, no children	230
Couple with children	220
All subject to conditions ²	1,160

Note: ¹ Assumes dual-earning couples can choose which one of them is subject to conditionality. No adults are considered subject to in-work conditionality in single-earner couples in which the earner already works full-time (the out of work member of the couples is instead subject to out-of-work conditionality). Those in receipt of the carers' element are excluded from conditionality.

² Assumes those who are single with no children or children age 13 and above must work 35 hours a week at the NMW. Couples with children under 5 are subject to the same threshold. Single parents with children aged 5-12 are assumed to need earnings equivalent to 20 hours at NMW. Couples with no children and those with children aged 13 and above are expected to work 70 hours at NMW, while those with children aged 5-12 must earn the equivalent of 55 hours at NMW.

For simplicity, no account is made of other exceptions - such as apply to those with physical impairments. This omission is likely to grow in importance over time as an increasing number of individuals are assessed under the Work Capability Assessment.

Source: Authors' analysis of DWP, *Family Resources Survey 2009-10*

In total, some 1.6 million recipient families will record earnings below the appropriate conditionality thresholds but some of these families will be found to have no individuals below the relevant *individual* threshold.

We assume that couples in which both adults work will be able to nominate one member to comply with the requirements. In single-earner couples falling below the combined threshold, any adult already working full-time (that is, earning more than 35 hours at the NMW) will not be subject to conditionality. The out-of-work adult in such couples will be subject to something other than in-work conditionality, meaning that there will be some couples in which, in practice, no individual will need to meet in-work requirements. Similarly, any individual qualifying for the carers' element of Universal Credit will be exempt from the conditionality. As such, even in some single person families that fall below the threshold, no individuals will be subject to conditionality.

The implications of extending conditionality to working claimants

As stated above, the Department for Work and Pensions has indicated that working claimants with earnings above a lower cut off will not be subject to UC's intensive conditionality regime. Yet the precise nature of the system that will underpin conditionality for working claimants remains unclear. We know that a range of options are under consideration and that, as such, there remains a considerable amount of flexibility concerning the nature of the regime that will need to be in place by April 2014.

However, *any* extension of conditionality to working claimants raises a series of important questions. First, there is a question of timing. With economic recovery still faltering and some 1.4 million part-time workers finding themselves unable to increase their hours, the potential for pushing UC recipients above the conditionality thresholds looks questionable.

Secondly, while a watered down in-work conditionality system may not require resources equivalent to those that the core conditionality regime requires – personalised support and advice from Jobcentre Plus advisors to help claimants to prepare for more work –serious resource implications remain. As of February 2012, the Jobseeker's Allowance Caseload stood at 1.6 million with a further 0.3 million people in the Employment and Support Allowance work-related activity group.¹³ Initiating a new relationship between the state apparatus and 1.2 million individuals would represent a major expansion of this caseload.

Even if each of these 1.2 million individuals receive less-intensive support than claimants in the core conditionality regime it will still require sizeable resources and this is without factoring in the possible implications of increased employer engagement that in-work conditionality is likely to involve. Given that it remains unclear how much, if any, of the £2.5 billion net cost of UC is earmarked for the purposes of implementing in-work conditionality and whether the current Jobcentre Plus budget of £2.4 billion¹⁴ is to be increased to manage the increased caseload this raises serious concerns about whether the system can be properly resourced.

Finally, it is questionable whether a less stringent conditionality system for working claimants can be made to work in a fair and consistent manner. If a less intensive conditionality regime for working claimants is based, for example, on personalised support via telephone and internet contact with Jobcentre Plus staff rather than face-to-face contact it runs the risk of potentially failing to provide the quality of employment support and advice necessary to prevent claimants making bad decisions (for example, leaving a secure job to take an insecure job that holds the prospect of marginally better gross earnings).

¹³ DWP Quarterly Statistical Summary (2012)

¹⁴ *Ibid*

Correspondingly, if a less intensive conditionality regime for working claimants is based on automated or online services such as Universal Jobmatch – a new national interactive vacancy matching service – there is an increased danger of error in judging claimant compliance (for example, how will Jobcentre Plus staff determine whether a reduction in hours worked was the decision of the employee or employer?). There is also a risk that the conditions and sanctions within a less-intensive system might be insufficiently robust to ensure working claimants take on extra work. Each of these scenarios would lead to increased expenditure either as a result of increased system error or because working claimants would receive UC payments without meeting the new, higher threshold designed to lower the overall costs of the system them over time.

Conclusions

UC has been widely endorsed across the political spectrum for attempting to create a simpler and more streamlined benefits system. Yet in practice, while removing some of the distortions in the current system, UC also creates a new series of challenges. One of those challenges is the need to counter the risk that some claimants will opt for low hours of work. As a result, and for the first time, UC will extend conditionality to working claimants. This is an unprecedented change and the full implications remain unclear.

In this report we have attempted to clarify a core question which the extension of conditionality to working claimants provokes: how many individuals will the change affect? We have estimated that under UC, welfare conditionality will be extended to just under 1.2 million working individuals; people that have never before thought of themselves as part of the benefits system and who have not previously had to interact with the apparatus of the state on such a basis.

Change on this scale renders the question of what type of system should underpin conditionality for working claimants even more pressing. The Department for Work and Pensions has given some indication that working claimants with earnings above a lower cut off will not be subject to UC's intensive conditionality regime. Yet, if this is the case, pressing questions remain about how a less stringent conditionality system for working claimants will work in a fair and consistent manner. A poorly resourced conditionality regime runs the risk of potentially failing to provide high quality employment support and advice necessary while also lacking sufficiently robust mandates to ensure working claimants look for and take on extra work where available. Add in the increased risk of error that might result from a light-touch system (eg. with greater reliance on automation and impersonal support) and there is a risk from the government's point of view that a weak system of in-work conditionality regime could lead to rising costs as working claimants receive payments without being pushed to work more hours.

Larger questions remain about whether an extension of conditionality to working claimants can function in the current context of a faltering economic recovery and a chronically weak labour market in which 1.4 million people are under-employed.¹⁵ Extending conditionality to working claimants was always going to be difficult – it is uncharted territory – but the nature of the risks involved mean that the government needs to think extremely carefully about the practical implications of delivering the system before proceeding.

¹⁵ TUC, *Under-employment crisis: A TUC analysis of under-employment across the UK* (TUC: 2012)

The Resolution Foundation

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