

## Welfare reform update

London Advice Conference 2016

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## Where are we at in welfare reform?

- Universal credit roll-out is (finally) gathering pace
- Transition from the 'live' system to the 'digital' system - what will it mean for claimants?
- Personal Independence payments - how are the descriptors working in practice and will the DWP change the rules?
- Bedroom tax legal challenges - where are we up to?
- Benefit cap - legal challenges and imminent changes...
- Disability and work - what are the expectations and what support will there be?
- The new state pension



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## Universal credit roll-out

- 207,290 starts on UC up to 10 December 2015
- 175,505 on the caseload at 10 December 2015
- 'Live' service in 80% of jobcentres - for simple claims that meet the 'gateway conditions'
- UC will be in all jobcentres by April 2016 - principally the 'live' service



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### Roll-out of the digital service

- Originally rolled out in very limited post-code areas in Sutton, Croydon and London Bridge
- On 27 January 2016 Hounslow – previously in the 'live' service transferred to the 'digital' service
- From May 2016 five new jobcentre areas per month will transfer from the 'live' service to the 'digital' service
- From 2017 this will increase to 50 new jobcentres per month
- From 2018 there will be managed migration from 'legacy' benefits to UC – to complete by 2021



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### Transition from 'live' to 'digital'

- No more new claims on the 'live' service
- No more 'gateway' conditions – anyone can claim UC!
- Live claims – moved over to digital – requirement for claimant to input details to digital – possibility that claim could close if don't comply
- Different rules on the digital system – the 'surplus earnings' rule and ability to carry forward self-employed losses (see two slides on)
- Claimant commitment managed digitally
- No letters!



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### Changes to UC from April 2016

- Reduction in work allowances
  - Single person typically loses £72.15 per month
  - lone parent typically loses £219.05 per month
- DWP said –
  - "We also expect many claimants to respond to the changes to work allowances announced in the Summer Budget by actively seeking more work, and we will support them with this. For example, someone could recoup the loss from the Work Allowance changes by working 3-4 additional hours a week at the national living wage to which they are entitled."
- BUT – working 3-4 hours at £7.20 NLW increases income by £32.76 - £43.08 per month (after applying UC taper)



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### Changes to UC from April 2016 (digital system only)

- 'Surplus earnings rule' – if a person moves off UC but returns within six months then surplus earnings (above a 'de minimis' threshold) will be used to reduce future entitlement

Example – a single person's UC maximum award is £317.82. Earnings of £488.95 will take them off UC – the nil UC threshold. Any earnings above £788.95 (nil threshold plus £300) will reduce subsequent awards of UC

- Carrying forward self-employed losses – a loss in self-employment can be carried forward for up to 11 assessment periods to offset against future profits




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### Personal independence payment – case law update – daily living

- **Preparing food**
  - score points if need aid to prepare even if can cook unaided - [2015] UKUT 548 (AAC)
  - Cooking doesn't include bending to use an oven - [2015] UKUT 281 (AAC)
- **Managing therapy**
  - It's not how long the therapy lasts – it's how long you need supervision, prompting or assistance for - [2015] UKUT 558 (AAC) and [2015] UKUT 554 (AAC)
  - Applying emollient cream and setting up a TENS machine could both be examples of therapy - [2015] UKUT 622 (AAC) and [2015] UKUT 281 (AAC)
- **Toilet needs and incontinence**
  - Help with dressing/undressing irrelevant for this descriptor - [2015] UKUT 584 (AAC)
- **Social support**
  - Support does not have to be given at same time as engaging with people - [2015] UKUT 584 (AAC)




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### Personal independence payment – case law update – mobility

- **Planning and following journeys – undertaking journey versus following a route**
  - Following a route does not include coping with difficulties that arise along the way eg due to anxiety – however overwhelming psychological distress could, in some circumstances, impair the ability to navigate so that a person was unable to follow a route - [2015] UKUT 604 (AAC) (follows conflicting decisions [2015] UKUT 344 (AAC) and [2015] UKUT 388 (AAC))




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### Aids and appliances – will there be changes?

- Upper Tribunal decisions have ruled that a bed could be an aid for dressing, a shower head or brush could be an aid to help clean after using the toilet - [2015] UKUT 572 (AAC) and [2015] UKUT 570 (AAC)
- DWP concerned too many people qualifying for daily living component on basis of aids and appliances alone – consultation launched – closed 29 January 2016
- Proposals include –
  - Lump sum payment instead of regular payments if all points scored on aids and appliances
  - Lower monthly payment for those who only score on aids and appliances
  - Only qualify if some points unrelated to aids and appliances
  - Changing definition of aids and appliances
  - Halving the points awarded for aids and appliances




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### Bedroom tax legal challenges

Court of Appeal – 27 January 2016

•Rutherford & Ors – [2016] EWCA Civ 29 – finds that bedroom tax regulations were discriminatory in not allowing extra bedroom for overnight carer of a child (Rutherford) and in not allowing an additional bedroom for use as a 'sanctuary' room for woman who was victim of serious violence (A).

•DWP is appealing to the Supreme Court – to be heard 29 Feb – 2 March 2016




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### Bedroom tax legal challenges

Upper Tribunal

•Claimant not entitled to additional bedroom for children who came at weekends as not in receipt of child benefit – [2015] UKUT 624 (AAC), [2015] UKUT 34 (AAC)

•Unwanted additional bedroom created by landlord's refurbishment counted for bedroom tax - [2015] UKUT 556 (AAC)

•Very small room size does not necessarily mean it is not a bedroom- but if tenant raises reasons why not adequate the local authority should address them – [2015] AACR 21




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### Bedroom tax – coming up

Appeal to the Supreme Court – due to be heard beginning 29 February to 2 March 2016 –

•R (on the application of) MA & Others v Secretary of State for Work and Pensions[2014] EWCA Civ 13 – Court of Appeal found that needs of disabled are met by means of discretionary housing payments

NB – It is now confirmed that appeals in Rutherford and A will be heard at the same time



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### Benefit cap – legal challenges

• Hurley & Ors v Secretary of State for Work And Pensions [2015] EWHC 3382 (Admin) found that failure to exempt full-time unpaid carers from benefit cap constituted unlawful discrimination in breach of Article 14 ECHR (26 November 2015)

• On 25 January 2016 Lord Freud announced - *We will be exempting all recipients of carer's allowance from the benefit cap, whether they are single or part of a couple... This is of course complex and we will need to get it right. But ... we will bring forward an amendment at Third Reading, and then appropriate regulations in due course ...*



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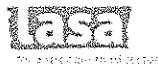
### Benefit cap – imminent changes

• Welfare Reform and Work Bill provides for reduction of benefit cap to £23,000 per year in Greater London and £20,000 per year outside London

• Government's impact assessment estimates 90,000 additional households (comprising 112,000 adults and 224,000 children) could be affected

• Affected households will lose an average of £63 per week

• Planned roll-out will be announced after Bill gains Royal Assent – expected Autumn 2016



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### Disability and work – what’s been happening?

- Local Government Association recommends replacing Work Programme with locally devolved schemes – 31/3/15
- Work and Pensions Committee says government must focus its welfare-to-work support more effectively on people with complex needs – 21/10/15
- WCA may have 'unintended but serious consequences for population mental health' say academics – 17/11/15
- NAO says contracted-out health and disability assessments are not value for money – 8/1/16
- PAC launches inquiry into contracted-out health and disability assessments – 18/1/16




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### Disability and work – what’s in the pipeline?

- August 2015 – IDS makes speech to Reform think tank
- 'As ESA becomes part of universal credit, the two approaches seem at odds. We need to look at the system and in particular the assessment we use for ESA. The more personalised approach under universal credit sits alongside a WCA, which sets the wrong incentive*
- That's why I want to look at changing the system so that it comes into line with the positive functioning of universal credit. A system that is better geared towards helping people prepare for work they may be capable of, rather than parking them forever beyond work.*
- We need a system focused on what a claimant can do and the support they'll need - and not just on what they can't do.*
- We know there remains a gap between the employment rate of disabled and non-disabled people. We want to ensure everyone has the opportunity to transform their lives for the better by getting into work'*




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### Disability and work - proposals

- Work-related activity component/limited capability for work element removed from ESA/UC – so claimants in this situation receive the same money as jobseekers  
NB – the House of Lords voted in favour of an amendment to this on 27 January 2016
- New role for 'work coaches' – to give 'tailored support' according to individual's need...
- A new 'Work and Health Programme' to be introduced after current Work Programme and Work Choice contracts end – to provide specialist support for claimants with health conditions or disabilities




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### The new state pension

- Introduced from April 2016
- 35 qualifying years to get full new state pension
- Receive proportion if have between 10 and 35 qualifying years
- Qualifying years at 5 April 2016 will be used to calculate starting amount which will be higher of
  - Amount you would get under current state pension
  - Amount you would get if new state pension had been there at start of working life
- Can continue to add to new state pension until retirement up to level of new state pension
- £155.65 per week in 2016/2017



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### What else?

- Removing the family premium from housing benefit and limiting backdating to one month – April 2016
- Waiting period for support for mortgage interest extended to 39 weeks – April 2016
- Limiting support for children in tax credits/UC to 2 children only – April 2017
- Extending parent conditionality – full jobseeking from when child is 3 – April 2017
- Restricting housing benefit for 18-21 year olds – April 2017
- Restrictions to housing benefit in the social sector similar to LHA – April 2018
- Housing benefit and pension credit – limitation to only 4 weeks payment while abroad



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### Any questions?



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