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# Universal Credit Claims and Payments (Scotland) Regulations: Analysis of responses to the public consultation exercise



EQUALITY, POVERTY AND SOCIAL SECURITY



# **Universal Credit Claims and Payments (Scotland) Regulations**

Analysis of responses to the public consultation exercise

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# Executive Summary

## Introduction

This report presents an analysis of responses to the Scottish Government's consultation on the Universal Credit Claims and Payments (Scotland) Regulations. The changes (on twice-monthly payments and payment of rent direct to landlords), are intended to provide more choice and control over Universal Credit (UC) payments. The consultation received 100 responses, 70 of which were from organisations and the remaining 30 from individuals.

The consultation asked two questions. The first asked whether the draft regulations meet the policy intent of offering a choice to applicants on having their UC payments made twice monthly. The clear majority of respondents (88 out of 100), thought the draft regulations do meet the policy intent.

The second question asked if the draft regulations meet the policy intent of offering a choice to UC applicants on managed payments of rent direct to landlords. Again, a very clear majority of respondents (87 out of 100) thought the draft regulations do meet the policy intent.

Each question offered respondents the opportunity to provide further comments. Although the analysis provides an overview of all responses received, it should also be noted that some of the issues raised were outside the scope of this consultation and/or relate to issues which do not fall within the powers the Scottish Government now has through the Scotland Act 2016.

## General Themes

The types of issues raised within further comments at the two questions were often similar and the most frequently raised (generally by around 10-12 respondents across the two questions), are summarised below:

**Payment in arrears:** The most frequently-raised issue concerned the payment of UC being in arrears and, in particular, the time periods associated with the first payment being made for a new claim. It was seen as important because of the fundamental impact it can have on UC claimants, including because of the likelihood of building up significant rent arrears.

**Right to appeal:** A number of respondents commented on, and sometimes expressed concern about, the apparent absence of any right or route to appeal a decision.

**Informing claimants about the options:** The importance of making claimants aware of the twice-monthly and direct payment options was stressed by a number of respondents.

**Circumstances for refusal:** On a connected point, a number of respondents felt that, if there are to be circumstances when a claimant may not receive twice-monthly payments, or be able to have their rent go direct to the landlord, then these should be set out.

**Implementation:** In addition to commenting on specific issues around the detail of the draft Regulations, a number of respondents commented on the implementation of the changes. The timescales for implementation of the twice-monthly and direct rent flexibilities were raised by some respondents and it was suggested that there is a need for clarity around the timescales for implementation and that adoption as early as possible will be critical.

Issues raised by smaller numbers of respondents (generally between 4-7 respondents across the two questions), included:

**Relationship to Alternative Payment Arrangements:** A number of respondents commented on the relationship between the UC provisions and the existing Alternative Payment Arrangement provisions. In particular, clarification as to how the two separate systems will operate together in practice was sought.

**Right to request only:** A concern for a small number of respondents was that, as currently drafted, the Regulations only state that a Scottish claimant has the right to request twice-monthly payments or payment of rent direct to the landlord. It was suggested that these flexibilities should be framed as a right to choose.

**'Scottish' claimants:** A small number of respondents posed questions about what is meant by a 'Scottish claimant', and how this definition would be applied in practice.

Over and above the common issues raised across the two questions, specific issues about one or other of the flexibilities were also identified.

## Twice Monthly Payments

**Payment frequency:** Queries included how the twice-monthly split would be applied and would relate to 2-week periods or a 5-week month. Suggestions included that weekly payments should also be offered.

## Direct payment of rent to landlords

**Changes of circumstance:** This was the most frequently-raised issue regarding direct payments. There were concerns that the draft regulations as currently presented do not refer to or put in place safeguards for claimants and landlords. This was seen as enabling a claimant to cancel an arrangement at any time, regardless of known vulnerabilities or any arrears they may have accrued with their landlord. It was suggested that landlords should be consulted before a managed payment arrangement is cancelled.

***Automatic payment to landlords:*** A frequently-made comment was that there should be payment direct to landlords in all cases. Those taking this view tended to suggest that allowing tenants to opt to have the rent element of UC paid to them will only increase rent arrears as some people will not pay their rent in full or will delay rent payment. However, other noted the importance of giving claimants a choice.

***Landlord or Other Agency requested Managed Payments:*** A concern of some respondents was that the Regulations do not address a situation where the tenant is vulnerable and does not exercise the choice to have the payment made to the landlord. It was suggested that it should be possible and/or it should be made easier for landlords to request managed payments.

# Introduction

This report presents an analysis of written responses to the Scottish Government's consultation on the Universal Credit Claims and Payments (Scotland) Regulations. This independent analysis was carried out by Craigforth.

## Background

The Scottish Government is committed to ensuring that the new powers provided for in the Scotland Act 2016 are used to give Scottish applicants more choice and control over their Universal Credit payments. Universal Credit is still reserved to the UK Government, but the Scottish Government's priority will be to use the flexibilities available to make sure that its delivery will be better suited to meet the needs of the people of Scotland. The purpose of this consultation was to ask if the Universal Credit (Claims and Payments) (Scotland) Regulations 2016 are fit for purpose, and whether there are any unintended consequences, in relation to the flexibilities that the Scottish Government is proposing to introduce.

The consultation ran for 8 weeks from 16 January 2017 to 13 March 2017. It was principally a technical consultation on the draft regulations and the policy has previously been discussed extensively with individuals and organisations. The consultation questionnaire contains 2 questions requiring yes/no answers, each with the option to provide additional information.

The consultation paper can be found at: <https://consult.scotland.gov.uk/low-income-benefits/universal-credit-claims-and-payments/>.

## Profile of respondents

A total of 100 responses were submitted. The majority of these were received through the Scottish Government's online consultation hub. A profile of respondents by type is set out in Table 1 below. Organisational respondents have been placed into one of seven respondent types by the analysis team.

**Table 1: Respondents by type**

Type of respondent	Number
<i>Campaign Group or Third Sector organisation</i>	12
<i>Health</i>	2
<i>Local authority</i>	18
<i>Other</i>	2
<i>Representative Body</i>	7
<i>Registered Social landlord</i>	20
<i>Tenant organisation</i>	9
<b>Total organisations</b>	<b>70</b>
<b>Individuals</b>	<b>30</b>
<b>TOTAL</b>	<b>100</b>

The majority of responses, 70 out of 100, were submitted by organisations with the remaining 30 responses submitted by individual members of the public.

Points to note about the organisation respondent groups include:

- The Representative Body group includes COSLA and a number of housing sector membership bodies. These include bodies for both the social rented and private rented sectors.
- The 'Other' group is made up of two university-based respondents (a welfare-related research group and Scotland's National Adult Protection Coordinator).

A list of the organisations that submitted a response to the consultation is included as Annex 1 to this report, and copies of all responses to be published can be found on the Scottish Government's website at:

[https://consult.scotland.gov.uk/low-income-benefits/universal-credit-claims-and-payments/consultation/published\\_select\\_respondent](https://consult.scotland.gov.uk/low-income-benefits/universal-credit-claims-and-payments/consultation/published_select_respondent).

## **Analysis and reporting**

The remainder of this report presents a question-by-question analysis of the two main questions set out in the consultation document. The data at the closed part of each question (Yes/No) was analysed by respondent type. A small number of respondents did not make their submission through Citizen Space, but submitted their comments in a statement-style format. When these responses contained a very clear answer at the Yes/No elements this has been recorded. The remaining content was analysed qualitatively under the most directly relevant consultation question.

As with any engagement or consultation exercise, it is important to note that the views expressed and, by extension, the themes and issues presented below, are those of the organisations or individuals who chose to make a submission. These views cannot be assumed to be representative of the wider population.

Although this report provides an overview of all responses received, it should also be noted that some of the issues raised were outside the scope of this consultation and/or relate to issues which do not fall within the powers the Scottish Government now has through the Scotland Act 2016.



# Twice monthly payments

## Key findings

The clear majority thought the draft regulations do meet the policy intent of offering a choice to applicants on having their UC payments made twice monthly.

The most frequently-raised issue concerned the payment of UC being in arrears and the time periods associated with the first payment being made for a new claim.

Another frequently raised issue concerned how the twice monthly split would be applied. The most-frequently made suggestion here was that fortnightly rather than twice monthly payments should be considered.

The importance of making claimants aware of the twice monthly payments option was stressed by a number of respondents

A number of respondents commented on, and sometimes expressed concern about, the apparent absence of any right or route to appeal a decision not to allow twice-monthly payments.

As the consultation paper notes, the changes (on twice monthly payments and payment of rent direct to landlords), are intended to provide more choice and control over Universal Credit (UC) payments. Neither option will affect the overall amount of UC that is payable and both will be delivered by the Department for Work and Pensions (DWP) as part of that Department's overall responsibility for delivering UC. These changes will also not replace the DWP system for Alternative Payment Arrangements which will continue to operate for those who fall under the current criteria of requiring this, for example as a result of a vulnerability or rent arrears.

The regulations set out the arrangements by which UC will be assessed on a monthly basis but, in Scotland, applicants will have the option of receiving payments twice monthly in order to help with their household budgeting. The first question asked respondents if they thought the draft regulations meet the Scottish Government's policy intent regarding twice monthly payments.

**Question 1: Do the draft regulations meet the policy intent of offering a choice to applicants on having their UC payments made twice monthly?**

Responses by respondent type are set out in Table 2 below.

**Table 2: Question 1 – Responses by type of respondent**

Type of respondent	Yes	No	TOTAL
<i>Campaign Group or Third Sector organisation</i>	10	2	12
<i>Health</i>	2	-	2
<i>Local Authority</i>	14	4	18
<i>Other</i>	2	-	2
<i>Representative Body</i>	5	2	7
<i>Registered Social Landlord</i>	19	1	20
<i>Tenant group</i>	9	-	9
<b>Total Organisations</b>	<b>61</b>	<b>9</b>	<b>70</b>
<b>Individuals</b>	<b>27</b>	<b>3</b>	<b>30</b>
<b>TOTAL</b>	<b>88</b>	<b>12</b>	<b>100</b>

The clear majority of respondents thought the draft regulations do meet the policy intent of offering a choice to applicants on having their UC payments made twice monthly. A total of 12 Local Authority, Campaign Group or Third Sector organisation, Representative Body and Registered Social Landlord respondents disagreed.

Sixty-six respondents went on to make a further comment at Question 1. Of those commenting, 55 had answered 'Yes' at Question 1 and 11 had answered 'No'.

A number of those who agreed went on to make only a short statement of support which often focused on the importance of helping people to budget, and on putting in place measures which help avoid financial hardship.

Otherwise the focus of the comments was similar for those who had agreed or disagreed at Question 1. A single analysis of all these comments is presented on a theme-by-theme basis below. The most frequently-raised issues are presented first and tended to be raised by around 8-10 respondents. The latter part of the chapter covers issues raised by smaller number of respondents (around 4 to 7 respondents unless otherwise stated).

## **Payment in arrears**

The most frequently-raised issue concerned the payment of UC being in arrears and, in particular, the time periods associated with the first payment being made for

a new claim. This issue was raised primarily by Local Authority and Registered Social Landlord respondents but also by a Representative Body respondent.

It was seen as important because of the fundamental impact it can have on UC claimants. For example, a Representative Body respondent explained that it can be in excess of 6 weeks before a new claimant will receive their first payment. They were amongst those concerned that the move to twice-monthly payments will not ameliorate this and that, while twice-monthly payments may help in the longer term, they will not address the particular hardship issues associated with the early stages of a claim.

A Registered Social Landlord respondent was one of those to express a specific concern that the twice-monthly payment approach would mean the first payment would be a reduced amount, leaving claimants even less well placed to manage and in particular to address any rent arrears that had built up. With reference to rent arrears, another Registered Social Landlord respondent was amongst those noting that like many other social landlords they charge rent monthly in advance and that this means that by the time the tenant receives their first UC payment they could be a full two months in arrears.

A Representative Body respondent and a Local Authority respondent were amongst those calling on the Scottish Government to introduce a top-up benefit to support claimants over the waiting period before the first UC payment. Failing that, the Representative Body respondent urged the Scottish Government to press for the offer of advance payments to be a default option.

## **Payment frequency**

Another frequently raised issue concerned how the twice monthly split would be applied, and in particular:

- How it would relate to 2-week periods.
- How the regulations would be adjusted to a 5-week month.

The most-frequently made suggestion here was that fortnightly rather than twice monthly payments should be considered. A Campaign Group or Third Sector organisation respondent suggested that this would not only allow the amount of the payment to remain the same but also would be easier for the claimant. This respondent went on to request that, if the fortnightly option is not possible, then there could be set dates that would be applicable from month to month and which would assist the claimant with budgeting. However, they also requested that there was no postcode attachment (or similar pattern) used to apply payment dates since others knowing when they will receive a payment can create problems for vulnerable claimants. Other suggestions included offering weekly payments.

Other points made about the frequency of payments focused on the how the payment frequency for UC will relate to the timescales for making payments direct

to landlords. One of the Local Authority respondents raising this issue noted that the draft regulations do not clarify if, as a consequence of having UC payments made twice monthly, the claimant's landlord will automatically be paid the UC housing element direct, with the remaining UC paid as appropriate as is the existing Alternative Payment Arrangement.

Finally, a Local Authority respondent noted that the Regulations will cover any future changes to frequency of payments and that it would be helpful to clarify under what circumstances such changes might be made.

## **Informing claimants**

The importance of making claimants aware of the twice monthly payments option was stressed by a number of respondents, with a Registered Social Landlord respondent suggesting that current options, such as a 'Benefit Advance', have not been adequately promoted. A Representative Body respondent suggested that it is not clear whose duty it is to advise claimants of their right to request twice-monthly payments or have their UC housing element paid directly to the landlord. A Local Authority respondent suggested that the regulations should specify that the Secretary of State is responsible for making Scottish claimants aware of their rights. A Campaign Group or Third Sector organisation respondent also suggested that further clarity is required as to who will make information available, how the information will be communicated and at what point in the claim process.

For the legislation to be effective, a Health respondent highlighted that claimants will need to be made aware that these flexibilities exist, in a consistent way, regardless of how they access UC. A Campaign Group or Third Sector organisation respondent suggested that claimants should be informed of their right to request twice-monthly payments at the start of their claim but also intermittently throughout the period of their claim. Asking questions in the application and having simple ways to make requests on online accounts was suggested by a Registered Social Landlord respondent.

## **Right to appeal**

A number of respondents commented on, and sometimes expressed concern about, the apparent absence of any right or route to appeal a decision not to allow twice-monthly payments. The general concern was that while the draft Regulations require the Secretary of State to provide reasons for denying a request for twice-monthly payments, there is nothing which would allow the claimant to request a review of or appeal against the decision. A Campaign Group or Third Sector organisation respondent suggested that this could be seen as contrary to the principles of natural justice, and to the Scottish Government's wider stated aims of ensuring that the Scottish social security system is based on the principles of dignity and respect.

A Local Authority respondent suggested that it should be explicit within the regulations that Scottish claimants have the right to request a review of the Secretary of State's decision.

## **Circumstances for refusal**

On a connected point, some respondents commented that there is no indication of the test which will be applied by the DWP when considering this request and nothing in the draft regulations to clarify the circumstances under which a request is likely to be granted or denied. A number of respondents felt that, if there are to be circumstances when a claimant may not receive twice-monthly payments, then these should be set out.

A Campaign Group or Third Sector organisation respondent and a Local Authority respondent suggested that, as currently drafted, the Regulations imply that a claimants' request can be refused for any reason, as long as that reason is communicated. Another Campaign Group or Third Sector organisation respondent felt it should be clear that there could be refusal based on individual circumstances. Other respondents also noted or appeared to assume that any refusal would be based on the circumstances of the claimant. The types of circumstances put forward as possibly applying included:

- If twice-monthly payment would not be in the interests of the claimant or a member of their household.
- Where there is dispute within the relevant household as to whether UC payments should be paid monthly or twice monthly.

## **Implementation**

There were comments about the implementation of the twice-monthly payment regulations. These were varied but included that:

- It is not clear to whom a request for twice-monthly payments is made, nor how it can be made.
- For online claims, changes to any online forms may be required.
- Given the likely negative impact on claimants, delays in processing the request for twice monthly payments must be avoided.

Wider issues relating to implementation of both the changes are discussed further at Question 2 below.

## **Relationship to Alternative Payment Arrangements**

A small number of respondents commented on the relationship between the UC provisions and the existing Alternative Payment Arrangement provisions. In particular, clarity was sought as to whether claimants who are currently in receipt of an Alternative Payment Arrangement would not be permitted a choice over how frequently they receive UC payments.

A Campaign Group or Third Sector organisation respondent sought clarification as to how the two separate systems of accessing twice monthly payments will operate together in practice. They particularly called for there to be a clear process in place for new claimants who wish to access twice-monthly payments.

Finally, a Representative Body respondent welcomed the requirement for UC claimants to be informed about the implications of a request for more frequent payments. They felt that it is not clear why this information would not be given to claimants who already have an Alternative Payment Arrangement in place, especially since under the current UC system, all Alternative Payment Arrangements are intended to be temporary.

### **Right to request only**

A fundamental concern for a small number of respondents was that, as currently drafted, the Regulations only state that a Scottish claimant has the right to request twice-monthly payments. It was noted that there is no right to receive twice-monthly payments. The final decision remains with the Secretary of State and it was suggested that this is no different to the current regulations covering the UK and adds no additional rights for Scottish residents.

Alternative proposals were that twice-monthly payments should be offered as standard to everyone or that the ability to request twice-monthly payments is framed as a right. A specific suggestion was that at draft regulation 3(1), the term “may request” could be replaced with “elect to receive”.

### **‘Scottish’ claimants**

A small number of respondents posed questions about what is meant by a “Scottish Claimant” and how this definition would be applied in practice. A Campaign Group and Third Sector organisation respondent suggested the Regulations should define the term “lives in Scotland” or that, if this is not possible, then guidance should be developed that provides more information about when someone will be considered to be a Scottish claimant. It was suggested that work should be done with HMRC, which has implemented the definition of a Scottish taxpayer for tax purposes. It was also suggested that claimants should receive written notification when they move to an address that takes them out of the Scottish UC claimant definition so that they fully understand what changes will happen.

### **Other Issues**

A small number of other issues about how the Regulations will be applied were raised including:

- With reference to eligible claimants, three respondents noted their concern that the proposed changes do not apply where the award is not administered by the UC Digital (full) system. This was seen as breaching the principles of fairness.

- On reverting to monthly payments, two respondents made points about the circumstances under which a claim would revert to being paid monthly. A Campaign Group or Third Sector organisation respondent suggested that a change to twice monthly payments should not be for short periods, unless this was specifically requested by the claimant.
- A Local Authority respondent felt that, if the intention is that either party in a claim is able to make the request for twice-monthly payment, this has not been made clear.
- A Registered Social Landlord respondent suggested that, as these Regulations refer to claims and payment in Scotland it would perhaps be appropriate to reference what would happen to the payments to either a Scottish Claimant or the landlord should a Rent Penalty Notice be served under Section 94 of the Anti-Social Behaviour etc. (Scotland) Act 2004.

Finally, a Campaign Group or Third Sector organisation respondent highlighted how the provision could affect “mixed-age couples” households in which one partner has achieved Pension Credit age and the other has not. They noted that there are different payment cycles for UC and the State Pension but that the income of the whole household per month is used to determine entitlement to UC in that month. However, because the State Pension is paid four-weekly in arrears, in some months the pensioner partner will receive two State Pension payments in the same month. This will mean that in such months the DWP will consider the household to have more income than usual, and so be entitled to less (or no) UC, including the housing cost element. They suggested that the payment and assessment cycles could be aligned to prevent this issue arising and urged the Scottish Government to work with the UK Government and DWP to find a solution.

## Payments of rent direct to landlords

### Key Issues

The clear majority thought the draft regulations do meet the policy intent of offering a choice to UC applicants on managed payments of rent direct to landlords.

The most frequently-raised issue was around changes of circumstance. There were concerns that the draft regulations as currently presented do not refer to or put in place safeguards for claimants and landlords.

Another frequently-made comment was that there should be payment direct to landlords in all cases.

A concern of some respondents was that the Regulations do not address a situation where the tenant is vulnerable and does not exercise the choice to have the payment made to the landlord.

The Scottish Government is intending to introduce this flexibility to safeguard tenancies and prevent build-up of rent arrears. The intention is that tenants will have the option of having their housing element being paid directly to the landlord, broadly replicating the situation now with housing benefit.

### Question 2: Do the draft regulations meet the policy intent of offering a choice to UC applicants on managed payments of rent direct to landlords?

Responses by respondent type are set out in Table 3 below.

**Table 3: Question 2 – Responses by type of respondent**

Type of respondent	Yes	No	TOTAL
<i>Campaign Group or Third Sector organisation</i>	10	2	12
<i>Health</i>	2	-	2
<i>Local Authority</i>	14	4	18
<i>Other</i>	2	-	2
<i>Representative Body</i>	6	1	7
<i>Registered Social Landlord</i>	17	3	20
<i>Tenant group</i>	8	1	9
<b>Total Organisations</b>	<b>59</b>	<b>11</b>	<b>70</b>
<b>Individuals</b>	<b>28</b>	<b>2</b>	<b>30</b>
<b>TOTAL</b>	<b>87</b>	<b>13</b>	<b>100</b>



As at Question 1, the clear majority of respondents (87 out of 100) thought the draft regulations do meet the policy intent of offering a choice to UC applicants on managed payments of rent direct to landlords. Those who disagreed tended to be the same respondents who had disagreed at Question 1.

Although 75 respondents made a comment at Question 2, a number of these raised the same or very similar issues to those already covered under the analysis at Question 1. Also as at Question 1, some respondents made brief comments supporting the proposal. These respondents sometimes noted that both tenants and landlords have stated a preference for a direct payment option and that this will help avoid rent arrears developing. An “Other” organisation respondent was supportive of the approach as potentially preventing people from financial harm. A Registered Social Landlord respondent was amongst those highlighting that the new flexibilities will also benefit landlords as rent payments make up a high proportion of their income and any reductions in this income stream may undermine their ability to provide affordable housing and services.

A number of respondents particularly welcomed the arrangements applying to private as well as social landlords. A Local Authority respondent commented that allowing managed payments of rent to private landlords may open access to other housing options for claimants; their point was that private landlords can be reluctant to accept tenants in receipt of benefit income but that having the option for rent to be paid directly to landlords may encourage private landlords to accept tenants in receipt of benefit income.

Issues raised in common with Question 1 included circumstances for refusal, rights to appeal, payment in arrears, informing claimants and the definition of ‘Scottish claimant’. The remaining analysis presented below focuses primarily on new issues raised and which focus particularly on the issue of payment of rent direct to landlords.

As at Question 1, the most frequently-raised issues are presented first and tended to be raised by around 8-10 respondents. The latter part of the chapter covers issues raised by smaller number of respondents (around 4 to 7 respondents unless otherwise stated). The chapter concludes by considering a range of implementation-related issues raised.

## **Changes of circumstance**

This was the most-frequently raised issue. Regulations 2(2b) and 4(3b) allow Scottish claimants to make requests for flexibilities at any time, such as switching between rent payments to themselves and direct payments to their landlord. However, there were concerns that the draft regulations as currently presented do not refer to or put in place safeguards for claimants and landlords. This was seen as enabling a claimant to cancel an arrangement at any time regardless of known vulnerabilities or any arrears they may have accrued with their landlord. It was suggested that landlords should be consulted before a managed payment arrangement is cancelled.

For example, a Local Authority respondent was amongst those reporting that landlords need the assurance of safeguards to ensure that direct payments are not overturned at the request of the claimant without engagement with the landlord. They suggested that a landlord receiving a direct payment can be deemed as a 'person affected' and should therefore be notified about any decisions to stop direct payments. They felt this would ensure that the appropriate support can be provided for claimants who may be presenting as chaotic or unable to manage their budget, particularly if they are making frequent requests to change payment methods.

A Campaign Body or Third Sector organisation respondent highlighted that, while in most situations people should not need to change their use of flexibilities more than once in a few months, people who are homeless inevitably experience much more fluid circumstances. They did not wish to see someone unable to benefit from the flexibilities through repeated changes outwith their control and suggested that being homeless should generally be considered as exceptional circumstances for making multiple requests for flexibilities.

Finally, a Campaign Group or Third Sector organisation respondent raised a particular issue around how quickly direct payment arrangements might be cancelled with specific reference to households who have the amount of UC they receive substantially decreased as a result of policies such as the application of the benefit cap or the two child rule. They noted that if UC is reduced due to the benefit cap, and even if the housing element might still be sufficient to cover their rental liability, a claimant may wish to have their direct payment arrangements stopped immediately to allow them to afford food and other basic essential costs.

### **Automatic payment to landlords**

Another frequently-made comment was that there should be payment direct to landlords in all cases. The largely Local Authority, Registered Social Landlord and Tenant Group respondents taking this view tended to suggest that allowing tenants to opt to have the rent element of UC paid to them will only increase rent arrears as some people will not pay their rent in full or will delay rent payment.

One suggestion was that rent should only be paid to UC claimants if they actively opted-out of it being paid direct to the landlord. It was suggested that this approach would allow landlords to focus on those who opt out and ensure they have the necessary support and skills to manage their UC payments and Housing costs.

### **Landlord or Other Agency requested Managed Payments**

A concern of some respondents was that the Regulations do not address a situation where the tenant is vulnerable and does not exercise the choice to have the payment made to the landlord. It was suggested that it should be possible and/or it should be made easier for landlords to request managed payments.

Specific suggestions included that:

- The draft Regulations could be strengthened by noting the need to temporarily direct funds to the landlord where a Local Authority (or delegated agency) contacts DWP to advise that an inquiry or investigation has been initiated under the Adult Support and Protection (Scotland) Act 2007.
- A Managed Payment Arrangement should automatically be put in place for anyone who is homeless and in temporary accommodation to allow the claimant to focus on finding a home.

## **Relationship to Alternative Payment Arrangements**

A small number of respondents commented on the relationship between the new provisions and the existing Alternative Payment Arrangements. In one case, a Local Authority respondent sought confirmation that the 2013 UC Regulations on Managed Payments under Tier 1 and 2 vulnerabilities and when 8 weeks rent arrears have accrued still apply.

However, the decision not to completely replace the current DWP Alternative Payment Arrangement regime was also questioned. The Local Authority respondent raising this issue suggested that many of the claimants who will benefit from a Managed Payment under the new provisions to landlord are claimants who would already meet the criteria under the existing scheme. They went on to suggest that maintaining each scheme independently would be an expensive exercise with very little point and that that it would be better if the 'new' Scottish scheme simply replaced the current scheme and the Scottish Government paid a regular portion of the costs instead of trying to itemise the reasons for each Alternative Payment Arrangement individually.

## **UC housing element and claimant liability**

A concern was also raised about how the direct payments made to landlords will relate to the rent charged. It was suggested that, as under the current arrangements, there is no guarantee that the payment made to landlords will cover the full rental amount.

In response to this potential issue, a Campaign Group or Third Sector organisation respondent recommended that consideration be given to what will happen in circumstances where the 'housing element' of a person's UC payment is insufficient to meet their full rental liability and/or where the amount of UC they receive in respect of their rental liability fluctuates from month to month. On this issue, a Local Authority respondent highlighted that the UC award may change each month, but the managed payment will always match the value of the Housing Element. One suggestion was that there should be a mechanism for informing the claimant of their outstanding rental liability on a monthly basis.

## **Accessibility & Support required by claimants**

A small number of respondents highlighted issues around ensuring that the direct payment option is easily accessible to claimants and that those who need support in applying receive the necessary assistance.

Particular issues highlighted included:

- It will be important to provide the necessary support to those who are digitally challenged to ensure that they are not discriminated against. The Campaign Group or Third Sector organisation respondent highlighting this issue noted that people with disabilities are far more likely to be digitally disadvantaged but also that one in four people in the UK lack digital skills.
- Ensuring that a digital process is accessible can raise issues for people with particular needs. For example, another Campaign Group or Third Sector organisation respondent highlighted the challenges that people blind and partially sighted people can experience with being online and the very substantial costs of accessing the required technology.
- While some people with vulnerabilities may benefit from Managed Payments, they could also prefer other options, such as setting up a direct debit to their landlord. Advocacy to support this type of individual choice would be positive.

## **Importance of choice**

While some respondents felt that direct payments to landlords should be the default or only position, others took a different view. For example, a Campaign Group or Third Sector organisation respondent, felt it is important that claimants have the choice to opt into this method, rather than the process being imposed. They suggested that it should be made clear to a claimant: that they pay rent; how much rent is being paid; to whom it is being paid; and how to start and stop the payments being paid through the direct payment process.

Finally, a Local Authority respondent commented that draft regulation 4(1) implies that the claimant can choose the amount they wish to have paid direct to their landlord. They were of the view that this element of claimant choice would be a positive feature.

## **Housing costs vs. rent**

A particular issue identified concerned the Regulations' reference to 'rent' as opposed to 'housing costs'. The Local Authority respondent highlighting this issue commented that the reference to direct payment of rent fails to recognise other housing costs, and in particular service charge payments.

## Implementation and delivery

In addition to commenting on specific issues around the detail of the draft Regulations, a number of respondents commented on the implementation of the changes. Returning to the focus of the consultation questions, a Local Authority respondent commented that it is not possible to establish whether the Regulations will give effect to the policy objective until the arrangements for implementation are set out.

The timescales for implementation of the twice monthly and direct rent flexibilities were raised by some respondents. For example, a Representative Body respondent suggested there is a pressing need for clarity around the timescales for implementation of these flexibilities and that adoption as early as possible will be critical.

Other comments considered the interaction between the introduction of these flexibilities and other changes to the welfare regime, including mitigation of the Spare Room Subsidy using Discretionary Housing Payments. It was noted that the many changes create a significant administrative burden.

Respondents raised a number of communication-related issues which they would like to see addressed when taking these and other UC-related changes forward. A Representative Body respondent stressed the need to improve the standard of communication between the DWP and landlords and suggested that, until suitable data sharing channels have been put in place, the scaling up of the roll-out of UC will pose a danger for the sustainability of housing associations. Others also highlighted the need to consider the information provided to landlords; it was suggested that, unless some provision is made to improve the information provided to landlords, including about the payment amount and timing of direct payments something missing here. A specific direct payment suggestion was that the Regulations which should outline what information DWP will give to landlords about whose payments are being made direct to the landlord, the amount relating to each tenant, covering what period, and details of any deductions etc.

Other comments about the implementation and ongoing delivery of the flexibilities included:

- Requests for Managed Payments will need to be dealt with quickly. Specifically, it was suggested that it will be important to agree timescales within which claimants will be informed about the decision regarding their application.
- It would be helpful for the DWP and Scottish Government to continue to monitor the impact of their policies on the health of working-age claimants and support Local Authorities and Health Boards to mitigate adverse consequences.

Finally, there were calls for the Scottish Government to involve Local Government, along with representatives from the housing sector, including the private rented sector, in discussions on the implementation of the Regulations.

## Other issues

In addition to the areas covered within the analysis of comments at Questions 1 and 2, a small number of other issues were raised by respondents. The issues covered here were those which did not relate specifically to either of the two questions posed.

### Split payments

The main other issue raised by respondents concerned the absence of any draft Regulations or other information about split payments of UC between two individuals in a single household. It was suggested that there could be clear reasons for it being in the best interests of the claimant and their family that the payments be split, and that the Scottish Government should consider using their powers to introduce such a provision.

Splitting payments was seen as allowing for increased gender equality, particularly for women in relation to access to resources. It was noted that women are more likely to be subject to financial and other abuse and that flexibility within UC payments will be important for the equality of women and children.

For example, one Campaign Body or Third Sector organisation respondent suggested that the Scottish Government's pledge that the new social security powers will be underpinned by "dignity and respect" will be undermined if social security cannot be accessed equally by women.

More broadly, this Campaign Body or Third Sector respondent also called for the Scottish Government to develop a strategy for its UC flexibilities, and within that strategy consider how the two UC flexibilities covered by the draft Regulations will apply to split payments.

### Other Issues

Other issues raised included:

- The importance of language was highlighted. In particular, a Campaign Body or Third Sector organisation respondent noted that the Regulations rely on the word 'claimant' through, but that that analysis of the responses to its social security consultation highlighted words that respondents felt stigmatised those in receipt of social security, including the word 'claimant'.
- Another Campaign Body or Third Sector organisation respondent noted that the Regulations do not address the issue of what should happen where joint UC claimants disagree on whether they should receive twice monthly payments and/or whether payments should be made directly to their landlord.

# Annex 1

<b>Organisational Respondents</b>
Aberdeen City Council
Aberdeenshire Council
Age Scotland
Almond Housing Association
Argyll and Bute Council
Argyll Community Housing Association
ARLA Propertymark
Barrhead Housing Association
BEEM (Borders, East Lothian, Edinburgh and Midlothian) Registered Tenant Organisation Regional Network (Region 5)
Chartered Institute of Housing Scotland
Child Poverty Action Group (CPAG) Scotland
Citizens Advice Scotland
Clyde Valley Housing Association
Clydebank Housing Association
Clydesdale Housing Association
COSLA
Crisis
Deaf Action
Disability Agenda Scotland (DAS)
Dumfries & Galloway Housing Partnership
Dundee City Council
East Dunbartonshire and Lanarkshire Regional Network
East Lothian Council
Edinburgh Tenants Federation
Engender

<b>Organisational Respondents</b>
Fife Council, Housing Service
Glasgow and West of Scotland Forum of Housing Associations
Glasgow City Council
Glen Housing Association
Govan Housing Association
Home Group
Homeless Action Scotland
Inverclyde Council
Link Housing Association Ltd
Low Incomes Tax Reform Group
Melville Housing Association
Milton Albyn Housing Forum
Money Advice and Rights Team - East Renfrewshire Council
Motherwell & Wishaw Citizens Advice Bureau
National Adult Protection Coordinator, University of Stirling
National Landlords Association
NHS Ayrshire and Arran Public Health Department
NHS Health Scotland
North Ayrshire Council
North Lanarkshire Council
Northern Lights Regional Network Region 2
Ochil View Housing Association Ltd
Osprey Housing
Parkhead Housing Association
Perth & Kinross Council
Prospect Community Housing



<b>Organisational Respondents</b>
Registered Tenant Organisation (RTO) Regional Network Central Region - Region
Renfrewshire Council
River Clyde Homes
Royal National Institute of Blind People (RNIB) Scotland
Ruchazie Housing Association
Scottish Association of Landlords
Scottish Borders Council
Scottish Federation of Housing Associations
South Lanarkshire Council
South West Scotland RTO Regional Network (Region 6)
Southside Housing Association
Tayforth Regional Network
The Highland Council
UC Advice & Advocacy Ltd
Welfare Conditionality: Sanctions, Support and Behaviour Change research project
West Dunbartonshire Council
West Lothian Council
West Strathclyde RTO Regional Network (Region 7)
Wheatley Group



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This document is also available from our website at [www.gov.scot](http://www.gov.scot).  
ISBN: 978-1-78652-989-3

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

Produced for  
the Scottish Government  
by APS Group Scotland  
PPDAS265393 (05/17)  
Published by  
the Scottish Government,  
May 2017



Social Research series  
ISSN 2045 6964  
ISBN 978-1-78652-989-3

Web and Print Publication  
[www.gov.scot/socialresearch](http://www.gov.scot/socialresearch)

PPDAS265393 (05/17)