Annex 1: HMRC-DWP 'Real Time Information' income sharing

Summary

Nowhere more than RTI demonstrates the imbalance of the benefits of digital to Government and the harms to citizens. RTI allows HMRC to know in 'real time' how employees are paid by PAYE, and DWP to deduct from their benefits, but Government chose to place the entire burden on the citizen when those systems don't align, predictable from a calendar, "you will no longer get Universal Credit" and must reapply.

HMRC is aware of how often an individual is paid as part of a payroll submission, i.e. monthly, fortnightly, weekly, etc, multiple payments in a period are added together by the payroll system. HMRC's RTI system is about determining the amount of money an individual employee was paid in a month, *primarily for tax purposes*. RTI is an HMRC system for HMRC purposes, for which HMRC and Treasury have their own priorities, and over which DWP has negligible control and very "limited" input.

One reasonable and straightforward approach would be for HMRC to base the earnings figure it provides to DWP on the average[1] of the few weeks earnings before and after the claimant's 'UC month'. A less subtle approach would be to lobby HMRC to introduce a '5 week waiting period' before its PAYE data is made available for use by DWP, 'smoothing out' the apparent variation in income that is causing the problem. Other approaches are covered below.

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[1] The optimal range for generating such an average will likely be less than 4 weeks, with a 'December rule' which covers the idiosyncrasies of bank holidays in close succession.

Background

HMRC's **Real Time Information (RTI)** database holds Pay As You Earn (PAYE) information relating to people working for employers and those receiving occupational pensions. Employers whose employees are within the PAYE scheme are required to submit RTI to HMRC on or before the date the employee is paid through payroll. As a result, RTI is entirely a product of payroll management systems – and any late submission to HMRC must be justified, under threat of a fine. [2]

RTI was first introduced in April 2012, and all employers across the UK have been routinely filing 'real time' returns since October 2013. It has supported Universal Credit since UC's introduction in 2013.

Published 'Guidance on RTI Data Items from April 2019-20'[3] indicates that an individual RTI record consists of nearly 200 fields of data – including information like the person's full name, date of birth and address; also reference numbers, e.g. HMRC Office Number, Employer's PAYE Reference Number, and Payroll ID; identifying information like their passport number; bank details and details about their partner, or car (where part of their employment); and a considerable number of 'flags' or indicators relevant to HMRC's tax calculations.

On the frequency of reporting, HMRC's internal PAYE Manual on RTI[4] states:

> *An employer's filing frequency is based on how often an employer or pension provider pays their staff or pensioners, or how often they run their payroll ...*
>
> *HMRC will change the expected filing frequency... if, during communications with an employer, it is established the frequency on the record is not appropriate.*

which indicates a degree of flexibility and willingness to address people's real world circumstances that is almost entirely absent in DWP's UC systems.

How does HMRC's RTI relate to DWP?

The DWP system that holds PAYE information for UC claimants is called the **Real Time Earnings (RTE)** database. In addition to holding information from HMRC's RTI system, the RTE database also holds self-reported earnings and any other income, e.g. pensions, that DWP knows about.

Released under FOI in 2019, the HMRC-DWP Memorandum of Understanding[5] shows that DWP does not access HMRC's RTI systems directly in most cases, rather there are scheduled bulk

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[2] https://www.gov.uk/hmrc-internal-manuals/paye-manual/paye5065

[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775920/Data_items_guide_2019_to_2020_v1.1.pdf, retrieved 18/10/2019

[4] https://www.gov.uk/hmrc-internal-manuals/paye-manual/paye5001

[5] https://www.whatdotheyknow.com/request/564681/response/1354866/attach/2/MoU%20UA%20P0006%20Redacted.pdf

transfers for which HMRC generates a copy of data it holds in its RTI database, based on a set of National Insurance numbers (NINOs) that DWP provides.

Despite the name, this process is *not* done 'in real time'. Instead, DWP sends HMRC a new set of National Insurance numbers once each day. HMRC then attempts to match each of these NINOs to a record it holds in the RTI database.

Four times a day, using an automated data transfer process called the **RTI-UC interface**, HMRC sends DWP a dataset consisting of the agreed items of data it holds relating to each NINO for which it has found a match. It also sends a list of the NINOs it has been unable to match. On receiving this data, DWP then adds its own additional information to relevant records, e.g. about pensions, and updates or uploads the combined data to the RTE database – from where it is available to other UC systems.

4. Procedure

The RTI-UC interface relies on an automated system to system data transfer. UC pushes an interest file to RTI once a day, detailing those NINOs for which earnings information is required if it is available. After the interest file has been processed by the RTI system all available earnings for each NINO with a UC interest is collated by RTI and returned to UC. In addition an exceptions file is created and sent detailing all of those NINOs that did not match a NINO within the HMRC systems. Within this file mismatched NINOs are listed enabling DWP to investigate the reason for the mismatch and, if applicable, inform claimants of their requirement to self report their earnings.

HMRC receives the interest file from DWP by 15:00 each day, seven days a week. HMRC returns earnings at 08:00, 11:00, 13:30 and 16:00 Monday to Friday and exceptions at 08:00 Monday to Friday.

In addition, ad hoc processes have been defined to support the resolution of disputes and to ensure that an E2E service management wrapper is provided for the systems. These processes are reliant on the exchange of operational information, which may be technical system related information, but may also be claimant/employee related information.

Data sharing procedure as described in HMRC-DWP MoU

Aside from these regular data exchanges, there are also "ad hoc" exchanges of information for dispute resolution – implying DWP's ability to query the (entire?) contents of an individual claimant's RTI file on HMRC systems. (In terms of onward data sharing, DWP does pass the PAYE real time information it receives from HMRC on to Local Authorities, for the purpose of administering local Council Tax reduction schemes.)

Neither HMRC or DWP have published a complete list of those fields of data that are exchanged via the RTI-UC interface, but the MoU states that *"only information deemed necessary to meet the government's business objectives will be exchanged"*.

Specific reference is made to *"gross taxable earnings less tax, National Insurance and pension contributions, pay dates and frequency of payments"* but, presuming a match has been made using the claimant's NINO, those data items that are most relevant to DWP *"for the purposes of calculating an accurate benefit entitlement for claimants in the fulfilment of government policy"* will be the **payment date**, and the **amount paid**, for a person with a given **identifier** (NINO).

What problems / types of problems may arise?

Given that much of the data held in RTI changes on a far less regular basis than each payday, and that such longer-term data is less relevant to *calculating* the amount of benefit – rather than, e.g. establishing that there is an entitlement – the errors most likely to occur are as follows:

1) **Mis-matched person:** either no match is found for a particular (correct) NINO; the NINO provided to / submitted by DWP is incorrect; and/or the NINO submitted is matched with a different person recorded on HMRC systems.

    In the first case, a failure to match will be reported by HMRC to DWP, which has a manual procedure[6] for following this up. In the second instance, if there is no match, then this will be covered by the same procedure. If there is a match, then this will result in the third type of error – i.e. someone else's PAYE information will be sent to DWP.

    A separate, "Disputed earnings", procedure can be engaged when such errors occur:

    ## Disputed earnings

    When a claimant disagrees with the information used to calculate their earned income, they will be asked to provide supporting evidence such as wage slips / bank statements for the disputed period.

    This information and the reasons are checked against the information received via RTI such as gross taxable earnings less tax, National Insurance and pension contributions, pay dates and frequency of payments.

    If it is established that the earnings are correct, a dispute is not raised.

    When calculating the earnings, if the evidence provided by the claimant is used, the information received via RTI will be disregarded so the earnings are not taken into account twice.

    If the dispute cannot be resolved the case is referred to the RTI Support Team.

    From 'Real Time Information v 7.0', deposited in the House of Commons Library on 21 October 2019

    But what this does not suggest is for the claimant (or DWP) to check the correct NINO has been used; instead it puts the burden on the claimant to prove what they were paid in the period under dispute.

    As a general principle, and to avoid getting caught in an opaque dispute process based on what two different government Departments think they know about you, **we recommend first checking what information HMRC holds on you**. As UC claimants will (mostly) already have a GOV.UK Verify ID as part of submitting a claim, it should be straightforward to check the information that HMRC holds on them (including their NINO) by logging into

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[6] Non-matches on NINOs are generally followed up by checking on DWP's Customer Information System (CIS), e.g. for Tax Credits: https://www.gov.uk/hmrc-internal-manuals/tax-credits-manual/tcm0134660

their HMRC Personal Tax Account.[7] If the information is in error, it can be corrected at the HMRC end – both updating the information DWP receives via RTI-UC and avoiding repetition.

2) **Wrong amount:** in cases other than a mis-match on the person / NINO, if the amounts that DWP is using to calculate an entitlement are wrong, the problem could be that the PAYE information provided by the employer to HMRC RTI is incorrect – or the information added by DWP to the claimant's RTE is incorrect. In either case, the best option for a claimant would be to follow the disputed earnings procedure, as those administering it should have access to the figures that are being used. Providing supporting evidence such as wage slips or bank statements for the disputed period will be the most effective way to demonstrate that 'official truth' is wrong.

3) **Payment date errors:** setting aside for the moment the well-documented, systemic issues with UC's assessment cycle and "single monthly payment", and on the principle "If you can't fix a problem in one place, fix it in another", we now consider end-to-end and in more detail how the employer's payment date may go wrong, and what can be done to mitigate this problem and its effects.

The Public Task of RTI

At its heart, HMRC's RTI system is about determining the amount of money an individual employee was paid in a month, *primarily for tax purposes*. RTI is an HMRC system for HMRC purposes, for which HMRC and Treasury have their own priorities, and over which DWP has negligible control and very "limited" input. Lobbying DWP about RTI is therefore likely to be ineffective.

If, however, we look at the information HMRC collects through RTI, other opportunities present themselves – remembering our key focus in this instance is on the payment date and the amount paid, for a given individual.

Since April 2014, RTI has covered all employees,[8] and is generally done as part of the PAYE and National Insurance calculations done in payroll software, including HMRC's own free software,[9] which we will use for all examples given in this annex, unless otherwise stated.

The fields of data HMRC requires employers to submit via RTI are as follows:

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[7] https://www.gov.uk/personal-tax-account

[8] https://www.gov.uk/government/publications/real-time-information-improving-the-operation-of-pay-as-you-earn

[9] https://www.gov.uk/basic-paye-tools

The first item of information requested is "Payment date", the definition of which includes the instruction "Use the normal payday even if it falls on a non-banking day" – which appears in the drop-down explanation box, as illustrated below: [10]

Once an employee has been added to a company's payroll (which involves entering an NI number, home address, etc.) the only information provided to HMRC on a regular and routine basis via RTI is that a specified amount was nominally paid to that particular employee on a specific "payment date".

While RTI holds many other details and while there will always be special cases, in terms of meaningful information being passed to DWP for the calculation of someone's UC payment, this is the extent of the RTI system.

Whether the money was *actually* paid on the date specified – or on a different date, or not at all – is simply not HMRC's concern. Such discrepancies can be crucially important in certain situations, such as in immigration cases with abusive / manipulative employers, but these are out of scope of this report. [...at this time. This is of course subject to feedback, and might, e.g. provide the basis for an intersectional annex about claimants whose employers are abusive in a UC context.]

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[10] Screenshots are taken from medConfidential's use of HMRC's official RTI software.

The source and meanings of 'Payment date'

Four times a day, DWP receives a copy of information about individual payments from HMRC and treats this as the 'official truth'. However, as we note in the main body of our report, at some point everything people type into computers will be wrong – and the dependency in this instance rests entirely upon someone typing the 'right' date into the 'Payment data' box in the screenshot above (and into equivalent boxes in other software). Invariably, sometimes they won't.

While it may on the surface seem simple, what do you think a field entitled "Payment date" means?

It is not clear, and additional work would be required to determine which payroll systems did the simplest thing for their customers and users when adding RTI functionality – if indeed they did – and which systems report the "Payment date" to HMRC as the date the company *asked for the payment to be made* (e.g. the last <u>working</u> day of a month, which in December might be mid-month) rather than the *"normal" payment date* (i.e. the last day of the month).
In a system already notorious for complexity around dates, variations in the way different payroll systems (and indeed employers) interpret "payment data" could be affecting millions of people.

RTI is a tax system, and it is therefore quite reasonable for providers of software for payroll services and third party providers of payroll services not be fully aware of the details and nuance in how text entered into this field may ultimately be used.

As a first-order mitigation, the large payroll providers should be made aware that the "Payment date" given to HMRC and the date of the actual payment to an employee's bank <u>should not</u> necessarily match. This may appear fundamentally counterintuitive, and a common inclination would be to align both dates, but the consequences of one date being 'collapsed' into another can be highly significant – particularly for UC, with its rigid approach to time periods.[11]

It is unclear whether clarifying the ambiguities around the meaning of "Payment date" – thereby avoiding unintentional misreporting through well-intentioned but fundamentally unhelpful 'error checking' – will by itself solve the problem. It is unlikely to be a complete solution, and there may simply be too many different payroll providers across the UK for such an approach to clear things up entirely. This does not mean it shouldn't be tried; at the very least, the largest entities running payrolls and main software providers should be informed.

While it may not be "their problem", given the impact it could have on their employees who receive UC, there is at least some incentive to get things right.

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[11] After your first UC payment, you are paid on the same date of every month. If your UC payment date is on a weekend or a bank holiday you'll be paid on the working day before.

When the gears don't mesh

It is widely understood that Universal Credit has a serious design consequence in its assessment cycle; the decision to make a "single monthly payment", when in the real world of work people are paid on a whole range of different frequencies. It is also a truism that when two systems using different schema interact – imagine two gears with differently-spaced teeth grinding against one another, instead of meshing properly – citizens suffer.

DWP's official advice shows it quite clearly knows this, and equally clearly does not care:

How often you're paid by your employer	The impact
Every 4 weeks	Once a year, you'll get 2 sets of wages in one assessment period
Every 2 weeks	Twice a year, you'll get 3 sets of wages in one assessment period
Every week	Four times a year, you'll get 5 sets of wages in one assessment period

'Universal Credit: How you're paid', retrieved 05/02/20

If you are paid weekly, every 2 weeks, or every 4 weeks it is inevitable that you will receive more than one set of wages during some UC assessment periods throughout the year. This 'double payment' (according to DWP's accounting, but no-one else's) means that your 'combined' earnings that month could significantly reduce the amount of benefit you are calculated to receive – or exceed the threshold for receiving any Universal Credit at all.

The system is so inflexible that, despite being an entirely predictable consequence of DWP's assessment cycle, in any month where this does happen, *"you will be notified that your income is too high **and you will no longer get Universal Credit."***

In practice this means that if your employer pays you every 4 weeks, your UC could be stopped once a year. If your employer pays you every 2 weeks, your UC could be stopped twice a year. And if your employer pays you weekly, your UC could be stopped four times a year.

In each case, the official advice is merely that claimants *"re-apply the following month",* noting:

8. Claiming Universal Credit within 6 months of your previous claim ending

If you qualify for Universal Credit again, you will continue to keep the same monthly assessment period as you had in your previous claim.

Speak to your work coach if there is a gap in your Universal Credit payments and you need help to budget and manage your money more effectively.

You will need to claim Universal Credit online again. When you log in to your online account, the claim will show your circumstances on the date you last got Universal Credit.

You just need to confirm that the details in your account are correct to claim again automatically.

'[Universal Credit: different earning patterns and your payments](#)', retrieved 05/02/20

While claimants may be informed their UC has been stopped in their monthly statement, the burden of dealing with the consequences is laid squarely upon them. Neither their employment or level of earnings may have changed, and yet the amount of benefit they receive will fluctuate wildly – causing, at the very least, unnecessary stress and in many cases significant financial problems.

DWP does not publish statistics on how many people require/request Personal Budgeting Support (i.e. money advice), or whose UC payments are interrupted or terminated because of this problem. Nor does it publish statistics on how many are forced to seek an Advance Payment (i.e. take on a debt) because of the known inflexibility of the UC system.
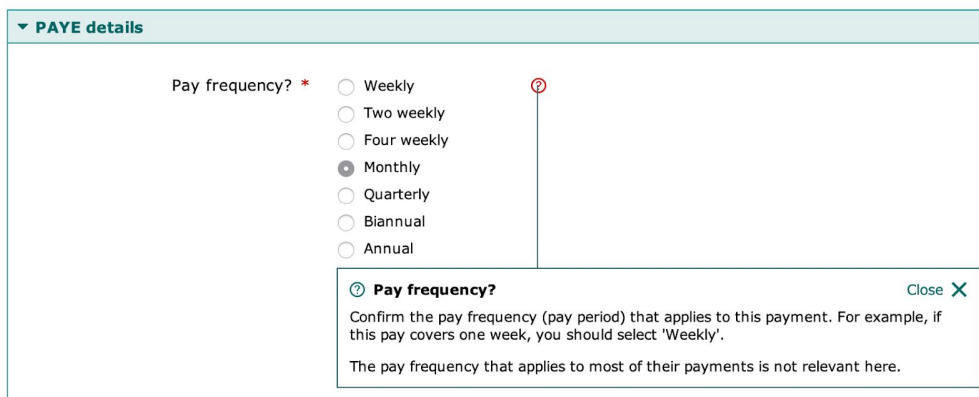
We recommend that estimates are made of the cost to the public purse, and of the number of claimants affected, and the costs to them. The first step towards fixing a problem is being able to quantify it.

HMRC does know a claimant's 'pay frequency'

On the principle of 'If you can't fix a problem in one place, fix it in another', and assuming the costs to the public purse are, or are likely to be, significant then – given the inherent design flaw in DWP's model, and its apparent unwillingness to fix it – the path of least resistance to address the harms caused by DWP's use of RTI may simply be to change the information that DWP is able to use.

The way the RTI-UC interface works means that DWP must effectively accept whatever data HMRC provides to it – and HMRC is in a position to determine what data is given to DWP, should it be in (HM Treasury's or) HMRC's interests to do so.

The basic RTI software shows that HMRC is aware of how often an individual is paid as part of a payroll submission, i.e. monthly, fortnightly, weekly, etc.

PAYE details

Pay frequency? *
- ○ Weekly
- ○ Two weekly
- ○ Four weekly
- ● Monthly
- ○ Quarterly
- ○ Biannual
- ○ Annual

ⓘ **Pay frequency?**   Close ✕

Confirm the pay frequency (pay period) that applies to this payment. For example, if this pay covers one week, you should select 'Weekly'.

The pay frequency that applies to most of their payments is not relevant here.

HMRC Basic PAYE tool

HMRC's own systems do not allow that someone can be paid twice in the same payment period – so where an employee's reported payment period is a month, and where that person has been paid twice in that month, for whatever reason, RTI requires that those two payments are added together as a single submission to HMRC for that payment period.

Problems arise when DWP errs in using its own internal payment periods for calculating benefits, without accounting for HMRC's different payment periods; simply put, the 'gears' do not mesh.

This issue could be resolved by HMRC in a number of ways:

1. The **earnings figure** required by DWP could be calculated by HMRC in a way that does not adversely impact those on PAYE whose employers do what the HMRC app and other payroll software encourages them to do. One reasonable and straightforward approach would be for HMRC to base the earnings figure it provides to DWP on the *average*[12] of the few weeks earnings before and after the 'UC month'.

2. A less subtle approach would be to lobby HMRC to introduce a **'5 week waiting period'** before its PAYE data is made available for use by DWP, 'smoothing out' the apparent variation in income that is causing the problem.

HMRC certainly has the capacity and mechanisms to be able to do this, so long as there is political will to solve problems that DWP itself is unwilling to address.[13] This is why work to determine the cost to the public purse that DWP's choices are making is necessary.

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[12] The optimal range for generating such an average will likely be less than 4 weeks, with a 'December rule'.
[13] In effect, HMRC and DWP each have copies of the full databases of the other. How and when these may be used, and for what purpose(s), is the subject of extensive long-term Whitehall infighting – which can sometimes have the inadvertent outcome of improving services to citizens...

In summary: What can individual claimants do?

- When there is a dispute on your earnings, check your National Insurance number is correct, and that it has been captured correctly on the system!

- Check what HMRC thinks it knows about you. You will have a GOV.UK Verify ID, which means you should be able to log into your 'Personal Tax Account' online: https://www.gov.uk/personal-tax-account

- If the information that HMRC holds is incorrect, amend it with them *first* – if necessary getting evidence from your employer, who may have made an error submitting your data to RTI. Make sure HMRC corrects its record, as errors will persist if DWP keeps using incorrect data.

What can those supporting claimants do?

- Assist with the above. It is counterintuitive to have to go to another Government Department to deal with a problem that is happening at DWP, but claimants are far more likely to fix persistent errors if they ensure the 'source' data about them is correct than if they rely on an obscure process, over which they have no control and very little feedback.

What can civil society do?

- Further research is required to determine which dates the main payroll systems report to RTI as the "Payment date" but – as a first-order mitigation of a problem that could be affecting large numbers of people – the main payroll providers should be made aware that the "Payment date" given to HMRC and the date of the actual payment to an employee's bank *should not* necessarily match.

- If not already available, generate estimates of the cost *to the public purse* of DWP's inflexible handling of the UC assessment period. Also of the number of claimants affected by this issue, and an indication of the costs (e.g. incurred debt) and impact on them.

- (Simultaneously) Lobby DWP to publish statistics on how many people require/request Personal Budgeting Support, and/or whose UC payments are interrupted or terminated because of the assessment period problem. Also, the numbers of claimants whose UC is actually stopped, and how many seek/receive an Advance Payment (both per month).

- (Assuming a political case has been made) Lobby HMRC to provide DWP only an *average* earnings figure, or to introduce a *five week delay* in providing earnings information via RTI-UC.