Petition Title: The terms of acceptance for the Universal Credit Claimant Commitment -
UK Welfare Reform Act 2012

Created by: Name [you can state you wish to remain anonymous]

Date: 00.00.13

**I – Summary of Petition**

1. The alleged failure by the UK authorities to entirely transpose citizen’s rights contained within the community legislation in the formation of the new Welfare Reform Act 2013, in particular the Universal Credit Claimant Commitment.

**II - UK Legislation**
2. The Welfare Reform Act 2012 requires Universal Credit Claimants to accept a Claimant Commitment as a condition of entitlement.

In setting requirements, an advisers works with the claimant to set out a detailed action plan which lays out the steps they must take to give themselves the best prospect of securing employment. The Claimant Commitment is revised on an on-going basis by an adviser to clearly record the expectation placed upon a claimant and the consequence – via sanctions of any failure to comply.

If a person disagrees with the work-related requirements detailed in the Claimant commitment they can ask for it to be reconsidered. This review is undertaken by another adviser, not the Labour Market Decision Maker. Regulations allow a seven day extension period for acceptance because without it, a person would not be entitled to claim any benefit.

There is no right of appeal where a person refuse to accept their Claimant Commitment and the requirements that have been set out in it.

[www.legislation.gov.uk/ukpga/2012/5/section/14/enacted](http://www.legislation.gov.uk/ukpga/2012/5/section/14/enacted)

**III - Community Legislation**

3. Article 41 - Right to good administration

Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

30.3.2010 Official Journal of the European Union C 83/399 EN 2.
This right includes:

o the right of every person to be heard before any Individual measure which would affect him or her adversely is taken

o the right of every person to have access to his or her file, while respecting the legitimate interests

o of confidentiality and of professional and business secrecy;

o the obligation of the administration to give reasons for its decisions.

Every person also has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.

Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

4. Article 47 - Right to an effective remedy and to a fair trial

o Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

o Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.

o Everyone shall have the possibility of being advised, defended and represented.

o Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

**IV - Arguments put forward**

5. Administrative Procedures in EU member States

Lack of Impartiality as per article 41

29. The principle of impartiality is structurally weakened in administrative procedures because the Administration is party and judge in the procedure. Therefore it is necessary to establish legal measures to establish the equilibrium between the parties or at least to reduce the likelihood of unfairness.

A Minimum of impartiality should be guaranteed. Therefore the withdrawal from the procedure of those Officials who have a personal interest (typical conflict of interest situation) in the outcome of the procedure 8 should be mandatory. Otherwise the administration would incur into abuse of power. Another requirement for impartiality is that any party in the procedure should be entitled to recluse any intervening official suspect of having an interest in the outcome of the procedure or having qualified friendship or enmity or kinship relationships with any of the parties."

[www.oecd.org/site/sigma/publicationsdocuments/42754772.pdf](http://www.oecd.org/site/sigma/publicationsdocuments/42754772.pdf)

Jobcentre advisers will naturally form friendships and/or kinship relationships with their work colleagues and this will make it difficult, if not impossible for another adviser in the same peer group and office to be truly impartial.

6. A claimant’s particular circumstances or frame of mind when they make a claim to benefit.

Claimants can often be stressed after losing a job or break up of a relationship and their new circumstances requires them to make a claim for state funded financial assistance.

Claimants are unlikely to be in the frame of mind to discuss their circumstances fully when they initially make a claim to Universal Credit; their main priority is most likely to be focused on resolving their pressing financial situation.

**[ADD YOUR CLIENTS EXPERIENCES HERE……….]**

My experience is that many claimants are vulnerable people and they often struggle to articulate their circumstances fully and lack the capability or confidence to challenge a person in authority. These people are more likely to accept a Claimant Commitment imposed upon them without question.

When consumers enter into a commercial contract for the purchase of goods or services, they generally carry out some form of market research and when they are ready to purchase they are in a different frame of mind. The cooling off period within a consumer contract allows them further time to consider the terms of the agreement. I would suggest for people claiming benefits that a 7 day cooling off period is an insufficient time frame to consider the terms of the Claimant Commitment or to take advice, as per article 47.

The current Jobseeker’s Agreement and JSA Claimant Commitment has more protections; the claimant can ask for a review at any time. A trained Decision Maker can be asked to consider the agreement and the claimant can also appeal.

The new Claimant Commitment for Universal Credit Claimants can only be reviewed by the adviser during the life of the benefit claim.

7. No right of appeal for Universal Credit Claimants

See article 47, which is self-explanatory.

8. The UK Principles of Good Administration
• Getting it Right
Public servants do not get it right every time, so there must be a fair system of redress that is both impartial and fair for claimants.

• Being customer focused

Public Bodies do not always treat people with sensitivity, or bear in mind their individual needs, and neither do they respond flexibly to the circumstances of the case in every instance;

• Acting fairly and proportionately
Public bodies do not always deal with people fairly or with respect.

[www.ombudsman.org.uk/improving-public-se...-good-administration](http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-administration)

9. Examples of poor Jobseeker Agreement 2013 and claimant treatment

**A disabled person with a mental health condition**

The adviser informed the Jobseeker that he had to take more than 40 steps to look for work and without any diagnosis of his needs; the unachievable job search steps were copied and pasted into the Jobseeker agreement.

Other examples attached.

[**ADD YOUR CLIENTS EXAMPLE(S)HERE.]**