

## A report on the benefit cap

This report will consider what cases from the Early Warning System and One Parent Families Scotland tell us about the impact of the lower benefit cap and the extent to which the benefit cap is being mitigated by discretionary housing payments.

The Early Warning System was developed by Child Poverty Action Group (CPAG) in Scotland to collect and analyse case evidence about how social security changes are affecting the wellbeing of children, their families, and the communities and services that support them.

### What is the benefit cap?

The benefit cap is a limit that has been placed by the UK government on the amount of benefit that can be paid to people who are receiving housing benefit or universal credit.

When it was introduced in 2013, the cap was £26,000 per annum (£18,200 for single people without children, however that also includes non-resident parents). The cap was reduced from November 2016 to £20,000 per annum (£13,400 for single people without children).

The original cap of £26,000 was based on the premise the non-working households shouldn't receive more than the average earnings of working households, but this didn't take into account that a working household might also receive some benefits and tax credits. There is no equivalent rationale for the lower limit of £20,000.

The cap is applied by reducing the amount of housing benefit or universal credit that you are entitled to. This has the effect of leaving you with a shortfall between the rent you are charged and the benefit you receive to help you pay rent.

Sheffield Hallam University research estimates that the lower cap will affect 11,000 households in Scotland, resulting in a loss of £25 million per annum to claimants in Scotland by 2021.<sup>1</sup>

### Who is affected by the cap?

One of the stated aims of the cap is to incentivise people to move into work. However only 17 per cent of people affected by the benefit cap are receiving jobseeker's allowance and therefore expected to look for work. The vast majority of people affected by the cap are not otherwise expected to look for work because of disability or ill-health or because they have very young children. Almost four in five lone parent households were claiming income support because they had young children and were not expected to seek work, while one in

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<sup>1</sup> Christina Beatty and Steve Fothergill, 'The Impact on Scotland of the New Welfare Reforms', Centre for Economic Research, Sheffield Hallam University, October 2016

six were claiming employment and support allowance suggesting that they had been assessed as not being fit for work. <sup>2</sup>

Nearly three quarters of people affected by the benefit cap are lone parents; half have a child under the age of three.<sup>3</sup> Parents in this group are relatively unlikely to work considering the needs of very young children and that there is no free childcare provided for under twos and currently only 15 hours a week for two to four year olds. These parents would not be required to work or look for work in return for income support.

Households subject to the cap in Scotland August 2017	
90%	Families with children
65%	Families headed by a lone parent

<https://bcapdash.herokuapp.com/index.html>

The amount of benefits people are paid is usually calculated according to need in relation to their personal circumstances, but the arbitrary level of the cap means that the more money people need to live on, they more likely they are to be affected by the cap.

65% of households affected by the cap are living in council or housing association accommodation, so whilst high private rents may be the cause of 35% of households being affected by the cap, for the majority there is no cheaper accommodation to move to. For those living in the private rented sector, there may not be the option of moving to cheaper social rented accommodation due to its short supply.

SA is a lone parent of four children. Due to a shortage of social housing she moved into a private tenancy after she and her children were forced to leave the family home by domestic abuse. She worked in the care sector for four years, then enrolled at college in an attempt to improve her employment prospects. When the support she was receiving from housing benefit reduced dramatically, leaving her paying for food with her credit card, she had to leave college and return to work in the care sector in order to afford her housing costs. OPFS client

### How is it applied?

If you receive housing benefit, it will be reduced so the total benefits you receive are equal to the cap. Other benefits you receive will not be reduced.

If you receive universal credit, your total award, not just the housing element, will be reduced so the total benefits you receive are equal to the cap. Help for childcare costs through universal credit will not be reduced though.

Your housing benefit or universal credit will not be reduced to less than 50p – this is so you retain eligibility for discretionary housing payments.

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<sup>2</sup> DWP benefit statistics release November 2017

<sup>3</sup> DWP benefit statistics release November 2017

Sarah is a lone parent with seven children. They were evicted from their private tenancy after Sarah found herself unable to pay her rent when her housing benefit was reduced from £750 to £100 a month. They are now staying in overcrowded local authority temporary accommodation in which Sarah has to share a room with her two children. The temporary accommodation is not close to the children's school, so paying for bus fares is further impacting on Sarah's financial situation. She is currently only receiving 50p a week housing benefit towards her temporary accommodation with discretionary housing payments covering the rest for now. OPFS client

### Which benefits are used to calculate the cap?

The following benefits may be taken into account when calculating the benefit cap:

Housing benefit (excluding any amount paid for specified accommodation e.g. refuge or supported accommodation)  
Universal credit  
Income support  
Jobseeker's allowance  
Employment and support allowance (work-related activity group)  
Bereavement allowance  
Child benefit  
Incapacity benefit  
Maternity allowance  
Severe disablement allowance  
Widowed mother's/parent's allowance  
Widow's pension  
Child tax credit

### Who is exempt from the cap?

People who are working

- If you are receiving working tax credit or would receive it but your income is too high
- You can have a grace period of 39 weeks if you or your partner were working for at least 50 out of the previous 52 weeks and the person who was working was not entitled to IS, JSA or ESA during those 50 weeks.
- If you are receiving universal credit but also earned £520 net in the month that is being used to calculate your UC entitlement
- If you are receiving UC you can have a nine month grace period so long as you earned at least £520 a month net for the preceding 12 months.

A couple with five children are both seasonal workers, but are subject to the benefit cap during periods they are not working. They work from February to October each year but this is less than the period of work required to be exempt from the cap.

A refugee family with six children, who are about to move into a permanent tenancy, will be affected by the benefit cap. There is no exemption for new refugees. #10524

A former housing association tenant fled domestic abuse and moved to a private tenancy where she could be near her family who are her main source of support. She is subject to the benefit cap. She keeps telling everyone that everything is ok but she is lying in bed at night worrying about money. #Mii201

### People who are in receipt of a disability or carers benefit

You are exempt if you or your partner are entitled to:

- Employment and support allowance (with the support component)
- Universal credit with the limited capability for work-related activity element
- Carers or guardian's allowance
- Universal credit including the carer's element
- Attendance allowance
- DLA (including if the DLA is for a child in your household)\*
- PIP\*
- Industrial injuries disablement benefits
- War pensions

\*You continue to be exempt if payment of the benefit stops because you are in hospital or a care home

A lone parent has four children between the age of one and ten, the youngest of whom has recently been diagnosed with a severe disability, but is not yet entitled to disability living allowance. She was already subject to the benefit cap, receiving a discretionary housing payment, but still having, and struggling, to pay £120 a month from income support and child tax credit towards her £900 a month rent. The lower benefit cap limit means she will now be required to pay £172 a month. To be able to work the client would require childcare for her four children, including someone who is specially trained to look after the child who is disabled. #11008

### Discretionary housing payments (DHP)

You can apply for a DHP from the local authority if you are in receipt of housing benefit or the housing element of universal credit and are having difficulty meeting your housing costs.

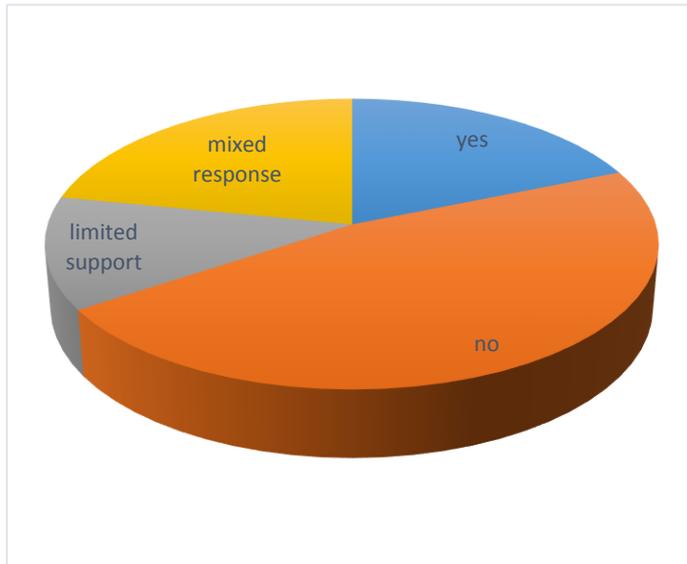
The Scottish Government allocated £57.9 million to local authorities for DHPs in 2017/18: £47 million to mitigate the 'bedroom tax' and £10.9 million to be allocated at their discretion, however £8 million was nominally allocated to mitigate the benefit cap. This would not entirely mitigate the estimated loss of £11 million as a result of the benefit cap in 2017/18.<sup>4</sup>

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<sup>4</sup> Figures obtained direct from Scottish Government

## How are local authorities delivering DHPs?

CPAG in Scotland and One Parent Families Scotland sent a Freedom of Information request to all Scottish local authorities to ask about their response to the lower benefit cap. We received a response from every local authority.



*'Is the local authority in a position to ensure that all families affected by the lowered benefit cap can access housing payments to fully mitigate the impact of the reduced benefit cap? If so, is the local authority likely to be able to maintain this support in the long term?'* Six local authorities said yes, but fifteen local authorities said no. A further four said they could provide limited support which would be reviewed along with their budget for the remaining year.

The majority of local authorities said they would determine DHP awards to mitigate the benefit cap on a cases by case basis, however the response amongst other local authorities varied:

- One local authority stated that they would only make a payment for a maximum of 13 weeks
- Two local authorities said they would make awards for 13 weeks before reviewing the award, with one stating they may only be able to payments for 26 weeks in total due to DHP funding constraints
- Two local authorities said they would make a maximum award of six months
- One local authority said they would make awards for six months at a time
- Some local authorities will make an award for three months, a longer term award will require evidence that the claimant is engaging with support and looking at employment options.
- One local authority loosely works to 100% DHP for the first three months, then 70% followed by 50%

Case studies collected by the Early Warning System also highlight differing responses from local authorities:

A lone parent with four children, the youngest age one, is only getting half her rent paid despite receiving housing benefit and a DHP of £25 a week, because she is subject to the benefit cap. #14009

A lone parent, with three children of her own and one child that she provides kinship care for, applied for a DHP to mitigate the benefit cap, but the local authority took the kinship care payments fully into account as income and refused the DHP. The client has £3000 rent arrears and is at risk of eviction. #14177

A lone parent with five children is facing eviction because she has over £2000 rent arrears following the application of the benefit cap. The local authority decided she could not receive more than 13 weeks DHP because she was not facing exceptional circumstances. Moving to cheaper accommodation is not an option. The client is already over occupied in her council tenancy. It is unlikely that she would find a tenancy of the correct size in the local authority and it would cost more, as would a private tenancy. She would need to work at least 16 hours a week to be entitled to working tax credit and therefore exempt from the cap, but would have to fit that in around dropping her children at school and nursery, not to mention find suitable childcare for her youngest. The cost of evicting the family and placing them in temporary accommodation will be far more than paying the DHP. #13375

A client requested a discretionary housing payment after the benefit cap was applied reducing her HB by £33 a week. Her adviser received an email from the local authority stating, 'due to funding constraints within our DHP budget and the increased number of cases, we are not in a position to award DHP for cases affected by the benefit cap.' #11176

The costs of eviction cannot be underestimated for landlords, local authorities and for families themselves. It can have devastating effects on children's wellbeing due to:

- The stress for the family
- Disruption in their education
- Isolation from their friends and their family's support network
- Potentially having to move to overcrowded, or overcrowded or temporary accommodation.<sup>5</sup>

### How are local authorities responding to the benefit cap?

The majority of local authorities had contacted tenants affected by the benefit cap. Some only contacted their own tenants but shared data with housing associations to allow them to follow up with their own tenants. Only two local authorities specifically said that they were contacting tenants in the private rented sector. It was noted that local authorities were not able to identify universal credit claimants who are affected by the benefit cap because universal credit is administered by DWP and therefore it was not possible to target assistance at them in the same way as housing benefit recipients, which is administered by the local authority.

Several local authorities follow up letters with phone calls or home visits. A small number of the local authorities send DHP application forms to every affected tenant.

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<sup>5</sup> Briefing – Eviction of children and families: the impact and alternatives. Shelter Scotland. November 2009

Assistance offered to tenants affected by the benefit cap includes:

- Benefit checks to identify possible exemptions and maximise alternative forms of support, for example free school meals
- Budgeting advice
- Employability advice
- Housing options to identify cheaper accommodation
- Ongoing tenancy support

A couple with three small children are subject to the benefit cap. Dad has bi-polar disorder but recently failed the work capability assessment and has had to sign on. He didn't appeal the decision because he missed his welfare rights appointment because he had to attend court and has not been offered another appointment. Mum has investigated employability but is worried about leaving the children with Dad because of his mental health and she is still breastfeeding the youngest child. One of the children is suspected to have Asperger's syndrome but has not yet been diagnosed. She has sensory impairment which means she can't eat free school meals and has to have a packed lunch. The family are already struggling financially, they had been living off payday loans, but their debt was written off due to miss-selling. Mum shops in charity shops and relies on assistance from family and foodbanks.

#Mii202

A client and her partner are recovering addicts. They have three children, one of whom is autistic. They have lived in their private sector let for five years and their children attend local schools. Dad was on ESA because he suffers from anxiety and depression but he recently failed the work capability assessment. The decision was not overturned at mandatory reconsideration and has gone to appeal. Mum is already linked in with employability. She is getting coaching four days a week to help build her confidence and hopes to volunteer with an addiction support agency. Their benefit has been capped but they have been awarded a DHP until April 2018. #Mii203

## Recommendations

### For Westminster

CPAG and One Parent Families Scotland are opposed to the benefit cap in principle because it breaks the link between need and entitlement which is fundamental to a means-tested social security system. We also believe that the current level of the cap is too low to provide a decent standard of living and a secure home for households and in particular for the hundreds of thousands of children affected by the benefit cap.

While the cap continues to be applied we recommend the following:

- Raise the level of the cap to an amount which provides a minimum decent standard of living for all affected families, and uprate the cap in line with inflation
- Conduct an urgent review of the impact of the lower benefit cap on the wellbeing of children in capped families, with a view to taking any necessary steps to protect children from hardship

- Provide exemptions or grace periods for the following groups:
  - Those recently granted refugee status
  - Parents of disabled children under three
  - People who have applied for DLA/PIP and are awaiting assessment
  - Families with a child under one
  - Parents who are undertaking a course of study or voluntary work in order to improve their employment and/or earnings prospects
  - Seasonal workers in periods between employment
  - Jobseekers who are fulfilling their work preparation and work search requirements
  - Kinship carers
  - Individuals or families who have fled domestic violence
  - People in temporary accommodation
  - People at imminent risk of homelessness
  
- Remove maternity allowance and children's benefits from the scope of the cap.
- Provide an adequate DHP budget to protect vulnerable capped families, guaranteed over a number of years, and ensure that local authorities are not developing blanket policies to deny DHPs to capped families.

#### For Scottish Government

- Consider mitigating the benefit cap in full through DHPs
- Secure a joint commitment with local authorities to ensure no child is evicted as result of benefit cap , with a commitment to use DHP where this is the only way to avoid eviction
- Improve consistency of local authorities DHP response through guidance
- Investigate the viability of requiring local authorities to extend the period for DHPs to a year so parents do not have the ongoing stress and anxiety of receiving short-term DHPs.
- Review the role of DHPs – using DHPs to provide longer term mitigation against welfare reform measures such as the benefit cap is not ideal. It does not provide certainty to households and uses what it intended to be a discretionary fund to support a range of households.

#### For local authorities

- Share best practice regarding to response to benefit cap
- Set up a multi-disciplinary benefit cap 'action team' to pilot a case conference approach to identify solutions for the most difficult cases.
- Avoid short-term awards which require continual renewal

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