

# The Benefit Cap

Information Guide 14: For Residents and Advisers

9<sup>th</sup> November 2023

[www.wolverhampton.gov.uk](http://www.wolverhampton.gov.uk)

## 1. Introduction

The Benefit Cap introduced a limit on the maximum amount of benefit some benefit claimants of 'working age' (see page 2) may receive.

The Benefit Cap was first introduced in April 2013. At that time the Benefit Cap was £500 per week for couples/lone parents and £350 per week for single people. It was then lowered in November 2016 to £384.62 per week for couples/lone parents and £257.69 per week for single people.

However, the Benefit Cap was then increased in April this year so the level for people now living in Wolverhampton is:

- **£423.46 per week** for couples and lone parents; and
- **£283.71 per week** for single people

When first introduced, the Benefit Cap only affected people claiming Housing Benefit. However, it can now affect those getting Housing Benefit and Universal Credit.

Find out more...

The level of the Benefit Cap for families living in Greater London has always been set at a higher rate. It presently stands at £486.98 per week for couples / lone parents and £326.29 per week for single people.

Because of the way the Benefit Cap operates, it impacts on benefit claimants who have high rents and/or large families. In Wolverhampton, where rent levels are reasonable, the Benefit Cap tends to affect only those with children.



When first introduced, families living in Wolverhampton with 5 or more children were affected. However, since the Benefit Cap was lowered, families with 3 or more children are being affected. In areas where there are high rents people may find themselves affected even if they have 1 or 2 children.

**Working Age:** A person will be considered to be of 'working age' if they are aged 16 or over but under State Pension Age. The State Pension Age is presently 66 for both men and women. However, there are plans to increase this to 67 between 2026 to 2028 and then 68 between 2037 and 2039.

## 2. Seek Help...

Anyone affected by the Benefit Cap should:

- seek advice on their options
- see if they should be exempt from the Benefit Cap - see below for more information on who is exempt from the Benefit Cap
- find out if they are eligible for a Discretionary Housing Payment - see below for details on how to apply for a Discretionary Housing Payment.

If you are working with someone affected by the Benefit Cap and you are not sure how best to proceed, then please contact our Specialist Support Team for advice:

☎ Telephone: (01902) 555351

✉ Email: [WRS@wolverhampton.gov.uk](mailto:WRS@wolverhampton.gov.uk)

The Specialist Support Team can advise on the options those affected by the Benefit Cap have available to them.



☎ Telephone: 0800 169 0145

Those actually affected by the Benefit Cap can ring the Department for Work and Pensions (DWP) Benefit Cap helpline on the above number for information and advice.

You may also like to go to this [LINK](#) for more information on the Benefit Cap.

## 3. How It Operates

The Benefit Cap operates by simply reducing the amount of weekly Universal Credit or Housing Benefit that would otherwise be payable by the amount someone's weekly benefit income exceeds the weekly Benefit Cap figure that applies to them. Typically, an unemployed couple can expect to receive the following amounts in weekly Universal Credit for day-to-day living.

Number of Children	Amount of Universal Credit and Child Benefit
One:	£230.26
Two:	£308.37
Three:	£386.48
Four:	£464.59
Five:	£542.70
Six:	£620.81

**Note:** The amounts could be lower depending on the age of the couple and when their children were born. Further, for families who have children born on or after 6.4.2017 then the amounts could be affected by the 'two-child limit'. Do seek further advice and information as necessary.



From the above table you can calculate the margin for Universal Credit (housing cost element) / Housing Benefit before the Benefit Cap bites. For example, under the original level of the Benefit Cap a family getting Universal Credit with three children could have a rent of up to £113.52 per week (£386.48 plus £113.52 = £500.00) before being affected.

Under the latest Benefit Cap figure the same family will only be allowed £33.98 for their rent (£386.48 plus £36.98 = £423.46).



The maximum amount that can be deducted under the Benefit Cap is in cases of **Universal Credit**, the amount of Universal Credit entitlement less any amount allowed within the Universal Credit assessment for childcare costs. In cases of **Housing Benefit**, the maximum amount deducted is the amount of overall Housing Benefit less 50p.

## 4. Exemptions

The Benefit Cap does not apply to those who do not get Universal Credit or Housing Benefit, irrespective of the overall amount in benefits paid to them. It should also not apply to those households where the claimant (or their partner) receives:

**A.** Universal Credit which includes an award of the Limited Capability for Work-related Activity Element because under the Work Capability Assessment they have been assessed as having Limited Capability for Work and Limited Capability for Work-related Activity

**B.** Universal Credit which includes an award of the 'Carer Element'

**C.** Universal Credit and have earnings (or combined net earnings in the case of a couple) of £722.45 or more per month after deductions for tax and National Insurance contributions

**D.** Employment and Support Allowance and the award includes the 'Support Component' because they have been assessed under the Work Capability Assessment as having Limited Capability for Work and Limited Capability for Work-related Activity

**E.** Attendance Allowance, Disability Living Allowance, Personal Independence Payment or Armed Forces Independence Payment

**F.** Carer's Allowance

**G.** Guardian's Allowance

**H.** Industrial Injuries Disablement Benefit, Reduced Earnings Allowance or Retirement Allowance

**I.** Working Tax Credit or they have been refused Working Tax Credit because their earnings are too high

**J.** a War Pension including a War Disablement Pension, War Widow's Pension, War Widower's Pension or similar payment made by an overseas country

**K.** a Guaranteed Income Payment or Survivor's Guaranteed Income Payment under the Armed Forces Compensation Scheme.

**Disabled Child / Young Person:** The Benefit Cap should not be applied in cases where the claimant (or their partner) get Disability Living Allowance or Personal Independence Payment paid to them on behalf of a disabled child or young person. It should equally not apply where a disabled child or young person for whom they are responsible (e.g. a child or young person for whom they get Child Benefit) receives Disability Living Allowance or Personal Independence Payment.



**Young Carers:** The Benefit Cap should not be applied in cases where the claimant (or their partner) are responsible for a child/young person aged 16 or over who gets Carer's Allowance in their own right because they are a carer.



The exemption for those getting Carer's Allowance or Guardian's Allowance did not originally apply. However, the DWP has said that these exempt categories have been introduced as part of the Government's strategy to "invest in and support carers" and those providing a "stable home" for children whose parents have died or been imprisoned or whose whereabouts are not known.

**The Grace Period:** The Benefit Cap should not be applied in cases of Universal Credit for a nine-month period (the 'grace period') where someone has finished work and during the previous 12 months, they (and/or their partner) had earnings of at least £722.45 per month (£658.00 per month - 2022/2023) after deductions for tax and National Insurance.

A similar exemption period applies in cases of Housing Benefit where someone has stopped work having previously worked for at least 50 weeks (out of the previous 52 weeks) and when they worked, they did not get Income Support, Jobseeker's Allowance or Employment and Support Allowance.

For the purposes of both Universal Credit and Housing Benefit a person would be treated as working whilst receiving Statutory Sick Pay or whilst on maternity leave, adoption, paternity or shared parental leave.

Do seek further information and advice as necessary.

## 5. Discretionary Housing Payment (DHP)...

Those getting Universal Credit (which includes the 'housing cost element' for rent/eligible service charges) or Housing Benefit who are affected by the Benefit Cap can apply to the City of Wolverhampton Council for a Discretionary Housing Payment (DHP) if the reduction in their Universal Credit/Housing Benefit causes them financial hardship or other difficulties of an unusual or exceptional nature.

The DHP budget is cash limited. The budget is not sufficient to help everyone who may be in need. Therefore, applicants need to know that any award will most likely be time limited and, in most situations, it will not necessarily cover the whole of the shortfall in their Universal Credit or the shortfall between their rent and the level of Housing Benefit payments. In most cases, any award of a DHP will be paid to enable the person affected to obtain further advice, seek an exemption from the Benefit Cap, adjust their finances, deal with a temporary difficulty, find employment or make a return to employment.

More information about the Discretionary Housing Payment scheme operated by the City of Wolverhampton Council for people living in Wolverhampton may be found on this [LINK](#). A person may also use the link to actually make an online application.

However, please note only people who actually get Housing Benefit or whose Universal Credit calculation includes an amount for rent/eligible service charges may apply for a Discretionary Housing Payment.



See this [LINK](#) for details of the Department for Work and Pensions' statutory guidance to local authorities on Discretionary Housing Payments.

## 6. Two Case Studies

**Example One:** Salima is a lone parent. She has three children aged 13, 12 and 9. Salima suffers from anxiety and depression. Her rent is £115.50 per week. She receives £2,111.51 per month (£478.27 per week) in total in benefits - Universal Credit which including an award of the 'limited capability for work element' (because she has been assessed as having limited capability for work prior to 3.4.2017) and money towards her rent plus her Child Benefit.

Salima would not have been affected by the original Benefit Cap of £500 per week. She is, however, affected by the current lower rate Benefit Cap. As a result, her Universal Credit payments will be reduced by £54.81 per week (£478.27 amount of weekly benefits less £423.46 amount of weekly Benefit Cap = £54.81 amount of reduction in Universal Credit).

This means that Salima is now £54.81 per week worse off under the current Benefit Cap than she would have been had the original £500 Benefit Cap had not been lowered.

**Example Two:** Jim and Kate live together and have three children aged 11, 9 and 4. The couple live in rented accommodation. Their rent is £510.00 per month. They receive £441.96 per week in Universal Credit (including money towards their rent) and Child Benefit. They only get Universal Credit for two children. This is because they are affected by the 'two-child' rule because their third child was born after 6.4.2017.

The couple were not affected by the original Benefit Cap of £500 per week. However, they are affected by the current lower £423.46 per week limit. Under the current lower-level Benefit Cap the couple's Universal Credit will be reduced by £18.50 per week (£441.96 amount of weekly benefits less £423.46 amount of weekly Benefit Cap = £18.50 amount of reduction to Universal Credit).

Jim and Kate are £18.50 per week worse off due to the Benefit Cap.



There has been a number of legal challenges against the Benefit Cap. However, even the challenge against the then, new lower-level cap, failed.

The Supreme Court ruled by 5 -2 majority that whilst the evidence showed that lone parents were disproportionately affected / affected the rights of children, the provision was not unlawful because it was not 'manifestly without reasonable foundation' within the context of a social welfare measure and that the policy aims were not without reasonable foundation.

R (on application DA) v SSWP [2019] UKSC 21 (15.5.2019)

## 7. Why Have a Benefit Cap...The Reasoning...

The aim of the Benefit Cap has been to:

1. increase incentives to work by limiting the amount of benefit that households on out-of-work benefits can receive so that they will be better off entering work
2. introduce greater fairness in the welfare system between those receiving out-of-work benefits and taxpayers in employment by preventing households on out-of-work benefits from receiving a greater income from benefits than the average weekly wage
3. make financial savings where the benefit cap applies and help make the benefit system more affordable by incentivising behaviours that reduce long-term dependency on benefits.

The Department for Work and Pensions first year report evaluation of the Benefit Cap held that there was consistent evidence of employment-focused behavioural change amongst those affected by the Benefit Cap and that movement into work for those households affected by the Benefit Cap was higher (19%) when compared to the numbers moving into work from similar households not affected by the Benefit Cap (11%).

Source: DWP report The Benefit Cap: A Review of the First Year (December 2014)



The Department for Work and Pensions (DWP) explained that the new lower Benefit Cap from November 2016 was introduced because the Benefit Cap "continues to provide a clear incentive to work" and has helped to "reduce long term" dependency on benefits.

In a report in response to the proposals to reduce the Benefit Cap, the Joseph Rowntree Foundation stated: “The evidence shows that out of 27,000 people affected so far by the Benefit Cap, only 2,000 managed to get work, the vast majority just got poorer.



Even where the cap does result in small numbers of people moving into work, if that work is low paid, insecure and unconnected to a ladder to better-paid work, it may not result in much improvement either in their living standards or in the cost to the country. In fact, there is evidence that pushing people into poor-quality work can reduce their chances of getting more stable, better-paid work later, meaning that they remain dependent on in-work benefits and are more likely to become unemployed again” and that “Based on the evidence so far, if the Benefit Cap was lowered the majority of people affected wouldn’t get work or move house - they would just get poorer.”

Source: JRF Response to Proposals to Reduce the Benefit Cap 27.1.2015



The Institute for Fiscal Studies estimated that when the Benefit Cap was first introduced, 50% of the households subjected to the Benefit Cap were made worse off by at least £46.00 per week and, in some cases, far more.

Source: Institute for Fiscal Studies: Coping with the Cap 15.12.2015

Number of Families Affected: In November 2018 the Benefit Cap affected 432 households in Wolverhampton of which 192 were Wolverhampton Homes tenants and 240 were private landlord/housing association tenants.

## 8. The Numbers...

A report by the DWP (dated 3.5.2018) providing data on the Benefit Cap nationally showed that in February 2018:

- 60,000 households where Housing Benefit was in payment were affected by the Benefit Cap (of which 78% were capped because of the new lower-level Benefit Cap)
- 4,700 households where Universal Credit was in payment were affected by the Benefit Cap
- 93% of those affected by the Benefit Cap were households with children
- 30% of households had their Housing Benefit capped by between £50.00 and £100.00 per week
- 15% of capped households were getting Employment and Support Allowance.



## 9. Information Guides and Fact Sheets

The Welfare Rights Service produces the following Information Guides and Fact Sheets on Social Security benefits and welfare reform.

### Benefits Information Guides:

1. Universal Credit
2. Universal Credit - Claims and Payments
3. Universal Credit - The Claimant Commitment
4. Universal Credit - Sanctions and Hardship Payments

5. Universal Credit and Vulnerable People - Claims and Payments
6. Universal Credit - Unable to Work Due to Ill-health or Disability
7. Universal Credit and The Work Capability Assessment - Toolkit
8. Personal Independence Payment
9. Personal Independence Payment - Toolkit
10. Form Filling: PIP2
11. Form Filling: ESA50 / UC50
12. DWP Social Fund
13. The Spare Room Subsidy
14. The Benefit Cap
15. Disputes and Appeals
16. Going to Appeal: First-tier Tribunals


## Benefits Fact Sheets:

1. Benefits and Work
2. Benefits and Disabled Children
3. Benefits and Young People
4. Benefits and Older People
5. Benefits and People from Abroad
6. Private Tenants and Universal Credit
7. Volunteering and Benefits

The information provided is designed to provide details of the different benefits that may be available to people in a variety of different situations including when they are in work, unable to work due to ill-health, unemployed or retired. It also seeks to inform people of the steps that may be taken should they wish to dispute a decision made surrounding their benefit entitlement.

A copy of the Information Guides and Fact Sheets may, together with other topical benefit information, be obtained from our [Social Security Benefits](#) page on the City of Wolverhampton Council website.

Please also watch out for our periodical **Benefits Bulletins** which provide news on the latest developments surrounding benefits and welfare reform. These are also available on the website.

 Telephone: (01902) 555351

 Email: [WRS@wolverhampton.gov.uk](mailto:WRS@wolverhampton.gov.uk)

Note: The details provided in this and our other Information Guides and Fact Sheets is meant to provide an overview on important and topical issues relating to Social Security benefits and welfare reform. The details should not be treated as an authoritative statement of the law. The details may be subject to change by new regulation and/or case law. Do seek further information and advice as necessary.

Welfare Rights Service  
Specialist Support Team  
City of Wolverhampton Council