

The Benefit Cap

Information Guide 12: For Residents and Advisers

July 2018

www.wolverhampton.gov.uk

1. Introduction

The Benefit Cap introduced a limit on the maximum amount of benefit some benefit claimants of 'working age' (meaning: people under the qualifying age for Pension Credit) may receive.

The Benefit Cap was first applied to benefit claimants in Wolverhampton from 15th July 2013. At that time the Benefit Cap was £500 per week for couples/lone parents and £350 per week for single people.

However, the Benefit Cap was lowered in 2016. For people living in Wolverhampton it was lowered to:

- **£384.62 per week** for couples and lone parents; and
- **£257.69 per week** for single people

When lowered the new Benefit Cap was applied to those already affected by the Benefit Cap from 7th November 2016 and from 2nd January 2017 for anyone else.

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

Number of Families Affected: At the current time, the Benefit Cap affects 432 households in Wolverhampton of which 192 are Wolverhampton Homes tenants and 240 are private landlord/housing association tenants.



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 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.

Getting Help...



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 affected by the Benefit Cap or working with someone who is affected by the Benefit Cap and you are not sure how best to proceed then contact the Specialist Support Team:

☎ Telephone: (01902) 555351

✉ Email: A&C.WRS@wolverhampton.gov.uk

The Specialist Support Team has a dedicated worker whose job it is to advise and assist those affected by the Benefit Cap.



People affected can ring the DWP Benefit Cap helpline for advice and information ☎ Telephone: 0800 169 0145. Those getting Universal Credit may ring ☎ Telephone: 0800 328 9344. People seeking more information about the Benefit Cap may also go to 🖥 Website: www.gov.uk/benefit-cap. There is also an on-line Benefit Cap calculator 🖥 Website: www.gov.uk/benefit-cap-calculator which people can use to see whether they are likely to be affected and, if so, by what margin.

3. How It Operates

The Benefit Cap operates by simply reducing the amount of weekly Housing Benefit or Universal Credit that would otherwise be payable by the amount their weekly benefit income exceeds the weekly Benefit Cap figure. Typically, an unemployed couple can expect to receive the following amounts in weekly benefit for day-to-day living depending on whether they are getting Income-based JSA or Universal Credit:

Number of Children	Jobseeker's Allowance, Child Tax Credit and Child Benefit	Universal Credit and Child Benefit
One:	£199.32	£199.28
Two:	£266.34	£266.29
Three:	£333.36	£333.30
Four:	£400.38	£400.31
Five:	£467.40	£467.32
Six:	£534.42	£534.33

From this you can calculate the margin for Housing Benefit/Universal Credit before the Benefit Cap bites. For example, under the old level of the Benefit Cap a family with three children could have a rent of up to £166.64 per week ($£333.36 + £166.64 = £500.00$) before being affected. Under the new, lower Benefit Cap the same family will only be allowed £51.65 for their rent ($£333.36 + £51.64 = £384.62$).

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



4. Exemptions

The Benefit Cap does not apply to those who do not get Housing Benefit or Universal Credit. It should also not apply to those households where the claimant (or their partner) receive:

- A.** Employment and Support Allowance and the award includes the 'support component'
- B.** Universal Credit which includes an award of the 'limited capability for work-related activity' element
- C.** Working Tax Credit (WTC) or they have been refused WTC because the level of their earnings is too high
- D.** Universal Credit and have net earnings of £542 or more per month
- E.** Attendance Allowance, Disability Living Allowance, Personal Independence Payment or Armed Forces Independence Payment
- F.** Disability Living Allowance or Personal Independence Payment for a child/young person
- G.** Carer's Allowance
- H.** Universal Credit which includes an award of the 'carer element'
- I.** Guardian's Allowance
- J.** Industrial Injuries Disablement Benefit (or Reduced Earnings Allowance or Retirement Allowance)
- K.** a War Pension.

An exemption for those getting Carer's Allowance or Guardian's Allowance did not originally apply. However, the DWP have 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 where parents have died or been imprisoned or whose whereabouts are not known.



The Benefit Cap will also not apply for a 39 week 'grace period' where the claimant (or their partner) have previously been in paid employment/self-employment for at least 50 weeks (during which their earnings were at least £524.00 per month) out of the previous 52 weeks and during the 50 weeks they did not get Income Support, Jobseeker's Allowance or Employment and Support Allowance. For this purpose, 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. DHP (Discretionary Housing Payment)

Those getting Housing Benefit or Universal Credit who are affected by the Benefit Cap can apply to the City of Wolverhampton Council's Revenues and Benefits Service for a Discretionary Housing Payment (DHP) if the reduction in their Housing Benefit/Universal Credit 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 between their rent and the level of Housing Benefit/Universal Credit.

In most cases, any award of a DHP will be paid to enable the person affected to get further advice, seek an exemption, adjust their finances, deal with a temporary difficulty, find employment or make a return to employment.

A person needs only apply for a DHP once they have been made aware that they will be affected by the Benefit Cap. An application may be made by either:

☎ Telephone: (01902) 551166

✉ Email: city.direct@wolverhampton.gov.uk

Alternatively, a person may write to: Revenues and Benefits Service, PO Box 250, Wolverhampton WV2 1AX.

A copy of the Discretionary Housing Payment application form may be obtained on-line via the following link:

www.wolverhampton.gov.uk/article/6760/Discretionary-Housing-Payment-DHP

Only people who get Housing Benefit or whose Universal Credit calculation includes an amount for rent/eligible service charges may apply for a Discretionary Housing Payment.



6. Two Case Studies

Example One: Jim and Kate: Live together and have three children. They receive £333.36 per week in Jobseeker's Allowance, Child Benefit and Child Tax Credit. The couple live in rented accommodation. Their rent is £115.00 per week which is being met by Housing Benefit.

Therefore, the value of the couple's overall benefit income has been £448.36 per week. The couple were not affected by the former Benefit Cap of £500 per week.

However, they are affected by the new lower £384.62 per week limit. Under the new Benefit Cap the couple's Housing Benefit will be reduced by £63.74 per week (£448.36 amount of weekly benefits less £384.62 amount of weekly Benefit Cap = 63.74 amount of reduction to Housing Benefit). This means that the couple will need to make up the shortfall between their rent and new Housing Benefit figure (i.e. £51.26 per week) from their £448.36 per week benefit income. Jim and Kate are £51.26 per week worse off due to the Benefit Cap.

Example Two: Salima: Is a lone parent. She has three young children. Salima suffers from anxiety and depression. Her rent is £98.50 per week. She receives £419.03 per week in Universal Credit and Child Benefit. Her Universal Credit award includes the 'limited capability for work' element and money for her rent. Salima was not affected by the former Benefit Cap of £500 per week. However, she is affected by the new lower rate Benefit Cap. As a result, her Universal Credit payments will be reduced by £34.41 per week (£419.03 amount of weekly benefits less £384.62 amount of weekly Benefit Cap = £34.41 amount of reduction in Universal Credit). This means that Salima will need to make up the shortfall between her rent and new Housing Benefit figure (i.e. £34.13 per week) from her £320.63 per week benefit income. Salima is £34.13 per week worse off due to the Benefit Cap.

Child Poverty Action Group (CPAG) is taking legal action in the Supreme Court (in *R (DS and Others) v SSWP* and *R (DA and Others) v SSWP*) against the revised lower Benefit Cap. The argument by CPAG is that the lower Benefit Cap is unlawful because it discriminates against women and the children of lone parents. It is CPAG's contention that the new lower level cap disproportionately impacts on lone parents and their children, who are far more likely to be capped (nationally approximately 72% of all capped families are lone parents) and are least likely to be able to avoid its effects due to their caring responsibilities. CPAG claim that there is evidence to show that the new lowered cap is having a stark adverse effect on vulnerable non-working families. A ruling is expected later in the summer/early autumn.

7. Reasoning...

The specific aim of the Benefit Cap is 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; and
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 Pension's 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 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.

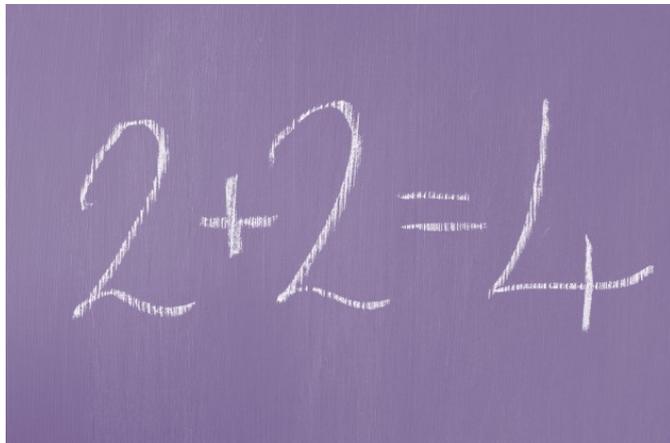
Source: Institute for Fiscal Studies: *Coping with the Cap* 15.12.2015

9. The Numbers...

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

- 60,000 (of which 78% were capped because of the new lower level Benefit Cap) households where Housing Benefit was in payment were affected by the 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.



10. Information Guides

The City of Wolverhampton Council's Welfare Rights Service produces the following guides on benefits and welfare reform:

1. Universal Credit
2. Universal Credit - Claims and Payment
3. Universal Credit - The Claimant Commitment
4. Universal Credit - Sanctions and Hardship Payments
5. Universal Credit - Work Capability Assessment - Toolkit
6. Employment and Support Allowance
7. ESA - Work Capability Assessment - Toolkit
8. Personal Independence Payment
9. Personal Independence Payment - Toolkit
10. Form Filling - PIP2 and ESA50/UC50
11. Benefits for Young People
12. The Benefit Cap
13. The Spare Room Subsidy
14. DWP Social Fund
15. Local Welfare Assistance
16. Benefits and People from Abroad
17. JSA Sanctions
18. ESA Sanctions

19. Disputes and Appeals

20. Going to Appeal: First-tier Tribunals

21. Useful Contacts and Websites

If you would like a copy of any of the above Information Guides or you are in need of information and/or advice on a benefits or welfare reform matter, then please contact our Specialist Support Team:

☎ Telephone: (01902) 555351

✉ Email: A&C.WRS@wolverhampton.gov.uk

The details provided in this Information Guide are meant to provide a guide on the Benefit Cap. 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.