

## Adjournment Debate: High Court ruling on benefit cap

### Summary:

Shelter helps millions of people every year struggling with bad housing or homelessness – and we campaign to prevent it in the first place. We're here so no one has to fight bad housing or homelessness on their own.

The High Court recently ruled that the revised benefit cap was unlawful, in so far as it applied to lone parents with children under the age of two. Shelter intervened in the case, presenting evidence about how families would struggle to avoid the cap by moving, and how in some areas the benefit cap means that families do not even have enough money to cover the rent of even the cheapest private rented home, let alone enough for food and essentials.

Shelter welcomed the recent ruling and continues to recommend that the Government review the benefit cap policy and exempt families that will struggle to move or find work, such as homeless families and single parents with very young children.

### High Court ruling

- On 22nd June, the High Court ruled that the revised benefit cap was **unlawful**, in so far as it applied to **lone parents with children under the age of two**. The cap of £20,000, or £23,000 in London, is imposed on the benefits received by those not working at least 16 hours a week (24 if a couple).
- The case was brought on behalf of four lone parents who claimed the new lowered cap discriminates against the most vulnerable in society, who frequently struggle to pay for child care or have zero-hours contracts and cannot control whether they reach the required number of weekly hours to be exempt from the cap. Lone parents with children under two **do not qualify for free childcare** and so find it very difficult, often impossible, to work the minimum 16 hours a week required to evade the cap and also find adequate, affordable childcare.

### Shelter's view of the Benefit Cap

- Shelter **opposes the benefit cap** because it **does not take into account the high and variable costs of housing** and leaves families vulnerable to poverty and homelessness.
- As a provider of housing advice and support, Shelter has seen families in rent arrears facing eviction, and even parents unable to feed themselves. Shelter has seen first-hand **the impossible situation households are put in due to the benefit cap: unable to move to a cheaper property and unable to find the required hours of work per week**.
- **More than half** of the households affected by the original cap were single parents with children below school age, who face the most barriers to work, and are recognised by the benefit system as **not being active job seekers for this reason**.

- Shelter's analysis shows that the reduced cap **prices unemployed households out of large swathes of the country** and smaller families living in modest homes will experience very large reductions in their housing benefit.

**Shelter recommends that the Government review the benefit cap policy and exempt families that will struggle to move or find work, such as single parents with very young children. They should also exempt homeless families in temporary accommodation who are unable to move and who face additional barriers to finding work.**

### **Key issues with the current benefit cap policy**

#### **1. Childcare responsibilities are a major barrier to work**

The majority of households affected by the cap have dependent children and would need childcare to work. Under the £26,000 cap, over half (53%) of households affected were **single parents with children below school age (under 5)**. More than two in five households affected by the original cap said the availability or cost of childcare was a barrier to getting into work

Contradictions in the welfare system mean that many households are told not to seek employment, but as a result of the cap are **left with little choice but to find work if they cannot move**. These households face profound barriers to work, therefore if they cannot move, they are vulnerable to rent shortfalls, arrears, repossession and homelessness.

#### **2. People are unable to move to a cheaper area to avoid the benefit cap**

The benefit cap is designed encourage people to move to more affordable properties. Government analysis has found that the original benefit cap **has not significantly increased** the proportion of claimants moving home.

Further analysis found people experienced **difficulties in finding private landlords who would accept anyone on housing benefit**, and finding anywhere they could afford. The lower cap makes it considerably harder to move to more affordable property. Modelling of the possible impact of the cap suggests that households will be affected even in the cheapest areas of the country.

- Shelter research shows that for two parent families with two young children sharing a room (i.e. a two bedroom flat), their benefits would be capped in **over half of areas in England** (89 out of 152), including most of London and major cities like Leeds, Bristol, Manchester and Birmingham.
- Two-parent families with two older children needing separate bedrooms have their benefits capped in over **three quarters of the country** (120 out of 152), including areas that have never previously been considered expensive such as Coventry, Plymouth and Northampton.
- Single-parent families with three children would be hit by the cap in **all parts of England**. Even if these families tried to avoid the cap by overcrowding into a two-bedroom home (all three children sharing a bedroom), they would still be hit by the cap in 92% of the country.

It is also difficult for affected households to avoid the cap by moving into cheaper social housing. Social housing, traditionally seen as a more affordable option, is **increasingly scarce and difficult to access**. Almost two-thirds of local authorities now say it is difficult to access social tenancies for their homeless applicants.

### 3. Discretionary Housing Payment does not provide certainty for affected households

In 2015, the DWP increased the Discretionary Housing Payment (DHP) budget to £800m. DHP can be used to cover housing benefit shortfalls to prevent homelessness. However, DHPs by their nature are discretionary and therefore do not provide certainty to cover housing costs.

DHPs can be difficult to obtain and there is little understanding about why people's applications for DHP get rejected. Shelter clients have reported difficulties trying access DHP. In many cases, councils are failing to acknowledge requests for DHP. Our figures show that **four in 10 clients (40%) were waiting between a fortnight and four weeks for a response**, while 15% were waiting for more than four weeks. Of the people who were given a decision, just under half (47%) were awarded a DHP.

### 4. Local authorities are picking up the bill for homeless people affected by the cap

Local authorities have a duty to provide temporary accommodation (TA) for homeless families if no settled accommodation can be secured straight away. The majority of families in TA are entitled to housing benefit. Because housing benefit for TA is included in the cap, councils find they increasingly either have to **move homeless families out to a cheaper local authority area** or **fund the shortfall out of their own budgets**.

Our research using Freedom of Information (FOI) requests, shows that in England, households living in temporary accommodation are **losing a combined total of at least £353,864 a week because of the benefit cap**. Local authorities are subject to rules about the affordability of the accommodation they place people in, which suggest that councils themselves will cover a great proportion of these losses. London authorities in particular may have to cover unsustainable shortfalls.

Our research shows that capped households in TA have greater shortfalls in their housing benefit than those that are not in TA. In England, households overall have been capped on average by £57.79 a week, according to data provided by councils. However, for those in TA, this figure rises to £101.34 a week.

### 5. The benefit cap does not address the underlying causes of housing benefit rates

The cap does nothing to tackle the underlying causes of unaffordable housing and high housing benefit costs. Rents, including those at the lowest end of the market, have risen year on year since the introduction of the cap in 2013. Tenants are still liable to pay high rents but they have lost financial support to meet them. The DWP found **that just 1% of capped households had renegotiated a lower rent** with their landlord as a result of the original benefit cap.

It should be noted that there are already mechanisms for the restriction of welfare payments. The Local Housing Allowance (LHA) rate is restricted to the bottom third of the private rented market, and national caps restrict this payment even further. The government is also preparing to limit housing benefit in social housing to the LHA rate in the future. Additionally, support through child tax credit and Universal Credit is limited to two children from April 2017. With these tools already at the government's disposal, **the benefit cap is unnecessary**.

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