HOUSE OF COMMONS LIBRARY

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The Benefit Cap

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Summary

As part of the October 2010 Spending Review the Coalition Government announced an intention to cap total household benefits at £500 per week for a family (£26,000 per year) and £350 per week (£18,200 per year) for a single person with no children. Households with income from benefits in excess of these caps would experience a reduction in their Housing Benefit entitlement.

Measures to introduce the cap were included in sections 96 and 97 of the *Welfare Reform Act 2012* and the *Benefit Cap (Housing Benefit) Regulations 2012.* Implementation was somewhat delayed but it was fully rolled out by September 2013. Provision for a benefit cap was also included in the *Universal Credit Regulations 2013*.

The benefit cap was one of the Coalition Government's welfare reform measures aimed at deficit reduction. The key aims were to:

- increase incentives to work;
- introduce greater fairness into the welfare system between those on out-of-work benefits and taxpayers in employment; and
- Make financial savings and incentivise behaviours that reduce long-term dependency on benefits.

Between its introduction and August 2016, 79,000 households experienced a reduction in their Housing Benefit as a result of the cap. As expected, most of the affected households were larger families and those living in high rent areas – 44% were in London. Of those affected by the cap since its introduction, 59,000 (75%) were no longer capped at August 2016. Of this group, 23,000 had started claiming Working Tax Credit, 14,000 had stopped claiming Housing Benefit or were in receipt of reduced Housing Benefit, and 12,000 had claimed another benefit that exempted them from the cap.

A commitment to reduce the cap from £26,000 to £23,000 was included in the Conservative Party's 2015 Manifesto after being initially announced as part of a package of measures aimed at funding three million apprenticeships during the Party's 2014 Conference. Summer Budget 2015 confirmed the Government's intention to reduce the cap for families to £23,000 in London (£15,410 for single people) and £20,000 (£13,400 for single people) outside the capital.

Households benefit cap levels (£)

	Single		Family	
	Per annum	Per week	Per annum	Per week
Previous cap				
GB	18,200	350	26,000	500
New, lower cap				
London	15,410	300	23,000	440
Rest of GB	13,400	260	20,000	380

Measures to implement the lowering of the threshold were in the *Welfare Reform and Work Act 2016.* In addition to emphasising the number of households no longer affected by the cap as an indication of its success in incentivising work, the Government has referred to wide public support for the cap. Detailed information on the Bill's provisions

can be found in section 4 of Library Briefing Paper 07252, Welfare Reform and Work Bill [Bill 51 of 2015-16]. Information on amendments tabled during the Bill's Committee Stages in the Commons can be found in Library Briefing Paper 07352, Welfare Reform and Work Bill 2015-16 Committee Stage Report.

An updated Impact Assessment published in August 2016 estimates that, in the absence of any "behavioural response" from claimants, 88,000 households will be affected by the benefit cap when the reductions take effect, compared with around 20,000 under the previous policy. Around a third of the affected households are expected to be in London or the South East, although the cap will also – for the first time – begin to affect substantial numbers of households in other parts of Great Britain. Outside London, Birmingham is the local authority with the highest number of affected households under the new benefit cap (3,900), followed by Manchester (1,200), Leeds (1,100), Cardiff and Glasgow (around 1,000 households each).

The average (mean) reduction in benefit is estimated at around £60 a week, assuming no behavioural response from those affected. Modelling suggests that around two-thirds of claimants likely to have their benefit reduced will be single females, and that 61% of claimants will be female lone parents. The Government states that if households respond in a similar way to those affected by the previous cap, "we might expect to see those impacted by the cap being 41% more likely to go into work than a similar group who fall just below the cap's level." The Institute for Fiscal Studies observes however that the evidence suggests that only around 5% of those affected by the introduction of the previous cap responded by moving into work.

Households affected by the benefit cap reductions will have their claims reassessed over a 12 week period starting from 7 November 2016. The Department for Work and Pensions wrote to potentially affected claimants between 19 and 30 September, to inform them that they could be subject to the cap (Universal Credit claimants were to be notified separately, either face to face, by letter or online).

Social landlords, whose tenants are heavily reliant on Housing Benefit to meet their rent commitments, are concerned that a lower benefit cap will render a substantial number of their homes, particularly those let on affordable rents (up to 80% of market levels), unaffordable in London and the South East. In turn, they argue that an insecure rental stream could have implications for attracting private funding for the development of new affordable housing.

The benefit cap was not introduced in Northern Ireland until 31 May 2016. Starting from 7 November 2016, the cap in Northern Ireland will be reduced to the same rates applicable in Great Britain (outside London). The same rules apply in Northern Ireland as in Great Britain, but a system of Supplementary Payments will mitigate the impact of the benefit cap in Northern Ireland for families with children, at least until 31 March 2020.

1. The original benefit cap

1.1 Background

As part of the October 2010 Spending Review, the Coalition Government announced an intention to cap total household benefits at £500 per week for a family and £350 per week for a single person from 2013. It was expected that the cap would apply nationally from April 2013 but on 19 December 2012 the Government announced a phased roll-out. Croydon, Haringey, Bromley and Enfield Councils were the first authorities to apply the benefit cap from April 2013 to "enable DWP to ensure a measured approach to the roll out of the cap."[1] National implementation was managed over a 10 week period split into two tranches:

- Tranche 1 included all local authorities with 275 households or fewer - capping commenced on 15 July 2013.
- Tranche 2 included all local authorities with 276 or more households to be capped – capping commenced in the week of 12 August 2013.

On 27 September 2013 the DWP reported that the cap had been successfully rolled-out nationwide.[2]

Setting the level of the cap

The explanatory memorandum to the draft *Housing Benefit (Benefit Cap) Regulations 2012* explained the basis on which the level of the cap had been set:

> The 2010 Spending Review announced that from 2013 household welfare payments will be capped on the basis of median earnings after tax and national insurance contributions for working households. An estimate for this was produced using the Department for Work and Pensions' Policy Simulation Model.2F In line with this and with figures used in Parliamentary debates during the passage of the Welfare Reform Bill the Government has decided that the level of total entitlement to welfare benefits will be capped at £500 a week for couples and lone parent households. The level of entitlement for single adults will be capped at £350 per week. Again this was the estimate used during Parliamentary debates and is approximately 70% of the couple rate and is in line with the Organisation for Economic Co-operation and Development's (OECD) equivalisation factors which adjust incomes to take into account both the size and composition of households.[3]

Calculating the cap: included and excluded benefits

Whether or not a household exceeds the cap is determined by adding together all the included benefits that an individual, their partner, and any children they are responsible for and who live with them, are

1 HB/CTB Bulletin G12/2012
2 DWP Press Release, 27 September 2013
3 DWP, Explanatory memorandum, June 2012

entitled to. The calculation does not include the benefits of non-dependants.[4]

The following benefits **are** taken into account for the benefits cap:

- Bereavement Allowance/ Widowed Parent's/Mother's Allowance
- Child Benefit
- Child Tax Credit
- Employment and Support Allowance (contributory or income-related), except where the Support Component has been awarded
- Housing Benefit, except where this is paid for kinds of supported accommodation[5]
- Incapacity Benefit
- Income Support
- Jobseeker's Allowance (contribution-based or income-based)
- Maternity Allowance
- Severe Disablement Allowance
- Widow's Pension
- Universal Credit,[6] except where the award includes the limited capability for work-related activity component

Any benefits or other income not included in the above list are **not** taken into account for benefits cap purposes.

Prior to 7 November 2016, Carer's Allowance and Guardian's Allowance counted towards the benefit cap, but from that date households including someone entitled to one of these benefits – or the carer element in Universal Credit – have been exempt from the cap.[7]

Claimants in receipt of certain benefits and payments are **exempt** from the cap:

> **Entitlement to Working Tax Credit:** In order to increase the incentive to find a job or increase hours worked, all benefit households which are entitled to Working Tax Credit (WTC) will be excluded from the cap. This includes households who are working sufficient hours to qualify for WTC but whose earnings are so great that they have been awarded a "nil entitlement."
>
> **Receipt of Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Industrial Injuries Benefits (and equivalent payments made as part of a war disablement pension or the Armed Forces Compensation Scheme) or the Support Component of Employment and Support Allowance:** This is in recognition of the additional financial costs that can arise from disability and that disabled people will have less scope to alter their spending patterns or reduce their housing costs.
>
> **War Widows and Widowers:** An exemption will apply to any war widow or widower who is in receipt of a pension paid under the relevant parts of the War Pension Scheme, Armed Forces Compensation Scheme or analogous schemes. This supports the

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4 A non-dependant is someone who normally lives with the benefit claimant such as an adult son, daughter, relative or friend.
5 See the *Benefit Cap (Housing Benefit) (Amendment) Regulations 2013* (SI 2013/546)
6 Less any amount payable for childcare costs
7 For further background to these changes see "Legal challenges" in section 1.4 below

> aim of the Armed Forces Covenant to recognise sacrifice of those seriously injured or killed in the service of their country.[8]

And, as noted above, since 7 November 2016 households including someone entitled to **Carer's Allowance** or **Guardian's Allowance** – or the **carer element in Universal Credit** – have also been exempt from the cap.[9]

Households on **Universal Credit** not in receipt of one of the above "exempt" benefits will not be subject to the cap if the claimant or their partner is working and their total net earnings are at least £430 a month.

A nine-month "**grace period**" operates during which the cap does not apply to certain claimants who were previously in work. For Housing Benefit claimants, the grace period applies if they (or their partner) were in work for 50 out of the 52 weeks immediately before the last day of work, and they were not entitled to Income Support, JSA or ESA during this time. For households on Universal Credit, the grace period applies to those previously in work who earned at least £430 a month for 12 months, but who are no longer earning this amount.

Applying the cap

The cap was, in the first instance, administered by local authorities and operated by reducing the claimant's Housing Benefit entitlement where their total amount of benefit entitlement (excluding certain specified benefits) exceeded £500 per week for a family or £350 per week for a single person. Once households have been transferred to Universal Credit, the cap will apply to their combined income from Universal Credit and benefits, including Child Benefit. There is no right of appeal against the decision to apply the benefit cap but claimants can request a review if they think the cap has been calculated incorrectly.

Provisions to enable implementation of the cap were contained in the *Welfare Reform Act 2012*. The *draft Housing Benefit (Benefit Cap) Regulations 2012* were published for consultation and referred to the Social Security Advisory Committee (SSAC) in June 2012. Subsequently, the (renamed) *Benefit Cap (Housing Benefit) Regulations,* which were subject to the affirmative resolution procedure, were laid on 16 July 2012 and considered in both Houses on 6 November 2012. The final *Benefit Cap (Housing Benefit) Regulations 2012* (SI 2012/2994) set out:

- the level of the benefit cap;
- how a household's overall entitlement to welfare benefits for comparison with the cap will be calculated;
- what benefits will or will not be taken into account;
- how any reduction will be applied;

8 DWP, Explanatory memorandum, June 2012
9 See "Legal challenges" in section 1.4 below

- exemptions;
- the relationship between the cap and benefit sanctions and other deductions;
- rules on decision-making and appeals.

The DWP published an explanatory memorandum on the draft Regulations for use by the SSAC. *The Universal Credit Regulations 2013* provide for an overall benefit cap within Universal Credit (UC). UC is in the process of being phased in – roll-out is not expected to be complete until 2022.

1.2 Rationale

The original Impact Assessment for the Household Benefit Cap explained the thinking behind it:

> The objective of the policy is to restrict the total amount of money a non-working household can receive to broadly the level of the average earned income of working households, after tax and national insurance contributions have been deducted. By doing this the policy will:
>
> - sit alongside the other measures announced in the 2010 Spending Review to make the system fair and affordable as workless households will no longer receive more in benefits than the average working family receives in pay;
> - deliver fiscal savings;
> - improve working incentives for those on benefits; and
> - deliver fairness to the taxpayer in work.[10]

During the passage of the *Welfare Reform Bill 2010-12* through Parliament, Lord Freud, Minister for Welfare Reform, stressed the intention to effect behaviour changes through the benefit cap:

> The benefit cap provides a clear, simple message that there has to be a maximum level of financial support that claimants can expect the state to provide. The aim of this policy is to achieve positive effects through changed attitudes to welfare, responsible life choices and strong work incentives. People must be encouraged to take responsibility for their decisions in light of what they can afford.[11]

On Report in the House of Lords the Minister also referred to public support for the cap:

> I would like to make some general points about the rationale for the household benefit cap. First, there is a principled point that households should not be able to receive more on benefits than the average working family in Great Britain earns in work. Secondly, people on benefits should face the same choices as working families, including about where they can afford to live. Thirdly, someone in work should always be better off than

10 Impact Assessment for the Household Benefit Cap, updated in July 2012, para 7
11 HC Deb 21 November 2011 GC345

> someone on benefits. The proposed cap of £500 a week is equivalent to an annual salary of £35,000 a year before tax. We have set the cap at the median earned income for working families after tax and national insurance. We think this is a reasonable representation of average household earnings.
>
> I ask noble Lords to consider how well these principles are received by the public at large. They will have seen press reports of a YouGov survey that found that 76 per cent of the public are in favour of the benefits cap. The overwhelming majority of people think there should be a limit to the amount of benefit those out of work can receive. We have received many representations that we are pitching the level of the cap far too high. In fact, only 7 per cent of respondents in today's YouGov survey think that the cap should be higher than £26,000. Another 9 per cent think there should be no cap, so of the people who answered the survey, 69 per cent thought that the cap as we have set it or below that amount is the right figure. Of those who expressed an opinion, the figure is above 80 per cent, or above four-fifths. The truth is that people do not understand why we pay claimants more money when they are out of work than they could reasonably expect to earn from working full time.[12]

1.3 Numbers and characteristics of affected households

Expected impact

The Impact Assessment for the Household Benefit Cap, published alongside the *Welfare Reform Bill 2010-12* (and subsequently updated in January and July 2012), advised that the cap would affect large families (mainly with three or more children) who are out of work, and households in high rent areas who receive substantial Housing Benefit payments.[13] It was initially estimated that around 56,000 households would have their Housing Benefit reduced as a result of this measure in 2013/14 (representing around 1% of the out-of-work caseload) and 58,000 in 2014/15. Revised figures were published in April 2013 – after taking account of the removal of Supported Exempt Accommodation from the cap, and policy changes such as restrictions on benefit uprating, together with methodological improvements, the estimate of the number of affected households in 2013/14 was revised down to 40,000.[14]

It was expected that 46% of those affected would live in the social rented sector and 54% in the private rented sector. The Impact Assessment provided a more detailed analysis of the likely location of affected households:

> A large majority of households affected (52,000) are in England. Around three per cent of affected households are in Wales (around 1,500); and around four per cent are in Scotland (around 2,500);

12 HL Deb 23 January 2012 c806
13 Impact Assessment for the Household Benefit Cap, updated July 2012, para 14
14 DWP, Ad hoc statistics on Households identified as potentially impacted by the benefit cap, April 2013

> By region, 49 per cent of affected households are in Greater London. The shares of other English regions are all less than ten per cent, with the South East having 9 per cent (5,000) and the North West and West Midlands both 7 per cent (4,000) and all other regions less than that;
>
> By local or unitary authority, almost three quarters of areas have fewer than 100 households affected. The local authorities with more than 1,000 households affected (in the year 2013/14) are as follows: Birmingham, Brent, Ealing, Enfield, Hackney, Haringey, Newham, Redbridge, Tower Hamlets, the City of Westminster.
>
> In Scotland, one-third of households affected are in the cities of Glasgow or Edinburgh, with the remaining areas having fewer than 200 households each, and in the majority of cases fewer than 100 households. The number of adults in affected households in Scotland is around 3,500, and the number of children around 7,000.
>
> In Wales, around one in five capped households are in Cardiff, with almost all the remaining areas having fewer than 100 households affected. The number of adults in affected households in Wales is around 2,500, and the number of children around 6,000.[15]

The original Impact Assessment set out the key non-monetised costs identified by the DWP:

> The cap is likely to affect where different families types will be able to live. Housing Benefit may no longer cover housing costs and some households may go into rent arrears. This will require expense and effort by landlords and the courts to evict and seek to recoup rent arrears. Some households are likely to present as homeless, and may as a result need to move into more expensive temporary accommodation, at a cost to the local authority. It is not possible to quantify these costs because they are based on behavioural changes which are difficult to assess robustly.[16]

The Children's Society published a briefing on the expected impact of the cap on children in which they concluded that it would have a disproportionate effect on children compared to adults. The key identified risks for children were the threat of homelessness, falling into severe poverty, and experiencing lower levels of well-being.[17]

An Equality Impact Assessment on the cap was published in October 2011 and updated in July 2012: Household benefit cap – equality impact assessment. The assessment contained the following information on people with protected characteristics under the *Equality Act 2010* who were expected to be affected by the benefit cap:

> Of the households who lose from this policy, based on internal modelling, we expect roughly half will contain somebody who is classed as disabled under the Equality Act.
>
> **Ethnicity:** A large proportion of those affected are likely to be large families, implying that households from cultural backgrounds with a high prevalence of large families and households from certain ethnic minorities that tend to have a higher proportion of large families are more likely to be affected.

15 Ibid., para 16
16 Page 2
17 Children's Society, Distributional impact of the benefit cap, 2011

> We estimate that of the households likely to be affected by the cap approximately 40% will contain somebody who is from an ethnic minority. By comparison, the Department's statistics show that 17% of Jobseeker's Allowance claimants, 16% of the lone parents claiming Income Support and 9% of Employment and Support Allowance can be identified as being from the ethnic minorities.[18]

The Assessment went on to describe measures the Government was taking as mitigation against the impact of the cap: these included:

- providing support to find employment;
- exempting payments to support childcare costs through Universal Credit from the cap;
- Discretionary Housing Payments (DHPs);[19]
- exemptions; and
- allowing a "grace" period.[20]

Recent statistics

DWP releases regular statistics showing the number of households in Great Britain affected by the benefit cap since introduction in April 2013. Two datasets are available: *point-in-time* caseload data, showing the total number of households currently capped in any given month, and *cumulative data*, showing the total number of households ever affected by the cap to-date.

See Section 2.3 for statistical comparison of families affected by the original, higher cap and those affected by the new, lower cap

As of August 2016 around 20,000 households in Great Britain were currently affected by the (original) benefit cap. Of these:[21]

- 13,000 (67%) were single parent families, of whom 10,000 had at least one child under 5, and 2,200 had a child under 1
- 12,000 (60%) had between 1 and 4 children and 6,900 (35%) had 5 or more children
- 14% were claiming Jobseeker's Allowance, 54% were claiming Income Support, and 14% were claiming Employment and Support Allowance (at the assessment stage, or in the Work-Related Activity Group)
- 12,000 were capped less than £50 a week, 5,000 were capped between £50 and £100 a week, and 3,000 were capped more than £100 a week

The August 2016 total is around 8,400 households fewer that the total number currently capped in December 2013, when the number of households affected by the (original) benefit cap peaked at around 28,400. This is a 30% fall. Over the same period, the number of couples with child dependents currently capped has fallen by 47%, compared to

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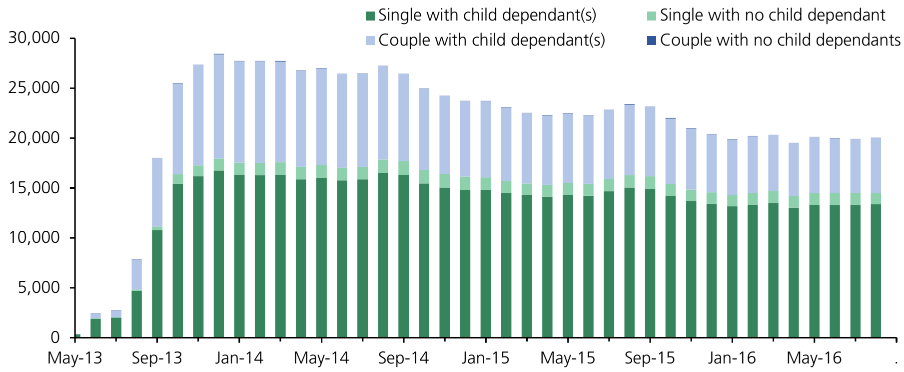
18 DWP, Household benefit cap – equality impact assessment, July 2012, para 17
19 DHPs can provide further financial assistance to claimants receiving Housing Benefit when an authority considers that additional help with housing costs is required. The Government published revised guidance for authorities on issuing DHPs in April 2014: Discretionary Housing Payments – Guidance Manual.
20 DWP, Household benefit cap – equality impact assessment, July 2012
21 DWP, Benefit Cap statistics: Data to August 2016, 3 November 2016

a 20% fall in the number of single parent households with children dependents currently capped.

The chart over page shows the number of households, by type, currently capped by month May 2013 to August 2016. Note this is *point in time* caseload data, showing the number of households to whom the cap has been applied in any given month. Therefore, a household affected by the cap for 8 successive months would appear in the chart each month whilst capped.

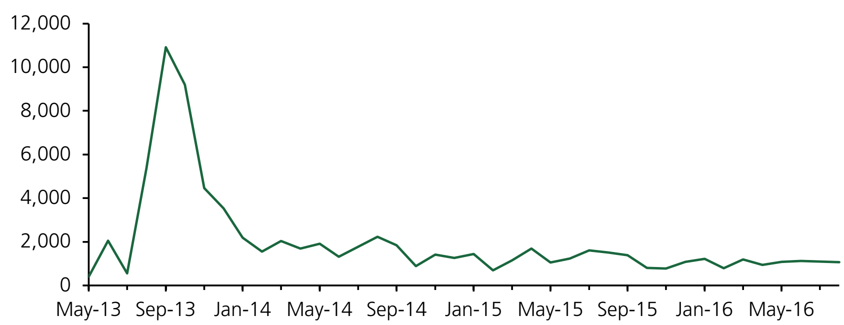
Households affected by the benefit cap, May 2013 to August 2016



Notes Households affected by the original benefit cap; point-in-time caseload data showing number of households capped in any given month
Source DWP Stat Xplore, Benefit Cap point-in-time dataset

Examining *cumulative* caseload data in the chart below, alternatively, shows the number of households *newly capped* by month. That is, the chart below shows the number of households *capped for the first time* by month. The chart shows that the number of households capped for the first time peaked in September 2013 at around 11,000 newly capped households. Since January 2014 to August 2016, in contrast, the number of households newly capped has fluctuated between 500 and 2,000 a month.

Households newly capped by month, May 2013 to August 2016



Notes On-flow data showing the number of households capped for the first time by month; data for the original benefit cap
Source DWP Stat Xplore, Benefit Cap cumulative dataset

Between its introduction and August 2016, a total of 79,000 households had their benefits capped, and of those, 44% were in

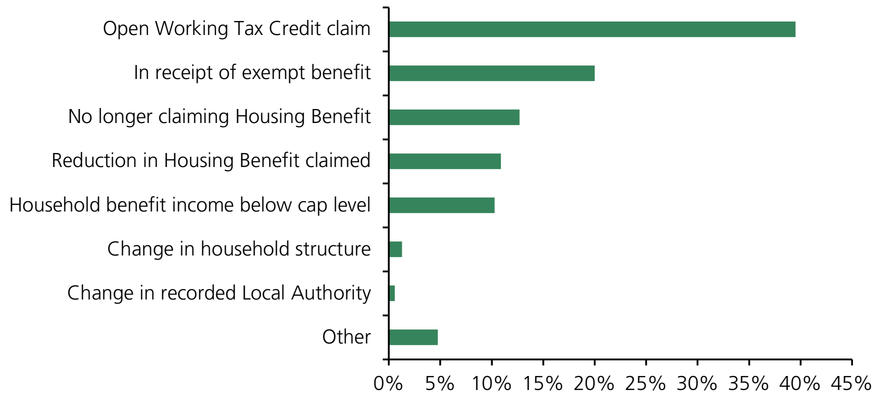
London. Only 2 of the top 20 local authorities with the highest cumulative number of capped households are outside London – Birmingham and Edinburgh.

There are a number of reasons why once capped households may no longer be affected, as demonstrated by the chart below. This shows all households ever affected by the (original) benefit cap but no longer subject to it, by reason.

59,400 households moved off the cap between its introduction in April 2013 and August 2016. Among these, the chart shows, 40% of households no longer capped were claiming Working Tax Credit – meaning that they had taken up work or increased their hours. 20% had claimed a benefit that exempts them from the cap, 24% of households were no longer claiming Housing Benefit or had reduced their HB award, and 11% of households reduced the amount they claimed in other benefits.

Note: although 40% of previously capped households claimed Working Tax Credit, this does not necessarily mean the benefit cap was the main factor in taking up employment. We cannot tell from this data what a claimant's motivation for moving into work was. Neither does it mean 40% of households previously affected by the cap are still in work.

Households no longer capped by household outcome, May 2013 to August 2016



Notes Chart shows all households capped at some point between May 2013 and August 2016 but no longer affected by the cap, by reason for no longer being affected; data for the original benefit cap
Source DWP Stat Xplore, Benefit Cap cumulative dataset

A May 2015 DWP press release referred, all the same, to "recent research" showing that "the cap is motivating people to find work:"

- Those who would be impacted by the cap are 41% more likely to go into work than a similar group who fall just below the cap's level, but this trend didn't exist before the cap was in place – indeed those with higher weekly benefit used to be less likely to move into work;
- 38% of those capped said they were doing more to find work, a third were submitting more applications and 1 in 5 went to more interviews;
- Where households said they intended to seek work because of the cap in February 2014 (45%), by August the vast majority of them (85%) had done so.

- 2 in 5 (40%) of those who said they had looked for work because of the cap in February actually entered employment by August.[22]

1.4 Reaction and comment

The household benefit cap was, and remains, highly controversial. Lord Kirkwood of Kirkhope described the relevant sections of the *Welfare Reform Act* as constituting "a direct and dangerous attack on entitlement and the concept of entitlement."[23] The cap effectively ends the link between a household's assessed need and its entitlement to benefit.

As the cap was initially implemented by "squeezing" Housing Benefit entitlement, housing organisations in both the social and private rented sectors expressed concern about its potential impact on rent arrears, evictions and increases in homelessness amongst those affected. The impact was expected to fall disproportionately on larger families – this gave rise to concerns about overcrowding as families might seek smaller, less suitable housing in order to reduce their costs with associated implications for overcrowding.

The Coalition Government confirmed that households who became homeless as a result of a Housing Benefit reduction outside of their control should not, as a general rule, be treated as intentionally homeless:

> On whether people will be treated as intentionally homeless if they are evicted as a result of rent arrears caused by the cap, again, it is for local authorities to make decisions on individual homelessness applications, as they do now. Under the statutory legislation, if the only reason for a person's homelessness is a reduction in benefit that is outside their control, they should not be considered intentionally homeless by their local authority. The help available includes cases where the reduction is not much; it includes help in renegotiating rent or making up small shortfalls, help with moving to more affordable accommodation, other means of trying to help people back into the workforce, and so on.[24]

London Councils called on the Government to consider London as a special case when introducing the cap because of its high rent levels;[25] it also wanted London to receive a significant proportion of funding for Discretionary Housing Payments to assist in managing the change.[26] Richard Capie, director of policy and practice with the Chartered Institute of Housing, said:

> The new out of work benefit cap at £500 per week fails to take into account the massive variation in housing costs that exists around the UK and will create hardship for families. Our calculations show that in 20 per cent of communities in England it

[22] DWP Press Release, 14 May 2015
[23] HL Deb 21 November 2011 GC367
[24] HL Deb 6 November 2012 GC103
[25] London Councils, *Response to the Housing Benefit reform*, 2010
[26] DWP officials advised the SSAC that DHP funding would be allocated to areas with the greatest impact – as a result London authorities are expected to receive the majority of the funding (SSAC Minutes for 13/14 June 2012).

> will be difficult for households to pay their current rents. This will have a particularly severe impact on families with children. We would expect to see greater arrears, debt and evictions. Families will face the inevitable choice of living in overcrowded, poorer conditions in their current community, or having to move away from areas where they have established networks and children are in local schools.
>
> If the housing element of the new universal credit is not sensitive to local housing costs it will not only impact on individuals but also have implications for private and social landlords and jeopardise access to private finance to build new homes.
>
> We need welfare reform that lasts and that individuals and businesses can plan against. The risk is that the approach to housing costs in the current plans won't be sustainable and will require further adjustments in future.[27]

The degree of assistance provided through DHPs was questioned. The then Minister, Mark Hoban, responded to this point during the Second Delegated Legislation Committee's consideration of the draft regulations:

> I was asked whether there would be enough discretionary housing payments, and what would happen if funding runs out. We have announced up to £120 million of additional funding for these payments over the next two years. That money should be used to support only those claimants who cannot move immediately into work or more affordable accommodation; it should not be used to meet every shortfall. In addition to the discretionary housing payments, we will also provide employment support and fund local authorities to provide housing and financial support. Claimants should act now and not wait until April; that has been the essence of the work we have done with claimants.[28]

The National Audit Office's (NAO) report, Managing the impact of Housing Benefit reform (2012)[29] was critical of how the level of DHP funding had been determined:

> Over the Spending Review period the Department has set aside up to £390 million of funding for Discretionary Housing Payments for local authorities to tackle transitional consequences of reforms. Funding can also be topped up by local authorities. It is not clear how the overall level of funding has been determined or whether it is likely to be sufficient to tackle the effects of reforms. The total amount represents six per cent of the total savings expected from the Housing Benefit reforms over the Spending Review period, or around £200 per household affected.[30]

The NAO called for clarification on the process for determining levels of DHP funding, a review of their allocation to authorities, and improved understanding on how DHPs are used. The DWP is requiring authorities to monitor how DHPs are used. The most recent statistics reflecting local

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[27] Public Service, *£500 a week cap could see more overcrowded properties*, 5 November 2010
[28] Second Delegated Legislation Committee, Session 2012-13, 6 November 2012 c26
[29] HC 681, Session 2012-13, 1 November 2012
[30] Ibid., para 20

authorities' monitoring returns were published in July 2016 and cover the use of DHPs between April 2015 and March 2016.

During this period local authorities in Great Britain spent £14.1 million of the 2015-16 DHP 'pot' (10%) to mitigate the impact of the benefit cap. This was 71% of the amount nominally allocated by DWP in respect of the benefit cap.[31]

The Institute of Fiscal Studies (IFS) questioned the logic of imposing a cap on benefit entitlement rather than addressing benefit rates directly:

> Crucially, is a benefits cap the best approach to take to deal with benefit payments that the Government deems excessive? If it thinks that the benefit system is giving some families a level of entitlement that is too high, it must believe that some benefit rates are inappropriately high. The best-targeted response would surely be to change those benefit rates. In this particular case, the logic underlying the Government's belief that no family should receive more than £500 per week in benefits would point towards cutting the amount families receive for having large numbers of children and/or reducing the value of housing costs against which people can claim Housing Benefit.
>
> The apparent simplicity of instead just placing a cap on total benefit receipt might look appealing, and may well be politically expedient. But it seems incoherent for a Government to set a system of benefits which it evidently thinks gives some families excessive entitlements, and to then attempt to 'right this wrong' with a cap. If starting from scratch, this is surely not the approach one should want to take. And very shortly the Government *will* be starting from scratch - its planned Universal Credit is to replace almost all of the existing system of means-tested benefits and tax credits for those of working age. If it has a view on the maximum reasonable level of benefit entitlement for these people, then it should design Universal Credit (and in particular, the child and housing cost additions within it) to reflect that view. It is not clear what is gained from instead layering a cap on top of a system that is designed to allow higher payments.[32]

On 5 November 2012 the Child Poverty Action Group (CPAG) and Lasa (an organisation that helps agencies providing welfare advice) published a report on the impact of three of the Government's social security measures, including the benefit cap, on claimants in London: Between a rock and a hard place: the early impacts of welfare reform in London.

Ipsos MORI was commissioned by the National Housing Federation (NHF) to carry out ongoing research into the impact of welfare reform on housing associations. In Early effects and responses by landlords and tenants (February 2014) the researchers – subject to the proviso that the benefit cap was at a very early stage of implementation when survey work was carried out – reached the following conclusions:

> The Benefit Cap affects far fewer within the housing association sector and is far less widespread than the size criteria. For many associations it may not be possible to distinguish impacts between

31 DWP, Use of Discretionary Housing Payments – Analysis of End of Year returns from Local Authorities April 2015 – March 2016, Tables 5,6

32 IFS, Thoughts on a benefit cap, February 2012

> these two reform measures and current survey responses should be viewed within this context.
>
> 1. On average associations estimate that 0.19% of all their tenants receiving Housing Benefit have had their Housing Benefit reduced as a result of the Benefit Cap.
> 2. Around one in six associations (17%) report increased difficulty in rent collection as a result of the Benefit Cap, with a similar proportion (16%) reporting a rise in arrears.[33]

The Cambridge Centre for Housing and Planning Research (CCHPR) published Housing associations and welfare reform: facing up to the realities in May 2014. This work, based on in-depth interviews with 15 housing associations across England, concluded that "Fewer tenants than expected were being affected by the Benefit Cap. It was not a major issue for most associations, although clearly very important for affected tenants." The study highlighted concerns for associations around the potential for future reductions in the cap threshold.[34]

Subsequent research into the impact of welfare reform carried out on behalf of the NHF has tended to focus on the introduction of size criteria for social housing tenants.

Supported and temporary accommodation

Particular concerns were raised about the application of the cap to households living in supported and temporary accommodation because of the higher management costs and associated rent levels for these types of housing.[35] In September 2012 the Government confirmed that help towards housing costs for those living in "exempt" supported accommodation[36] would be provided outside Universal Credit. However, housing organisations were concerned that the cap would still apply to residents of exempt supported housing prior to the introduction of Universal Credit. When questioned on the issue during consideration of the draft regulations Lord Freud said:

> ...once universal credit comes in we are looking to keep the housing costs outside universal credit. I am looking to make some long-term arrangements for people in exempt accommodation. I am particularly concerned about people in refuges and, clearly, in hostels. I acknowledge absolutely the issue of support and exempt accommodation, which needs some quite sophisticated work. Meanwhile, we are writing very specific guidance, as these are the people for whom DHPs really are designed to prevent some effects that we do not want to see.[37]

As part of the Autumn Statement on 5 December 2012 the Government announced that Housing Benefit paid to households in supported exempt accommodation would be disregarded from the

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33 Ipsos MORI/NHF, Impact of welfare reforms on housing associations: Early effects and responses by landlords and tenants, February 2014

34 CCHPR, Housing associations and welfare reform: facing up to the realities, May 2014, p2

35 NHF, *Submission to the SSAC on the benefit cap regulations*, July 2012

36 Exempt supported accommodation is defined as a resettlement place; or accommodation provided by a county council, housing association registered charity or voluntary organisation where that body or person acting on their behalf provides the claimant with care, support or supervision.

37 HL Deb 6 November 2012 GC101

benefit cap and advised that this would be the case from April 2013 and under Universal Credit. Housing Benefit/Council Tax Benefit Circular U5/2012 explains the position:

> Housing Benefit (HB) paid to households in supported exempt accommodation (S(E)A) is being disregarded from the benefit cap. The disregard will apply both to benefit cap cases under HB from April 2013 and under Universal Credit (UC). While this does not mean that these households are exempt, by not including HB in the calculation we expect that the vast majority of these cases will no longer be affected by the cap.
>
> This change has been made following consideration of the representations raised in recent weeks, particularly in light of the decision to pay housing support outside UC for those living in S(E)A. This positive step will help protect this vulnerable group.
>
> In making the change we recognise that those households in S(E)A will be paying higher than average housing costs and are not generally in a position to make the behavioural changes required to remove themselves from the cap, therefore needing additional support. It also addresses a specific concern about the impact of the benefit cap on those claimants who are fleeing domestic violence into S(E)A.
>
> We had previously stated that this additional support would be met through the additional funding provided through Discretionary Housing Payments (DHPs) for those affected by the benefit cap. To meet the cost of this change before we move to UC we will therefore be reducing the DHP available to support claimants affected by the benefit cap. The national allocation to support those affected by the benefit cap will be up to £65 million in 2013/14 and up to £35 million in 2014/15. This means that the total funding DWP will be providing for Discretionary Housing Payments will be up to £155m in 2013/14 and up to £125m in 2014/15.
>
> This does not result in any real reductions for local authorities (LAs) in their DHPs as it was always intended these funds should be used to support these vulnerable affected claimants. Furthermore we will be removing the need to cap these households and then meet any resulting need with DHPs, thereby reducing the administrative burden on LAs and the uncertainty for affected claimants.
>
> We will be amending the Benefit Cap (Housing Benefit) Regulations 2012 early in the new year with the aim of having the disregard in place as soon as possible after the benefit cap comes into force. Timing will be subject to consultation with LAs.
>
> In terms of the process for applying the benefit cap from April 2013, this change should have minimal impact on LAs as the calculation on S(E)A cases will be completed as normal in DWP. Cases that are below cap threshold levels will not be passed across to LAs.
>
> We will advise separately on how we intend to manage this change for the benefit cap data scan that we will send to LAs in January 2013 (General Information Bulletin HB/CTB G11/2012 covers details of this data scan).[38]

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[38] HB/CTB Circular U5/2012

The relevant amendments were made by the *Benefit Cap (Housing Benefit) (Amendment) Regulations 2013* (SI 2013/546) which came into force on 15 April 2013.

The sector's concerns were not wholly allayed by this development. Research by the National Housing Federation found, from a sample of housing associations, "a significant proportion of supported and specialist housing projects do not meet the technical definition of exempt accommodation. As such they would be liable to be hit by the bedroom tax and the benefit cap."[39] Lord Freud responded to these concerns in a letter of 4 April 2013:

> We would like to make clear our intention to protect providers from any unintended consequences. For example, we wish to protect refuges and hostels where care is provided by or arranged through a 'managing agent' rather than the landlord. Such arrangements may not meet the precise definition of exempt accommodation but in all other ways the provision is identical to that which does.
>
> Due to the legislative constraints it is not possible to put a solution in place for April. However, officials are working closely with other government departments and key stakeholders to develop workable solutions, through a change to the definition or other means, without increasing current spend. These include local authorities, the National Housing Federation, Homeless Link, Sitra, the Chartered Institute of Housing and the devolved administrations.
>
> Proposals will be brought forward at the earliest opportunity.[40]

Subsequently, proposals to exclude most supported accommodation from the benefit cap were referred to the Social Security Advisory Committee and local authority associations.

The Housing Benefit and Universal Credit (Supported Accommodation) (Amendment) Regulations 2014 (SI 2014/771) amended both the *Housing Benefit Regulations 2006* and the *Universal Credit Regulations 2013* so as to provide that, where a claimant lives in supported accommodation or refuge accommodation, any Housing Benefit or UC paid in respect of their housing costs will not be taken into account for the purposes of the benefit cap. Regulation 1 came into force on 10 April 2014 and Regulation 2 on 3 November 2014. Four categories of supported accommodation are not subject to the benefit cap:

1. Accommodation which comes within the existing definition of "exempt accommodation". This effectively protects those in supported housing where the landlord is of a specified type (for example, a housing association or a registered charity) and also provides care, support or supervision to the relevant claimant, or has it provided on their behalf;
2. Supported accommodation where the landlord is a specified third or social sector provider and care, support or supervision is provided to residents, but where the accommodation falls outside the existing "exempt

[39] NHF website (accessed on 31 May 2013)

[40] Lord Freud, Letter to stakeholders, 4 April 2013

accommodation" definition because the care isn't provided by the landlord or on their behalf. In order to fall within this category, the property must be provided by one of the third or social sector landlord types specified, and the claimant must have been admitted to the dwelling to meet a need for care, support or supervision, and be receiving such care, support or supervision ;

3. Third and social sector refuges, including local authority refuges, where the claimant is accommodated there because they are fleeing domestic violence; and

4. Local authority hostels providing care support or supervision.[41]

The Government also provided information on the treatment of Housing Benefit for claimants living in temporary accommodation.[42] It confirmed that the cap would apply to these households:

> What impact will the benefit cap have on those in temporary accommodation?
>
> The benefit cap will apply to people in temporary accommodation whether claiming through HB subsidy or Universal Credit. However, any discretionary housing payments (DHPs) they might receive will not be taken into account, meaning they will be on top of their benefit entitlement under the cap.[43]

Lord Freud expanded on this during consideration of the draft regulations:

> On temporary accommodation, a point raised by the noble Lord, Lord McKenzie, that is again an area where we will use DHP. I know that the noble Lord, Lord Best, did some sums, but clearly this will be a huge incentive to move people very quickly to something much more permanent rather than staying for the full year in temporary accommodation, which, as he rightly said, is very expensive. Under universal credit, there are likely to be changes. We are looking at how we deal with temporary accommodation-especially the division between the management costs to which he referred and the actual housing payment element. We are out to consultation on that area and there will be more developments.[44]

There remained significant concerns around the impact of the benefit cap on the ability of local authorities, particularly in London, to procure suitable private rented housing for use as temporary housing for homeless households.

> Most authorities predict a rise in the number homeless families as a result of this policy, but their options for dealing with this homelessness are constrained. Waiting lists for the social rented sector in London are exceptionally long, with 11.3 per cent of all households on local authority waiting lists in London, compared to an average of 8.3 per cent in England. Rising private sector rents mean that procuring private sector accommodation within London is not a sustainable solution for local authorities. In addition, the fact that the benefit cap will apply to temporary accommodation means that not *only* families made homeless by

41 Explanatory Memorandum to SI 2014/771
42 See DWP Circular HB/CTB G6/12, June 2012
43 See DWP Circular HB/CTB G6/12 – Annex A, June 2012
44 HL Deb 6 November 2012 GC101

> the cap, but those already in temporary accommodation, will be unlikely to able to meet their rents, creating a situation in which local authorities will need to make up the difference to avoid making homeless families homeless again.
>
> We found that local authorities were therefore investigating procuring both private and temporary accommodation outside London in cheaper areas of the North and the Midlands. However, strengthened guidance around the 'suitability' of the accommodation used to house homeless families means that placements of this kind may be subject to legal challenge.[45]

In March 2015 the Supreme Court upheld an appeal against Westminster Council's decision to rehouse a homeless household in Milton Keynes.[46]

The cap and affordable rent tenure

One of the Coalition Government's key policies for increasing the supply of social housing was the introduction of an "affordable rent" tenure. Under this model housing associations are able to offer tenancies at rents of up to 80% of market rent levels within the local area. The additional finance raised is available for reinvestment in the development of new affordable housing. Communities and Local Government's (DCLG) November 2010 consultation document, Local decisions - a fairer future for social housing confirmed that Housing Benefit would be payable to cover "affordable rents":

> Where a tenant cannot afford to pay, the new Affordable Rents will be eligible for Housing Benefit and local authorities will be able to discharge their homelessness function through the new tenancy.[47]

In their responses to the "affordable rent" proposals housing organisations highlighted an apparent policy tension between the drive to reduce expenditure on benefits by imposing a weekly cap that will take effect by "squeezing" Housing Benefit entitlement, while at the same time giving housing associations an incentive to charge rents of up to 80% of market levels.

The Council of Mortgage Lenders (CML) expressed concern about the impact of welfare reforms, including the benefit cap, on the financial viability of housing associations:

> For lenders and investors the social housing sector is viewed as a relatively low risk funding market. Comfort is derived from the sector having a strong regulator with the ability to intervene and indirect subsidies in the form of social housing grant and housing benefit. Changes to the welfare benefits system and move to a universal credit have already significantly raised potential risk to the sector. Rating agencies have flagged for investors during 2010 the factors that could be negative for the sector including housing benefit not meeting rent requirements and not being paid direct to providers.

45 CPAG & Lasa, Between a rock and a hard place: the early impacts of welfare reform on London, October 2012
46 *Nzolamesco v City of Westminster*, [2015] UKSC 22
47 DCLG, Local decisions - a fairer future for social housing, November 2010, para 2.6

> The concerns about housing benefit are brought into sharp focus when considering the move to affordable rent. We await the publication of the Homes & Communities Agency prospectus and further impact assessment on housing benefit. However it is uncertain whether this will provide sufficient detail on the interaction of affordable rent, housing benefit and universal benefit to support providers and lenders in making prudent and realistic assumptions in the modelling work that must sit behind a move to affordable rent.[48]

CASE, a consortium of housing associations in the south east, published research into the impact of the various welfare reforms, including the benefit cap, on social housing providers. The research cast doubt on the viability of "affordable rents" for larger homes:

> Although social rent can be made to work within the cap, our modelling suggests that Affordable Rent does not work for larger homes. Therefore, as we stop building four bedroom properties over the coming years, we expect our ability to house larger families to be greatly diminished. Over the next few years, unless the cap is indexed for inflation, we expect that rent levels on smaller properties will also become increasingly unworkable.[49]

In response to reports of the Chancellor considering a reduction in the cap from £26,000 to £20,000 in July 2013, housing organisations said that this could jeopardise the development of three-bed homes.[50] Family Mosaic reportedly said that they had already halted development of four-bed units in response to the cap.[51]

The Welfare Reform Bill in the House of Lords

The household benefit cap was extensively debated as the *Welfare Reform Bill 2010-12* progressed through Parliament. The Government was questioned several times over whether, in setting the cap on the basis of median earnings after tax, it was adopting a fair definition of income. For example, in Grand Committee the Lord Bishop of Ripon and Leeds said:

> Linked in this group of amendments are those seeking to produce a fair definition of income. Amendment 99ABB aims to relate the cap to the income of working families rather than simply to their earnings. The principle behind the cap is that households should not be better off living on benefits than they would be in work. Income, for a family that is in work, includes, for example, child benefit or council tax benefit. If we are looking for an equitable comparison, then it is the amount that comes in to the household which is relevant, and not simply that which is on the payslip. To replace earnings by income, as Amendment 99ABB suggests, could remove some 38,000 children from the effects of the cap. Again, the concern is with provision for the growth, development and support of children as they grow up within our culture, and those who need the support of a welfare system as they grow up.[52]

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48 CML Response to Local decisions: a fairer future for social housing, January 2011
49 CASE, The Impact of Welfare Reform on Housing, January 2012
50 *Inside Housing,* "Osborne mulls a further £6K cut to benefit cap", 17 July 2013
51 *Inside Housing,* "Cap to affect family homes development," 19 July 2013
52 HL Deb 21 November 2011 GC330

Lord German argued that separate averages for setting the cap should be used for working households with children and those without.[53]

Baroness Tyler of Enfield referred to families being forced to move to cheaper areas and the impact this could have on children's education and their social networks, as well as the potential for "ghettoisation" and pressure on public services.[54] She also expressed concerns over "the inherent couple penalty":

> ...it has been suggested by experts in the field that the cap will introduce one of the most substantial couple penalties ever seen in the benefits system, so it could have the perverse consequence of breaking up families as well as deterring people from entering new relationships and forming new households.[55]

Lord Best sought to remove housing costs from the total benefit cap on the grounds that households in similar circumstances face vastly different housing costs, not out of choice, but "because of where they live, what type of landlord they have and the size of home that their family requires."[56] Lord McKenzie of Luton asked about the impact of localising support with Council Tax payments, pointing out that "the variation in local authority support for council tax also means that how families are affected by the benefit cap will vary by local authority."[57]

Lord Freud, Minister for Welfare Reform, defended the basis on which the cap was to be calculated:

> I acknowledge that, because of in-work benefits, there will be some working households that earn at the level of the average weekly wage whose total income will exceed the level that we are setting for the cap. However, we believe that work should always pay more than out-of-work benefits. That is one of the driving principles of the Bill and at the heart of our welfare reform.[58]

He went on to reject attempts to limit the cap's impact on housing costs, arguing that families on benefits should face the same choices in respect of housing affordability as those in work.[59] He confirmed that the Government was looking at the implications of localised support for Council Tax[60] and working with local authorities in connection with the implications of the cap for households placed in expensive temporary accommodation.[61] In response to a question from Baroness Hollis of Heigham, Lord Freud confirmed that households made homeless due to a reduction in benefit entitlement "outside of their control" should not be considered as intentionally homeless.[62]

Lord Freud was pressed on the nature of the "behavioural changes" the Government wanted to achieve in the case of households affected by the benefit cap who are not subject to full work conditionality (i.e. not

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53 HL Deb 21 November 2011 GC343
54 HL Deb 21 November 2011 GC331-3
55 HL Deb 21 November 2011 GC333
56 HL Deb 21 November 2011 GC333
57 HL Deb 21 November 2011 GC338
58 HL Deb 21 November 2011 GC345
59 HL Deb 21 November 2011 GC346
60 HL Deb 21 November 2011 GC347
61 HL Deb 21 November 2011 GC348
62 HL Deb 21 November 2011 GC353

required to seek work in order to continue to receive benefits), given the Government's stated aim of improving work incentives through the cap.[63] Lord Freud said "it is perfectly reasonable to encourage and help people towards employment even if they are currently not expected to work;" he advised that around a third of households affected by the cap would be subject to full conditionality.[64]

Further attempts to amend the Bill in Grand Committee concerned:

- the exclusion of Child Benefit from calculating benefit income when determining the cap;
- exemptions from the cap for certain groups such as lone parents with children under 5, those who have recently left employment, and carers (kinship carers received particular attention);[65]
- an exemption from the cap for homeless households in temporary accommodation and for people living in supported or sheltered housing; and
- an exemption from the cap where a child is the subject of a child protection plan, a children in need assessment or a common assessment framework team, or is waiting to be subject to any of these.

Lord McKenzie asked whether the savings expected to arise from the cap would be outweighed by the cost of any resulting homelessness, reductions in the number of family carers, support for vulnerable families and the administration of the cap.[66] In July 2011 the *Guardian* published a leaked letter (reportedly sent to the Prime Minister by the office of Eric Pickles, Secretary of State for Communities and Local Government) expressing concerns over the implications of the benefit cap for local authority expenditure.[67]

Lord Freud resisted the extension of exemptions from the cap but said that the issues raised in the debate would be taken into account when the regulations on the cap were prepared.[68] On the question of savings versus costs, he said that an estimate had been prepared and that the wider ramifications of the cap had been considered – he stressed that the message the Government was sending "is a behavioural one much more than a cost-based one."[69]

None of the amendments moved in Grand Committee were agreed.[70]

Further amendments were debated on Report in the House of Lords - these concerned:

- the exclusion of industrial injuries benefit from counting towards the overall cap (withdrawn);

[63] HL Deb 21 November 2011 GC349
[64] HL Deb 23 November 2011 GC415
[65] Carers UK and the Disability Benefits Consortium were concerned that the cap would send out a negative message about the value placed on family care and would make caring for elderly/disabled relatives financially untenable for some.
[66] HL Deb 23 November 2011 GC414
[67] Guardian, Full text of letter from the office of Eric Pickles, 2 July 2011
[68] HL Deb 23 November 2011 GC415
[69] HL Deb 23 November 2011 GC421
[70] The House of Lords does not vote on amendments to a Bill during Grand Committee.

- applying a cap with regional variations to take account of different regional wages and living costs (withdrawn);
- an exemption for families in priority need who would be made homeless by the application of the cap in addition to an exemption for homeless families in temporary accommodation;[71] and
- the exclusion of Child Benefit from calculating benefit income when determining the cap.

The Bishop of Ripon and Leeds' amendment to exclude Child Benefit from counting towards the total benefit cap attracted wide-ranging support and was agreed by 252 votes to 237.

The House of Commons considered Lords amendments to the Bill on 1 February 2012. The Minister, Chris Grayling, asked the Reasons Committee to ascribe financial privilege as the reason for rejecting the amendment.[72] During the debate on the amendment he said it would reduce the expected savings from the cap by £120m in 2013/14 and £130m in subsequent years.[73] He also announced some concessions in the form of an exemption from the cap for households where someone is in receipt of the support component of ESA but is not in receipt of DLA and the nine month "grace period," during which the cap will not apply to people who have been in work for the previous 12 months and who lose their job through no fault of their own.[74]

The Bishop of Ripon and Leeds' amendment was overturned in the Commons by 334 votes to 251.[75] A Labour amendment aimed at introducing regional caps set by an independent body was not debated for lack of time.

The Lords considered the benefit cap again on 14 February 2012. The Bishop of Ripon and Leeds did not insist on his amendment (to exclude Child Benefit from the cap calculation). Lord McKenzie pressed Labour's amendment on regional benefit caps to a vote – it was defeated by 223 votes to 134.[76]

Secondary Legislation Scrutiny Committee – 10th Report 2012

This House of Lords Committee considered the draft regulations in October 2012 and recommended that they should be drawn to the attention of the House on the grounds that "they give rise to issues of public policy likely to be of interest to the House."[77]

The Committee's report advised that the Social Security Advisory Committee (SSAC) had sent the Secretary of State a "wide-ranging report on the proposals for Universal Credit, which included material on the benefit cap proposals." The SSAC report (and Government

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71 Lord McKenzie pressed this amendment to a vote – it was defeated by 250 votes to 222 (HL Deb 23 January 2012 c829)
72 HC Deb 1 February 2012 c871
73 HC Deb 1 February 2012 c872
74 HC Deb 1 February 2012 cc875-6
75 HC Deb 1 February 2012 c902
76 HL Deb 14 February 2012 c760
77 HL Paper 46, October 2012

response) was published alongside the key instruments to implement Universal Credit in December 2012. To aid the Scrutiny Committee's consideration of the draft Regulations the DWP provided a letter summarising the main issues raised in the SSAC report in relation to the benefit cap and setting out the Government's response:

> The Committee considered the revised proposals at its meeting on 13 June 2012, giving further feedback. This included comment on the requirement set out in the Housing Benefit (Benefit Cap) Regulations 2012 that claimants are engaged in remunerative work of 16 hours in the final week of work before the grace period of 39 weeks could apply. As a result of the Committee's comment, the Department reconsidered the policy and consequently dropped the 16-hour requirement in the final week of work.
>
> [...]
>
> In relation to the benefit cap, the Committee have noted that they are pleased the Government is putting in place an evaluation strategy. They have made one detailed recommendation on the monitoring and evaluation, requesting that the totality of costs to the taxpayer is, wherever practicable, considered as part of that exercise. The Department is currently exploring what will be included in both the full evaluation and interim review for the benefit cap in 2014.[78]

Evidence submitted to the Committee by Shelter on the benefit cap is summarised in the report – some of the issues highlighted have been already been referred to in this note:

> Shelter's evidence highlights concerns about:
>
> Regional variations in rent;
>
> How the cap will operate for people who are temporarily homeless, because they have little scope to reduce their housing costs and under the 'Homelessness Code of Guidance' Local Authorities cannot ask people to make up the shortfall through other benefits if this would deprive the household of "basic essentials such as food, clothing heating, transport and other essentials". There is no explicit exemption for these people in this category;
>
> The use and effectiveness of Discretionary Housing Payments to prevent homelessness. They suggest it should be included in the one year review of the cap;
>
> Whether £500 is the most appropriate figure at which to set the cap as there is a distinction between average household earnings (the figure used) and average household income which as well as wages also takes into account child benefit, working tax credit and similar additional sources of income; and
>
> Whether the proposal to administer the benefit cap via Local Authority housing benefit staff will be cost effective when this will be taken over shortly by the Job Centre Plus staff who will administer Universal Credit.[79]

Shelter's full submission can be accessed online: Submission regarding the Benefit Cap (Housing Benefit) regulations 2012.

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78 HL Paper 46, Appendix 1,October 2012
79 HL Paper 46, October 2012

Assessment by the Equality and Human Rights Commission (EHRC)

On 14 May 2012 the EHRC published its equality assessment of the Coalition Government's 2010 Spending Review. In Making Fair Financial Decisions the Commission considered the extent to which Ministers' and Treasury officials' decision-making had met legal obligations to consider the impact on equality when completing the Review.

The Commission identified three areas where it was unable to establish whether or not the decisions were in full accord with the requirements of the duty due to: "a lack of clarity as to: a) where the true site of the decisions lay; and b) whether or not some decisions were the responsibility of other Government departments or the Government as a whole." One of the areas of concern was the introduction of the household benefit cap. The Commission said:

> There was no evidence of any gender analysis or equality screening of the measure provided to HM Treasury ministers prior to the announcement of the measure.

The Commission decided it would be disproportionate to take further formal action and noted that "the Government has, however undertaken to work with the Commission and its officials to address the issues raised by the report." The Commission's report called for:

- greater transparency in future reviews;
- the development of a common model of analysis to predict the likely equality effects of policy; and
- earlier use of the equality duties to ensure better targeting of funds and greater value for money.

Legal challenges

Towards the end of May 2013 four families launched a High Court challenge against the Secretary of State arguing that the cap was "discriminatory and unreasonable."

The families also argued that the Secretary of State did not take into account the impact of the policy on women, children, the disabled, racial and religious minorities, and carers during its formulation. Two of the families concerned had fled domestic violence and were affected by the cap because their rent exceeded £500 per week.[80] The hearing concluded in early October and a decision was handed down on 5 November 2013. The families' claim for judicial review was dismissed. Lord Justice Elias and Mr Justice Bean reportedly said that many considered the cap to be "too parsimonious" but ruled it was "ultimately a policy issue, and for the reasons we have given we do not think it can be said that the scheme is so manifestly unfair or disproportionate as to justify an interference by the courts."[81]

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80 *Inside Housing*, "DWP faces legal challenge over benefit cap," 22 May 2013

81 *Guardian*, "Benefit cap: high court rejects legal challenge by lone mothers", 5 November 2013

Subsequent appeals to the Court of Appeal were dismissed.[82] The Supreme Court considered the case on appeal and handed down judgement on 18 March 2015. The court ruled by a 3-2 majority verdict that the benefit cap was not unlawful. However, three of the judges argued that the cap is not compatible with article 3(1) of the UN Convention on the Rights of the Child (UNCRC): 'In all actions concerning children… the best interests of the child shall be a primary consideration." The Deputy President of the Supreme Court, Lady Hale, said:

> The prejudicial effect of the cap is obvious and stark. It breaks the link between benefit and need. Claimants affected by the cap will, by definition, not receive the sums of money which the State deems necessary for them adequately to house, feed, clothe and warm themselves and their children." (Paragraph 180).
>
> It cannot possibly be in the best interests of the children affected by the cap to deprive them of the means to provide them with adequate food, clothing, warmth and housing, the basic necessities of life." (Paragraph 226).[83]

Lord Carnwath, concluding, expressed a hope that the Government would address the cap's impact on children in due course:

> In conclusion I would dismiss the appeal, albeit on grounds much narrower than those accepted by the courts below. I would hope that in the course of their review of the scheme, the government will address the implications of these findings in relation to article 3(1) itself. However, it is in the political, rather than the legal arena, that the consequences of that must be played out. (Paragraph 133).[84]

Although most disabled claimants are exempt from the cap, an issue arose in relation to non-exempt carers. Two families where an adult relative was providing full-time essential care to an elderly and disabled grandmother have been considered by the High Court. The adults performed their caring duties with the support of state benefits covering their housing and living expenses – and also received Carer's Allowance. On 26 November 2015 the High Court ruled that the application of the benefit cap in these cases amounted to unlawful discrimination against disabled people.[85]

The DWP said that it would consider the judgement and explain its position in due course.

During the Third Reading of the *Welfare Reform and Work Bill 2015-16* in the House of Lords, Lord Freud tabled an amendment to exempt all recipients of Carer's Allowance and Guardian's Allowance from the benefit cap:

> My Lords, I will first speak to Amendments 1 and 2, which seek to pave the way for the introduction of an exemption from the benefit cap for all households where a member receives carer's

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82 R (SG and others) v Secretary of State [2014] EWCA Civ 156
83 *R (on the application of SG and others (previously JS and others)) (Appellants) v Secretary of State for Work and Pensions (Respondent)* [2015] UKSC 16
84 Ibid.
85 *R v Secretary of State of the inclusion of Carer's Allowance in the benefit cap*, 26 November 2015

> allowance or guardian's allowance. We will bring forward regulations to give effect to these exemptions later this year. The exemption will mean that households where someone receives carer's allowance or guardian's allowance will be exempt from the cap. For carer's allowance, this means that the claimant's household will be exempt from the effect of the cap regardless of whether the cared-for person is part of that household or not.
>
> Providing an exemption from the cap where a member of the household receives carer's allowance fits within the wider government strategy to do more to support and invest in carers. Both carers and carers' organisations have welcomed this change, with Carers UK, one of many organisations that work tirelessly to support the needs of carers, describing it as "fantastic news".[86]

Households receiving Carer's Allowance, the carer element of Universal Credit or Guardian's Allowance were exempted from the benefit cap from 7 November 2016.

One year review of the cap

The Benefit Cap: a review of the first year was published in December 2014.[87] The review identified positive 'employment-focused behavioural change.' The key findings are reproduced below:

> 1. Evaluation of the benefit cap following its first year of operation shows consistent evidence of employment-focused behavioural change. The movement into work for those households affected by the benefit cap is higher when compared to the numbers moving into work from similar households not affected by the cap.
>   - This behavioural change is also evident for sub-groups such as those in receipt of Carer's Allowance, larger families with three or more children and lone parents (irrespective of the age of the youngest child).
> 2. Greater movement into work is seen for those capped by larger amounts and for households in London.
>   - Where households have not yet moved into work they are coping with the cap by budgeting and using support services in the short term while making plans to return to work in the longer term. They are also undertaking more job-seeking activity than previously and are more encouraged to find work. Only a minority of capped households are not doing anything in response, these households tend to be those capped by lower amounts.
> 3. Barriers to moving into work for capped households include the logistics of childcare for multiple children, lack of language skills and limited qualifications.
> 4. Additional funding for Discretionary Housing Payments (DHPs) has been provided to ensure those who were not able to make a behavioural change immediately were supported over a transitional period. Evidence suggests DHPs are working; households are seeing them as a

[86] HL Deb 9 February 2016 c2121
[87] Cm 8985, The Benefit Cap: a review of the first year, December 2014

temporary solution and receipt of DHPs has not reduced off flow from the benefit cap into work.

5. The majority of claimants that were capped have not built up rent arrears. There is evidence that those who had built up arrears and subsequently moved into work were able to make steps to pay those arrears back, as four in five of those no longer affected were up to date with rent.

6. Only small numbers of capped claimants are actually moving house and moves that are taking place are generally over short distances. Claimants are, by and large, adjusting to the benefit cap in ways other than moving, such as through finding work or adjusting their budgets. There is some evidence of claimants successfully renegotiating their rent with landlords.

7. Benefit cap caseloads are lower than originally estimated with over 51,000 households capped since the introduction of the benefit cap in April 2013 (up to August 2014). In making our original estimates for the number of households that would be capped we did not fully appreciate the scale of the positive benefits of the cap and the motivation it would give to claimants to move into employment. The cap is likely to lead to wider savings from lower benefit receipt amongst those who have moved into employment. Of far greater significance though are the wider benefits of moving towards work for claimants, for their families and for society.[88]

December 2014 also saw publication of a quantitative analysis by the DWP of the direct impacts of the cap and how the affected people might have responded.[89] The Institute for Fiscal Studies (IFS), having peer-reviewed this work, commented on some of the key findings:

> Identifying causal impacts of policies on behaviour is rarely easy, but DWP's analysis allows us to draw some conclusions about the likely effects. The Figure below illustrates perhaps the most striking evidence. It plots the amount of weekly benefit income (before any cap is applied) against the probability of claiming working tax credit (WTC) a year later, for four groups (`cohorts') of benefit recipients: those receiving benefits in May of 2010, 2011, 2012 and 2013 (excluding those exempt from the cap, and excluding the single childless who are subject to a different cap level). The May 2012 cohort is the first that we might expect to see changing its behaviour in light of the cap: from May 2012, claimants who looked like they were set to be affected were sent a letter notifying them of this and were offered support through Jobcentre Plus. The cap was then rolled out from April 2013.
>
> The May 2012 and 2013 cohorts were more likely to flow onto WTC than the earlier cohorts at all benefit levels shown – including for recipients below the cap level, which suggests that some of this difference is due to a wider recovery in the economy after 2011 rather than the cap. Crucially though, the divergence between cohorts begins to widen at just around the £500 point at which the cap binds. The divergence grows consistently as one moves to the very highest levels of benefit entitlement, i.e. to those who were hit hardest by the cap. (Note that there are very few claimants at these very high levels of entitlement.)

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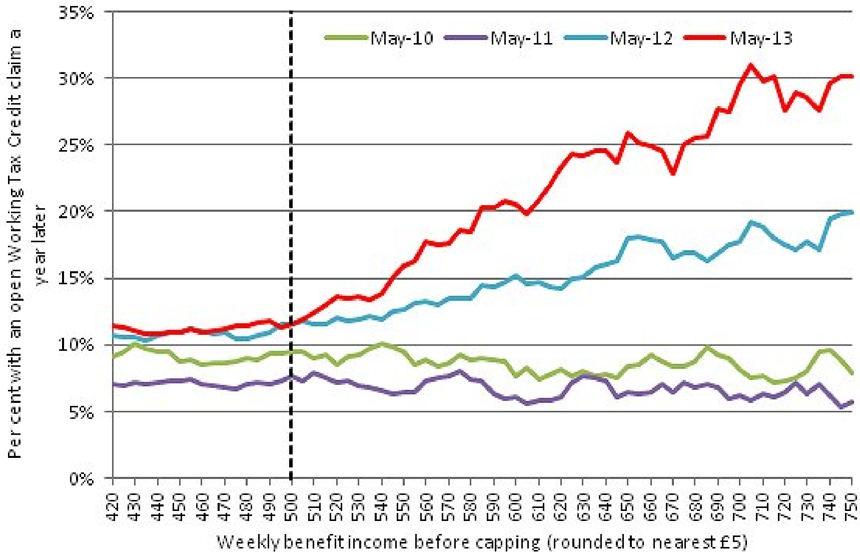
88 Ibid, pp5-6
89 DWP, Benefit Cap: analysis of outcomes of capped claimants, December 2014

Figure: Movements onto Working Tax Credit after one year by benefit income (before capping)



Source: Chart 8.2 of DWP [Benefit Cap: analysis of outcomes of capped claimants]

Notes: £500 benefit cap introduced in 2013. Excludes single adults without dependent children, for whom a lower cap level applies (£350 rather than £500 per week). Figures are four-point moving averages.

DWP conducted some more formal econometric analysis of the kinds of patterns documented in the Figure. On average, claimants with benefit income exceeding the impending cap level in the May 2012 cohort – who received warning of the cap and support in dealing with it - were 1.5 percentage points more likely to flow onto WTC within a year than their counterparts just below (within £50 per week of) the cap. This is over and above any gap that would be expected simply because of observed differences in the characteristics of these two groups, such as the number of children that they have. The difference grew to 4.7 percentage points for the May 2013 cohort, after implementation of the cap. These differences did not exist for the earlier May 2010 and May 2011 cohorts (indeed prior to the cap those with higher levels of benefit income were slightly less likely subsequently to move onto WTC). This suggests that these differences provide a reasonable sense of the likely effect of the cap on movements onto WTC.

It is worth bearing in mind the caveat that starting a WTC claim is not the same thing as moving into paid work. Some people may move into work but not work enough hours to be entitled to WTC or not take up the WTC to which they become entitled. On the other hand, some might start a WTC claim when they were in work all along, perhaps because claiming this entitlement is a relatively easy way of exempting oneself from the benefit cap. To the extent that additional moves onto WTC are an accurate indicator of moves into work, these estimates suggest that around 2,000 families who were claiming benefits in May 2013 had someone move into paid work twelve months later in response to the cap. (Note: this estimate is for this cohort, rather than an overall estimate of total additional moves to WTC.)

We might also expect some claimants to move house in response, as many affected claimants are above the cap because they have high rents and hence have a large housing benefit claim. There is

> evidence of this, but (at least so far) only for the small number of claimants who lost particularly large amounts of benefit income as a result of the cap. For those with benefit entitlement at least £200 above the cap level, 14% of the May 2010 cohort moved within the next year; this had risen to 20% for the May 2013 cohort once the cap was in place. For benefit claimants just under the cap level, the proportion moving house within a year stayed constant at 11% for each of the May 2010, 2011, 2012 and 2013 cohorts.[90]

The DWP's other research findings, including the results of interviews with affected claimants and the impact on local authorities and social landlords, all of which were published in December 2014, can be found on the GOV.UK website.[91]

There is no general consensus that the benefit cap, together with other welfare reforms, is proving an effective means of moving claimants into work. For example, the London School of Economics (LSE) surveyed 200 social housing tenants in the south west of England over a two year period and reported the findings in Is Welfare Reform Working? (March 2015). The interviews indicated that tenants were managing by reducing their expenditure in certain areas:

> A majority – 126 out of 200, or 63% – said they were managing financially by reducing expenditure, in some cases on food, getting into debt to pay large bills, or borrowing from family and friends. Some ways of coping, such as cutting back on spending, are more viable than others, such as borrowing. One third were struggling financially. The vast majority of tenants are strongly opposed to resorting to payday loans, and only five percent have done so.[92]

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90 IFS, Coping with the cap? 15 December 2014
91 Accessed on 4 June 2015.
92 LSE, Is Welfare Reform Working?, March 2015

2. Lowering the benefit cap

2.1 Background

Reports in July 2013 suggested that the then Chancellor, George Osborne, was considering a reduction in the household benefit cap from £26,000 to £20,000.[93] At that point housing organisations said it could jeopardise the development of three-bed homes. George Osborne subsequently announced a proposal to reduce the cap to £23,000 at the 2014 Conservative Party Conference as part of a package intended to help finance the creation of three million new apprenticeships:

> Let's abolish long term youth unemployment altogether. So here's how we'll do it.
>
> We'll replace Job Seekers Allowance.
>
> Reform housing benefit.
>
> And take the benefit cap we've introduced down to £23,000 – because families out of work should not get more than the average family in work.
>
> And all of these savings will be used to fund three million new Apprenticeships.[94]

A commitment to reduce the cap to £23,000 (£440 a week for families with children) was included in the Conservative Party's 2015 Manifesto.[95]

The Summer Budget 2015 confirmed the Government's intention to reduce the cap for families to £23,000 in London (£15,410 for single people) and £20,000 (£13,400 for single people) outside the capital. The higher cap in London was in recognition of higher rent levels. A cap of £23,000 was "equivalent to typical pre-tax earnings of around £29,000, and a cap of £20,000 is equivalent to typical pre-tax earnings of around £25,000."[96] Thus the link between the cap and average earnings would be broken. The reduction in the cap thresholds would be phased in from 2016. No changes were proposed to the exemptions from the cap.

Announcing the change, the Chancellor said:

> The fourth principle we will apply to our welfare reform is this: the benefits system should not support lifestyles and rents that are not available to the taxpayers who pay for that system.
>
> We have already introduced a cap on the total amount of benefits any out of work family can receive, at £26,000.
>
> It encouraged tens of thousands into work.

93 *Inside Housing,* "Osborne mulls a further £6K cut to benefit cap", 17 July 2013
94 George Osborne: Speech to Conservative Party Conference 2014, 29 September 2014
95 Conservative Party Manifesto 2015, p25
96 Summer Budget 2015, HC 264, July 2015, para 1.152

> We will now go further, and reduce the benefits cap from £26,000 to £23,000 in London, and £20,000 in the rest of the country.[97]

The IFS estimated that the measure would save £200m in 2020-21 after other changes to benefits were taken into account.[98]

Measures to implement the lower thresholds were included in the *Welfare Reform and Work Bill 2015-16*. Detailed information on the Bill's provisions can be found in section 4 of Library Briefing CBP-7252, *Welfare Reform and Work Bill [Bill 51 of 2015-16*. Information on amendments tabled during the Bill's Committee Stages in the Commons can be found in Library Briefing CBP-7352, *Welfare Reform and Work Bill 2015-16 Committee Stage Report*. Later stages of the Bill are covered in CBP-7508, *Welfare Reform and Work Bill 2015-16: Lords amendments*.

At the Lords Second Reading, the Minister for Welfare Reform, Lord Freud, explained:

> The changes to the benefit cap in this Bill are underlined by three basic principles of fairness. First, the cap should be set at a level that ensures it continues to be fair and to provide the right incentives for people to move into work. Secondly, this measure ensures that the cap better reflects the circumstances of working families around the UK. We know that around four in 10 households outside London earn less than £20,000, with the same proportion of households in London earning less than £23,000. Thirdly, welfare spending needs to be put on a sustainable footing.
>
> Let me be clear: we will continue to provide protection and support for the most vulnerable. That is why exemptions will still apply, including those households entitled to DLA, PIP or Armed Forces PIP, industrial injuries benefit, the ESA support group component, and the limited capability for work-related activity component in UC; those moving into work who are entitled to working tax credit; and war widows and widowers. We have provided considerable additional support through discretionary housing payments for those claimants who need temporary financial assistance to adjust to the reforms. This additional funding will continue, and we are making £800 million available for discretionary housing payments over the next five years.[99]

For Labour, Baroness Sherlock said:

> When the Government introduced [the benefit cap], their whole argument was that it was set at the level of average earnings. We had a long debate in this House on whether the test was fair. I remember marching into the Lobby behind the much-missed Bishop of Ripon and Leeds, who proposed an amendment to remove child benefit from the cap on the grounds that people would get child benefit as well. We voted for it. Now Ministers have ditched the entire standard and simply plucked figures out of the air. They have simply decided that they are going to cut the cap by £3,000 for families in London and by £6,000 for families elsewhere. In future, Ministers can change the cap at whim by

97 Chancellor George Osborne's Summer Budget 2015 Speech, 8 July 2015
98 Andrew Hood, Benefit changes and distributional analysis, IFS presentation, 9 July 2015
99 HL Deb 17 November 2015 c29

> regulation without reference to any external benchmark and with minimal parliamentary scrutiny. The evidence is nowhere near as strong as even the impact assessment has suggested. Housing providers are worried that rent arrears will rise, as will evictions and homelessness. We have heard that £800 million has already been set aside for discretionary housing provision to deal with it. In Committee, we will want to see a great deal more evidence about the cost-benefit analysis of this policy, as well as about the impact on families.[100]

At Autumn Statement 2015 it was announced that a further £70 million would be made available for Discretionary Housing Payments across 2018-19 and 2019-20, on top of the £800 million over five years already announced.[101]

Lords debate on benefit cap regulations

On 8 November 2016 the House of Lords debated a motion tabled by Lord Kirkwood of Kirkhope to regret that the Government had not, in advance of the entry into force of the regulations introducing the lower benefit caps – the *Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations 2016*[102] – "made additional support available to those individuals affected by the benefit cap to find work."[103]

Lord Kirkwood said that he had long argued that "benefits should be assessed by way of establishing need; that need should lead to the entitlement", and that the "arbitrary nature" of policies such as the cap being introduced was dangerous and would hurt people. He continued:

> Turning to the Motion, I worked as hard as I could to see if I could go with the grain of what the Government are trying to do. I agree that of the three objectives in this policy, getting more people into work is something that we all favour, but the so-called work incentives deployed in this measure are threatening to most people. They will continue to be threatening unless these people can be assured—as can we as policymakers—that they are being given a fair shot at getting into employment.[104]

Replying for the Government, the Minister for Welfare Reform, Lord Freud, set out "the measures we have put in place":

> From May, an online benefit cap calculator has been available to show claimants the potential impact on their income. The department issued notifications to claimants identified as potentially affected by this change in May and early June this year, to give them time to look for work or make other changes to prepare for the cap. We sent a further communication in September. Universal credit and JSA claimants in full conditionality will have discussed the impacts of benefit capping with their work coach. Where claimants have not responded, DWP and many local authorities have made further efforts to contact them. Local authorities have information on which of their residents are most likely to be impacted and have contacted many of them, often as

100 HL Deb 17 November 2015 c33
101 PQ 19148 [on Housing Benefit], 16 December 2016
102 SI 2016/909
103 HL Deb 8 November 2016 cc1121-1140
104 HL Deb 8 November 2016 c1123

> part of ongoing contact between local authorities and some of their harder to help residents.
>
> All claimants responding to notifications or contact can receive a variety of support measures. From their local authority they can receive budgeting support, including advice on the impact of the cap as well as on household budgeting, and support with housing costs. This includes advice on how to manage or reduce housing costs, potentially including the option of moving, as well as consideration of discretionary housing payments in appropriate cases. From Jobcentre Plus they can receive advice on gaining employment, including employment provision and specialist training via the Flexible Support Fund and advice and some funding for childcare—which I assure the noble Baroness the Flexible Support Fund can offer. And with universal credit, of course, the figure is now standing at 85% of the costs.
>
> We have set aside extra funding to cover the additional support that jobcentres and local authorities are providing. In this financial year, jobcentres have received £4.8 million in respect of this support, a further £5 million to cover specialist training from the Flexible Support Fund, and £1.4 million to support additional co-location of jobcentre and local authority staff in support of this initiative. Local authorities received £14.7 million New Burdens funding in July 2016.
>
> To ensure that local authorities are able to protect the most vulnerable and support households adjusting to reforms, the Government have committed, as the noble Baroness, Lady Sherlock, pointed out, to provide £870 million in total for discretionary housing payments over the next five years. The DHP funding linked to the benefit cap increased by £15 million in 2016-17—up from £25 million to £40 million. For 2017-18, overall DHP funding is increasing by a further £35 million to help those affected by all welfare reforms. I do not have broken-down figures for the different components and we have not yet provided them to local authorities.[105]

Lord Kirkwood thanked the Minister for his response but said that he had not announced any additional support for households affected by the reductions in the cap. Lord Kirkwood's motion was defeated by 87 votes to 74.

2.2 Reaction and comment

A number of organisations have warned that the benefit cap reductions could put families and children at greater risk of homelessness and poverty. The **Children's Society** points out that the reduced cap will impact disproportionately on children. Its Chief Executive, Matthew Reed, comments:

> Given the Prime Minister's aspiration of making Britain a country that works for everyone, it is deeply disappointing that the Government is pushing ahead with an ongoing agenda of cuts to financial support for children in low-income families. Making savings by cutting help for the poorest children is unnecessary and unfair.
>
> This is a blunt instrument trying to solve a complex problem. The policy is targeted at workless adults, but the reality is that children

[105] HL Deb 8 November 2016 cc1136-7

> are considerably more likely than adults to lose out and there is nothing fair about trying to balance the books on the backs of poor children.
>
> We fully support efforts to make work pay, but it is not right to achieve this by putting more children on the breadline. Even at this late stage we would urge ministers to exclude children's benefits from the cap so that children and their already struggling families do not suffer even more hardship.
>
> At the same time the Government should provide better incentives for families to move into work by reversing recent cuts to support for working families in Universal Credit.[106]

Analysis by **Gingerbread** suggests that more than half of capped households will be single parents with children under five, who already face particular difficulties moving into work because of shortages in childcare and suitable part-time jobs. Gingerbread's Policy Officer Laura Dewar comments:

> The new benefit cap is likely to drive more single parents into poverty. Many will have to choose between the roof over their children's heads and other essentials such as food and heating.
>
> Parents tell us they are doing all they can to find work, but all too often jobs and available childcare just don't match up – single parents with toddlers can't simply work a night shift or at weekends.
>
> Those set to be hit by the cap are calling Gingerbread panic-stricken, desperate to find a way to protect their children. For all the government's talk about work incentives, it has nothing to say on the families who can't find work and the devastating impact it will have on children who face losing their homes or being pushed in poverty.[107]

In a blog of 7 November 2016, Josephine Tucker, Senior Policy and Research Office at the **Child Poverty Action Group**, notes that the reduced cap will also affect people unable to work due to illness and disability who are in the ESA work-related activity group. Of households capped at August 2016 only 14% included someone claiming Jobseeker's Allowance – and were therefore expected to seek work. The Government's decision to exempt carers from the benefit cap was welcome, but it had "failed to extend the same logic to other groups who should not be expected to work." Josephine Tucker adds:

> The only other way to become uncapped is to move house somewhere cheaper. Yet Shelter has calculated that a family with two young children will not be able to find a home in 60% of the country – including the entire southeast and southwest regions – which would be cheap enough for them to escape the reduced cap. A family with four children will find the entire country unaffordable.
>
> The IFS found in 2014 that 'the large majority of affected claimants responded neither by moving into work nor by moving house'. Indeed a government report from December 2014 showed that more capped families had cut down on spending on

[106] Harsher benefit cap risks increasing child poverty, warns The Children's Society, press release, 4 November 2016

[107] Third of homes hit by benefit cap are single parents of babies or toddlers, Gingerbread press release, 4 November 2016

> essentials (35%) than had looked for work (28%). If families cannot cut down enough to meet the shortfall in their rent after their housing benefit is capped, they may eventually lose their homes. Discretionary housing payments are available for some, but the budget is limited and they are by their nature temporary and not guaranteed.
>
> The evidence is there that this policy leads directly to babies, toddlers and children – as well as people with ill health and disabilities - losing out on good food, warmth and a secure home. These are groups who ought to be given the strongest possible protection against this kind of deprivation, and we should be incredulous and angry that it is about to be inflicted on many more families, and much more cruelly than before.[108]

On 1 November, The **Chartered Institute for Housing** published research suggesting that the reduced benefit cap could affect more than 116,000 families across Great Britain.[109] Key findings include:

1. 116,000 one to four child families are affected – there are a total of 319,000 children living in these households
2. 34,000 two child families are affected, and 56,000 three child families
3. nearly 60% of those one to four child families affected are living in social housing, with the remainder living in the private rented sector
4. in London even though the cap is set £3,000 higher than elsewhere in the country, this is still not sufficient to fully compensate for the higher cost of living. The result is that in the capital the reduced cap even extends to some 6,000 single child families
5. away from London and the wider South East, 13,000 one – four child families will be affected in the North West and 12,000 each in the West Midlands and the East of England
6. even in parts of the country with the cheapest housing, the North East and Wales there are over 12,000 one – four child families affected[110]

The CIH also looked at the impact in terms of the shortfalls affected families could face. Its calculations show:

7. many three child families will face substantial shortfalls, for example, those that rent privately stand to lose more than £100 per week in half of all local authority areas if they are a couple, or a quarter of all areas if they are a lone parent
8. even council tenants will face losses of more than £25 a week in almost all areas if they are a couple, although this falls to 20 per cent of areas if they are a lone parent
9. in the private rented sector, many to two child families will also face significant shortfalls in more expensive parts of the country. These will exceed £25 per week in 40 per cent of local authority areas for couples and in 20 per cent for lone parents.[111]

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[108] Josephine Tucker, Widening the net and twisting the knife: the benefit cap gets worse, CPAG blog, 7 November 2016
[109] CIH, The likely impact of the lower overall benefit cap, 1 November 2016
[110] Ibid. p3
[111] Ibid. p5

Commenting on the findings from the research the CIH Chief Executive, Terrie Alafat, said the new cap could put many families at serious risk of losing their homes and render housing in significant parts of the country unaffordable for those affected. She added:

> The results of our research are extremely worrying. It shows that the reduction in total benefits is going to hit some of the most vulnerable families of all sizes across England, Scotland and Wales.
>
> These families will lose out when the cap comes into effect from 7 November and in many cases will straight away face a substantial gap between their rent and the help they receive to pay for their housing.
>
> Worryingly, our analysis shows many families could be one redundancy or a period of ill health away from being in this situation.
>
> We are seriously concerned that this could have a severe impact on these families, make housing in large sections of the country unaffordable and risk worsening what is already a growing homelessness problem.
>
> This is a measure which seriously risks undermining the government's commitment to make society fairer for families in Great Britain and we suggest that they look at this urgently.[112]

In an observation published in 6 November[113], Andrew Hood and Robert Joyce of the **Institute for Fiscal Studies** note that while the additional long run savings to the Exchequer from the reductions to the benefit cap are relatively small when compared with the £12 billion welfare savings to be made in this Parliament, for those families affected the impact can be large. They also note that the reductions change the profile of the households affected, with significant numbers in regions outside London becoming subject to the cap, and a much greater impact on families with fewer children. They comment:

> It is possible for the benefit cap to quickly affect many more out-of-work families in an area, once its level falls below the sum of the HB cap in that area for the family type in question and the other (nationally-set) benefit entitlements. Given the existence of these 'tipping points', further changes to the level of the cap could again have big effects not just on the number of households capped, but also on the types of households that are capped, in terms of number of children, geography and so on. This highlights one consequence of the approach of simply layering an overall cap on top of the benefits system, rather than addressing the underlying benefit rates (those for HB and child support) which cause the perceived problem: there is a risk of arbitrariness in its effects. It would be sensible for the government to set out a clear vision of which families it thinks receive excessive amounts of benefits and why.

The authors also consider how people might respond to the reduced benefit cap:

> As discussed in a previous observation, we have fairly robust evidence that about 5% of those affected by the previous cap

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112 New benefit cap will have 'widespread and severe impact' - new research, CIH press release, 1 November 2016

113 Andrew Hood and Robert Joyce, A tighter benefit cap, IFS Observations, 6 November 2016

> responded to that cap by moving into work. An even smaller fraction – and only those who lost particularly large amounts of income – moved house in response.
>
> Hence it would be reasonable to expect the further lowering of the cap to result in some increases in employment as people respond to the strengthened financial incentive to be in paid work, and in some of those affected moving to a cheaper home. Another possible response is for households to claim disability benefits in order to become exempt from the cap. Of the 79,000 households who have been capped since its introduction in Summer 2013, 12,000 became exempt due to a disability benefit claim (we do not know how many of those 12,000 would have started a disability claim if the cap did not exist, so this does not reveal the effect of the policy).
>
> However, all this suggests that the majority of those affected will not respond by moving into work, moving house or claiming a disability benefit. For that majority it is an open question how they will adjust to the loss of income. One mitigating factor that is likely to be significant is Discretionary Housing Payments (DHPs): money paid at the discretion of local authorities to help tenants deemed to be struggling to pay their rent. In 2015–16, £25 million of DHPs were allocated specifically to help tenants affected by the benefit cap (offsetting almost 40% of the direct £65 million saving from the cap). About 40% of those affected by the benefits cap so far have successfully applied for DHPs. These DHPs look likely to play a key role in mitigating the impact of the cuts on some of the families affected - whilst rendering the net fiscal savings from the cap all the more trivial.

Impact on housing providers

As the cap is initially being implemented by "squeezing" Housing Benefit entitlement, housing organisations conducted some early modelling of the impact of a cap set at £23,000. Moat housing association, which provides social housing across the south-east, published a discussion paper, Rent levels and the benefit cap (December 2014), in which concluded that a cap at this level would make all its three-bedroom properties unaffordable for families in receipt of full Housing Benefit. Two-bedroom properties in all but eight local authorities in which Moat operates would become unaffordable within four years.[114] When taking account of affordable rent levels (rents set at up to 80% of market rents),[115] Moat described the potential impact as 'alarming':

> …it shows that paying rent would become extremely problematic for many additional families on Housing Benefit under a £23,000 cap. All three bedroom properties would become instantly unaffordable under the proposal, and many two bedroom properties would become unaffordable also. It is important to note that this analysis is based on actual housing association rents, not 80% of market rent, so this is a reflection of what would happen under what is currently being charged.[116]

In order to ensure ongoing affordability of two-bedroom affordable rent properties in the south-east under a reduced benefit cap, Moat

[114] Moat Housing Association, Rent levels and the benefit cap, December 2014, p5
[115] See section 4 of this note (p19)
[116] Moat Housing Association, Rent levels and the benefit cap, December 2014, p7

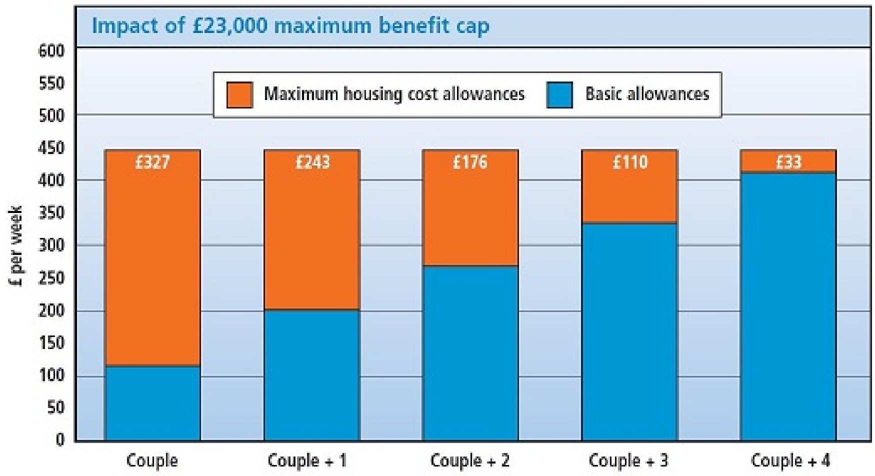
concluded that associations: "would need to begin depressing rent levels across virtually all local authorities in the South East." Moat went on to acknowledge that this approach may not be acceptable to the Homes and Communities Agency "given that it would have major consequences on development programmes which would have to be revised downwards to cover lost revenue."[117] In the event of a lower cap resulting in increased rent arrears and evictions, there is a possibility that this would impact on lenders' willingness to finance future development as this is based on an assessment of tenants' ability to afford their rent.

The Moat discussion paper also referred to the potential impact that a reduction in the cap would have for the increasing number of benefit-dependent and vulnerable households in the private rented sector (PRS). The PRS now houses more households in England than the social rented sector and these households are liable, particularly in London and the south east, to pay substantial levels of market rents. The termination of private sector assured shorthold tenancies has been the most frequently occurring cause of homelessness amongst households approaching local authorities for housing assistance in the last twelve consecutive quarters. The ending of a PRS tenancy accounted for 29% of homeless acceptances in England between January and March 2015 (39% in London).[118]

The UK Housing Review 2015 Briefing Paper (June 2015) considered the impact of a cap of £23,000 and concluded that £110 per week for couples with three children "would be insufficient to meet an average housing association three-bedroom social rent anywhere in either the Midlands or the south of England, and even in many areas in the north of England."[119]

The chart below (taken from the Briefing Paper) shows how a lower cap would affect the amount available to couples to meet their housing costs (including Council Tax):

[117] Ibid., p8
[118] Statutory homelessness in England: January to March 2015, DCLG, 24 June 2015
[119] Steve Wilcox, John Perry & Peter Williams, UK Housing Review 2015 Briefing Paper, June 2015, p15



Source: Author calculation based on 2015/16 income support rates.

Deputy chief executive of the Chartered Institute of Housing (CIH), Gavin Smart, said:

> People affected by the current cap already face significant barriers to finding work, including a lack of job seeking skills and affordable childcare. Our UK Housing Review briefing shows that lowering the cap would make huge swathes of the country unaffordable for larger families on benefits. Where will these people go? Being forced to move large distances away will make it even harder to find work, because they could be cut off from the support network they rely on for childcare for example.
>
> The social housing sector is already struggling to cope with demand. I fear we will see increasing levels of homelessness, with already vulnerable people being subjected to even more risk.
>
> Ultimately, if the government really wants to tackle the housing benefit bill, it needs to commit to building more genuinely affordable homes. We have failed to build the number of homes we need for decades which means that the cost of housing is becoming unaffordable for more and more people, increasing the numbers who rely on the benefits system to make ends meet. Action to restrict entitlement to benefits is at best a stop gap measure and at worst increases poverty and misery for already poor and vulnerable people. Long-term, effective action would focus on increasing our housing supply not further restricting access to our already insufficient and inadequate supply of homes.[120]

Following the Summer Budget announcement, Coast and Country Housing (a Durham based housing association) carried out some initial modelling based on a benefit cap level of £20,000. *Inside Housing* reported a finding that 750 of the association's tenants would be affected with losses averaging £1,200 per year.[121] In the same article, South Yorkshire Housing Association (SYHA) reported that 254 of its tenants would be affected with an average shortfall of £60 per week.[122]

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[120] CIH, Reduced benefit cap would make many areas off-limits for larger families, 22 June 2015 [accessed on 29 June 2015]
[121] "Social tenants hit by benefits cap," *Inside Housing*, 10 July 2015
[122] Ibid.

The National Housing Federation (NHF), the representative body of housing associations, has commented on the impact of a lower benefit cap:

> The Federation's modelling suggests that the lower benefit cap could impact 205,000 households including 68,000 households living in housing association properties. The lower cap will impact affordability in all areas of the country and a lower benefit cap outside London takes no account of regional variations in rents outside London.
>
> Our modelling shows that a couple with three children would not be able to afford the average housing association rent on a 3-bed property in any region. Under the £23,000 cap in London, they would face a shortfall between housing benefit and rent of £27.79 per week. The weekly shortfall under a £20,000 cap ranges from £37.40 in Yorkshire and Humberside to £67.35 in the South East, based on the current rent agreement.
>
> Housing associations and local authorities will need advance notice of the lowering of the cap in their areas. Effective data sharing arrangements will need to be in place so that housing associations are in a position to support tenants affected by the cap.[123]

2.3 Who will be affected by the reductions?

Around 88,000 households will be affected by the new, lower benefit cap once fully rolled out, according to DWP's August 2016 Impact Assessment for the cap.[124] 64,000 households among these will be newly affected – that is, the new, lower cap will affect around 64,000 households not already affected by the original, higher cap.

In total, the number of households affected by the new, lower cap is expected by DWP to be just over four times higher than the number capped at August 2016, and in excess of the cumulative total of 79,400 households affected by the existing cap since its introduction in April 2013.

The DWP's Impact Assessment estimates that:

- In the absence of any behavioural response, the lower benefit cap will affect 107,000 adults and 244,000 children (76,000 more adults and 161,000 more children than were affected by the previous cap)
- Around 66% of capped claimants are single females, but only 13% will be single men
- 61% of capped claimants are female lone parents, including 20,000 lone parents with a child aged between 0 and 2 and 37,000 lone parents with a child aged 0-4[125] (in comparison, at August 2016 around 13,200 lone parents with a dependent child of any age were affected by the cap)

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123 Summer Budget 2015 Briefing, National Housing Federation (NHF), 10 July 2015

124 The chartered Institute for Housing has estimated that 116,000 families across Great Britain will be affected by the lower cap – see section 2.2 above. It is not clear why this estimate is so much higher than DWP's.

125 PQ 52249 [on Social Security Benefits: Lone Parents], 14 November 2016

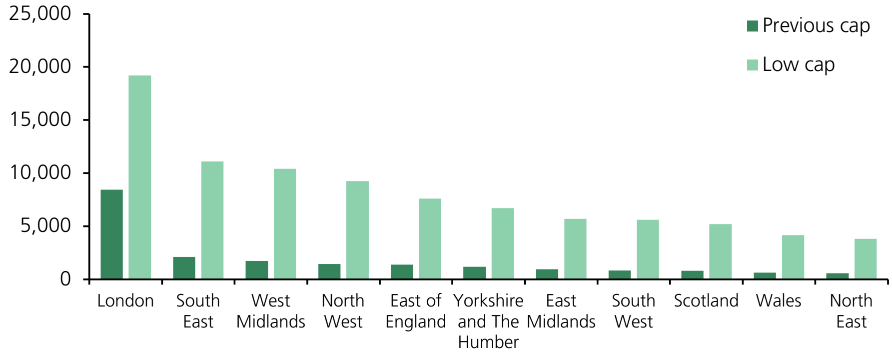
- Assuming no behavioural response, the average (mean) amount of benefit capped will be around £60 a week (median reduction of £49 a week)
- For the 64,000 households newly affected by the cap, the average reduction is around £39 a week. Households who would have had their benefit capped at £26,000 will lose a further £62 a week.
- Around half (51%) of households will face a reduction of £50 a week or less.

The new, lower cap will also have a notable impact on *where* affected households are.

Under then original, higher cap, a disproportionate number of households affected were in London: of households caped in August 2016 42% were in London, and 44% of all households affected by the cap since introduction in April 2013 have been in London.

In comparison, around 22% of households affected by the new, lower cap are expected by DWP to be in London once fully rolled out. The chart below shows the number of households expected to be affected by the new, lower cap by region, compared to the number affected by the original cap. Note that figures for the number of households expected to be affected by the new, lower cap include households already affected by the original cap.

Households affected by the original, higher benefit cap (Aug 2016) compared to number expected to be affected by the new, lower cap



Notes Data for the number of households affected by the original, higher cap is point-in-time caseload data for August 2016; estimates for the number of households expected to be affected by the new, lower cap rounded to the nearest hundred
Sources DWP Stat Xplore caseload data for August 2016; DWP August 2016 Impact Assessment for the new, lower cap

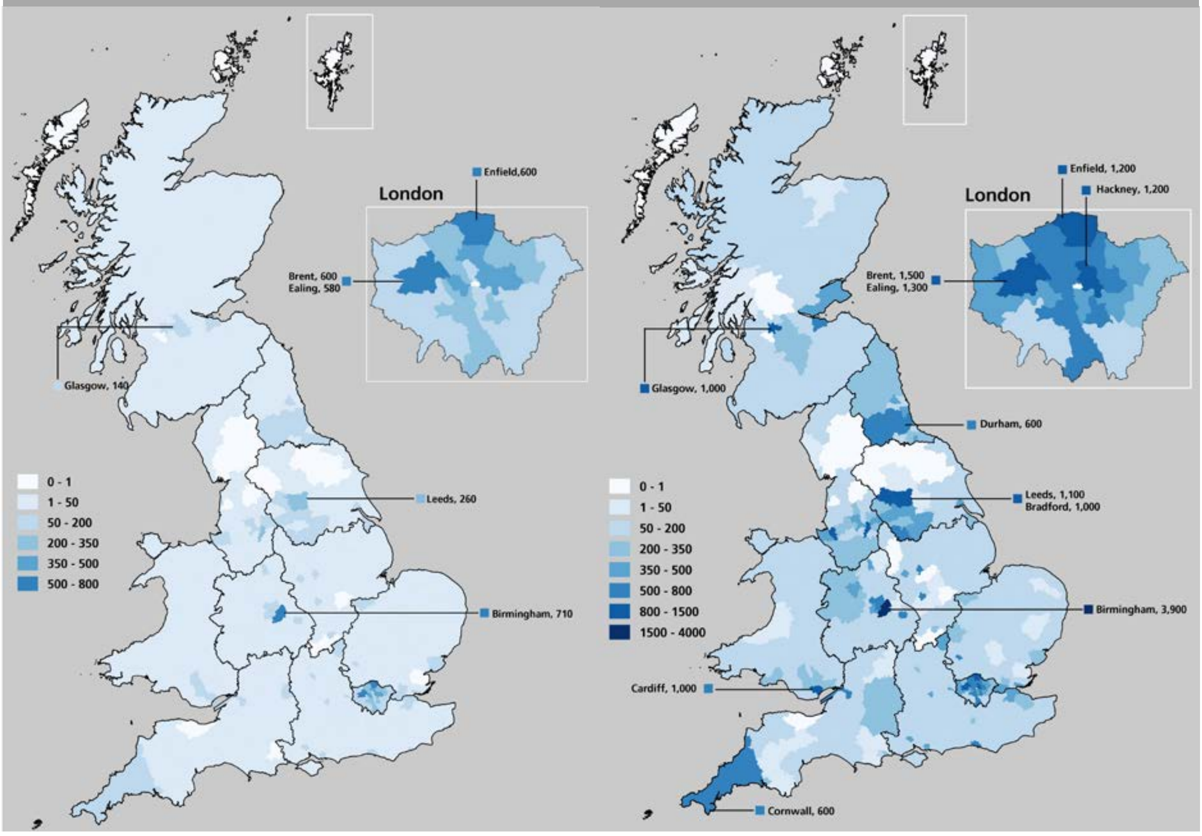
London will experience the largest increase in the number of affected households in absolute terms, approximately doubling from 8,400 in August 2016 to around 19,200 once the new, lower cap is fully introduced. The number of households affected will at least quadruple in all other regions of England, Scotland and Wales, however. As a result, the proportion of households affected by the benefit cap will become more evenly distributed across Great Britain.

The two maps below further demonstrate this change.

Number of households capped, by local authority

Original, higher cap *August 2016 point-in-time caseload data, DWP Stat Xplore*

New, lower cap *DWP August 2016 Impact Assessment, average number of households capped in 2016-17 based on November 2016 data. Estimates not adjusted for behavioural responses*



These maps show the number of households affected by the original cap and the new, lower benefit cap by local authority.[126] As discussed above, DWP's impact assessment provides estimates for 2016-17, based on November 2015 caseload data, for the average number of households that might be affected once the new, lower cap is rolled out across all regions. These estimates do not account for potential behavioural changes (e.g. people moving into work in reaction to being subject to the cap when out of work); they include households already affected by the original cap.

There are two key differences between the maps.

First, the maps show an overall increase in the number of affected households across Great Britain. Most local authorities currently with 1 to 50 capped cases are estimated to have 50 to 200 cases under the new, lower cap. Moreover, under the new, lower cap multiple local authorities are expected to have over 800 affected households.

Second, London may no longer be the only place with high numbers of households affected, as the areas in dark blue are much more dispersed

126 The number of households in each local authority estimated to be affected by the new, lower cap is given in a table in the DWP's Impact Assessment

across Great Britain. Birmingham, for example, is the local authority with the highest number of affected households under the new benefit cap (3,900), far ahead of the local authorities in London. Leeds (1,100), Glasgow (1,000) and Cardiff (1,000) are among the top 10 local authorities with the highest number of affected households, alongside London.

Expected savings

Putting a figure on savings from the benefit cap changes is far from straightforward. This is not only because of uncertainty about how people might respond to the lowering of the benefit cap, but also because of the way the benefit cap interacts with other welfare reforms.

Summer Budget 2015 estimated savings from the reductions in the benefit cap in Great Britain (assuming no behavioural response from claimants) of £300 million a year in 2017-18, rising to £480 million a year in 2020-21 (in cash terms). Revised estimates were presented at the March 2016 Budget – see the table below.

However, where a welfare policy change appears in the overall budget "scorecard" in relation to other measures can affect the estimated cost/saving from that policy change.[127] This is because the order in which a package of measures are costed determines the "baseline" against which savings for each individual estimate are calculated. Summer Budget 2015 announced 16 separate welfare measures, and the lower benefit cap was listed second in the budget scorecard (after the four-year benefits freeze). Savings from the benefit cap were therefore estimated *before* other significant welfare changes (such as the two child limit in tax credits) were costed.

The final line in the table below, alternatively, estimates savings from the benefit cap *after* taking into account savings from other welfare measures that have been announced, and the cost of exempting households in receipt of Carer's Allowance or Guardian's Allowance.

Estimated savings from the new, lower Benefit Cap
£ millions, nominal terms

	2016/17	2017/18	2018/19	2019/20	2020/21
Pre- other welfare measures					
Summer Budget 2015	95	300	350	395	480
Budget 2016	75	230	250	295	350
Post- other welfare measures					
Budget 2016	65	155	110	100	110

Notes Costings do not account for behavioral responses; "pre- other welfare measures" shows savings calculated before other welfare changes have been taken into account; "post - other welfare measures" shows savings calculated after other interacting changes have been taken

Source DWP Impact Assessment for the benefit cap, August 2016

Taking into account other welfare measures and the Carer's/Guardian's Allowance exemptions, and in the absence of behavioural responses,

127 The "scorecard" is the table which gives the estimated costs/savings from each individual measure announced in the Budget/Autumn Statement in question

savings of £155 million a year are expected in 2017-18, rising to £110 million a year in 2020-21. The DWP's Impact Assessment emphasises:

> It is important to remember, however, that the change in presentation of the numbers does not affect the savings associated with the overall welfare package. For example, alongside any reductions in benefit cap savings from the interaction with other welfare reforms there will be corresponding increases in savings alongside other reforms, where the interaction with the benefit cap is not accounted for.[128]

That is to say: the ordering of measures has no effect on savings expected from the overall package of measures, simply on the way savings are distributed between individual measures within the overall package.

Actual savings from the new, lower benefit cap will also depend on behavioural responses from claimants. The latest Impact Assessment states that expected behavioural changes are "difficult to assess", but adds:

> We have, however, seen clear evidence of positive behavioural responses to the cap at £26,000 (for example, from movements into work); this has been observed from post implementation evaluation. The evaluation of the current £26,000 benefit cap found:
>
> - Those who would be impacted by the cap are 41% more likely to go into work than a similar group who fall just below the cap's level. But this trend didn't exist before the cap was in place –indeed those with higher weekly benefit used to be less likely to move into work.
> - 38% of those capped said they were doing more to find work, a third were submitting more applications and 1 in 5 went to more interviews.
> - Where households said they intended to seek work because of the cap in February 2014 (45%),by August, the vast majority of them (85%) had done so – 2 in 5 (40%) of those who said they had looked for work because of the cap in February actually entered employment by August.[129]

2.4 Implementation

Regulations introducing the new, lower benefit caps in Great Britain came into force on 7 November 2016.[130]

Households affected by the benefit cap reductions will have their claims reassessed over a 12 week period starting from 7 November 2016. A DWP Housing Benefit General Information Bulletin issued on 21 September explained:

> 14. Regulations that cover the benefit cap changes come into force from 7 November 2016. This means that the new cap levels must be used in all new cap calculations from this date.

[128] Ibid. p9
[129] Ibid. p6
[130] *The Welfare Reform and Work Act 2016 (Commencement No. 3) Regulations 2016*, SI 2016/910; and *The Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations 2016*, SI 2016/909

> 15. As per existing benefit cap processes, DWP will undertake a manual check of benefit awards and exemptions. This is expected to be completed during a 12 week period commencing from the 7 November 2016 and completing by the end of January 2017. All Universal Credit claimants are to be reassessed by the end of January 2017.
>
> 16. Following consultation with LAs the agreed implementation order will be 'low to high', i.e. those LAs with the lowest volume of new claims will be processed at the beginning of the 12 week period. The LAs with the highest volumes will be processed at the end of the 12 week period.[131]

More detailed information on the implementation schedule has been deposited in the House of Commons Library.[132]

The Department for Work and Pensions wrote to potentially affected claimants between 19 and 30 September, to inform them that they could be subject to the cap (Universal Credit claimants were to be notified separately, either face to face, by letter or online).

Further information for local authorities is given in a DWP adjudication and operations circular, Administration of the benefit cap 2016.[133] This gives detailed guidance on how the new, lower benefit cap operates; and how local authorities are expected to work with DWP to introduce the changes. In relation to claimants who are "double capped" – i.e. those who were affected by the original benefit cap who are impacted for a second time as a result of the reduction – the circular states:

> 23. A double-capped case is a case where the claimant was subject to the cap under the 2013 benefit cap threshold level and subsequently changed their address to avoid being capped or reduce the amount of the cap level. It is clearly possible for such cases to be capped again under the new 2016 benefit cap threshold levels. DWP will offer all claimants (except those on who are on the Work Programme or Workchoice) identified as double-capped a voluntary additional 40 minute intervention to discuss their options. This intervention is for claimants to have additional time with a Work Coach to improve their work readiness or to seek work. At this interview DWP will also consider any additional support that may be available to the claimant (for example, DHPs or other options available) and sign-post to the LA accordingly.

In advance of the introduction of the lower benefit caps, some local authorities have undertaken work aimed at minimising the impact on households potentially affected, and the additional financial burdens on local government that may ensue. The text box below gives an example of how one local authority has sought to prepare for the benefit cap changes.

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131 HB General Information Bulletin HB G9/2016
132 DEP 2016-0811
133 HB A10/2016 (2nd revision)

Box 1: Preparing for the lower benefit cap in Croydon

In advance of the introduction of the lower benefit caps, the London Borough of Croydon has been working with consultants Policy in Practice to better understand the circumstances of households likely to be affected by the changes and to target support accordingly. The work recognises not only the potential negative impact of the cap on families and children, but also the risks to the local authority of not taking a proactive, preventative approach – it is estimated that the cost of **not** acting through temporary accommodation, Discretionary Housing Payments and potential eviction costs could be as high as £2 million to Croydon Council.

Using the DWP's benefit cap scan together with local Housing Benefit and Council Tax data, 758 households with 2,036 children were identified as being potentially affected by the lower benefit caps in Croydon. The households were split into six groups in order to determine the appropriate intervention:

- **168 potentially exempt** – households potentially exempt from the cap, e.g. those in receipt of Carer's Allowance, DLA, the ESA Support Component, or those working enough hours to qualify for Working Tax Credit.
- **226 already capped** households – for whom a further reduction in their entitlements "could become impossible without support through DHPs or other interventions."
- **227 "quick wins"** – those already in work but not working sufficient hours to qualify for WTC (160 households), or those not working but with low barriers to work (i.e. no disability, no caring responsibilities, no young children). Employment support (possibly in conjunction with Jobcentre Plus) could help households in these categories move into work or increase their hours, thereby avoiding the cap.
- **81 households in temporary accommodation** – for whom the lower benefit cap could have a significant impact. Local authorities could prioritise the use of DHPs for this group.
- **115 lone parents** – the majority with children under 5. For this group, the strategy focuses on removing barriers to work, by giving additional help with childcare.
- **77 households identified as capped but not within the council's records** – this could include households who have moved to other authority, or those in receipt of Universal Credit.

On claimants receiving Universal Credit who are affected by the lower caps, Policy in Practice comments:

> "In comparison with information available for cases within the housing benefit records, planning and delivering targeted support to claimants in need on Universal Credit becomes a whole other challenge. Policy in Practice will be writing to the DWP to ensure information on capped households that move onto Universal Credit is shared with local authorities. This example alone highlights the need for the DWP to share more information on these households with local authorities, and move towards an holistic system of Universal Support Delivered Locally."

It remains to be seen how effective initiatives such as those in Croydon are in mitigating the impact of the benefit cap reductions, but the Borough's Director of Welfare and Gateway, Mark Fowler, believes that the project has produced information that "supports, informs and helps us monitor the effectiveness of our strategies." He adds:

> "By better understanding the levels of risk and the concentrated areas where those residents live, we believe resources from inside and outside of the council will be better targeted and more effective. We are deeply concerned with regards to the amounts families will be losing and without a proactive, preventative approach we fear for the longer term impact on residents."

Further information:
Preparing for the lower Benefit Cap: lessons from Croydon, Policy in Practice, 1 November 2016

3. Northern Ireland

In October 2012 a *Welfare Reform Bill* was introduced in the Northern Ireland Assembly in October 2012 to make equivalent provision in Northern Ireland to the Coalition Government's *Welfare Reform Act 2012* – which introduced, among other things, the benefit cap. The Northern Ireland legislation had a difficult and protracted passage through the Assembly, and failed to pass its final stage in March 2015.

Following the November 2015 Fresh Start Agreement, the *Northern Ireland Welfare Reform) Bill* was fast-tracked through the UK Parliament (after the NI Assembly agreed the necessary Legislative Consent Motion) to enable Westminster – rather than the Assembly – to legislate for welfare reform in Northern Ireland. The legislation was an enabling measure, paving the way for the *Welfare Reform (Northern Ireland) Order 2015* – which included provisions equivalent to the *Welfare Reform Act 2012* – and *The Welfare Reform and Work (Northern Ireland) Order 2016*, which measures the current UK Government's *Welfare Reform and Work Act 2016*.

As a result of the 2015 Order, the benefit cap was introduced in Northern Ireland from 31 May 2016, and the 2016 Order provides for the cap to be reduced to the same rates as now apply in Great Britain outside London (£20,000 a year for couples and lone parents, and £13,400 for single persons without children). The lower caps have applied since 7 November 2016, in line with the timetable in Great Britain.

3.1 Mitigating the effects of the benefit cap: Supplementary Payments

The Fresh Start Agreement covered not only implementation of welfare reform but also certain "flexibilities" for Northern Ireland. It was also agreed that £585 million would be allocated from Executive funds over four years to "top-up" the UK welfare arrangements. A Welfare Reform Mitigations Working Group, chaired by Professor Eileen Evason, was established to work up proposals on how the additional funding should be used. The Working Group's report was published on 19 January 2016 and its recommendations were agreed by the Northern Ireland Executive.

The Working Group recommended that "supplementary payments" should be made for up to four years to fully mitigate the impact of the benefit cap on families with children, "to protect the welfare of children, and avoid the general disruption that a need to seek cheaper accommodation might cause." The *Welfare Supplementary Payment (Benefit Cap) Regulations (Northern Ireland) 2016*[134] came into force on 7 November 2016.

The UK Department for Work and Pensions estimates that **2,440 households with 9,140 children** in Northern Ireland will be affected

[134] SR 2016/389

by the reduced benefit cap (1,900 lone parents, and 540 couples with children). All are in receipt of Housing Benefit and almost all receive Child Benefit.[135] Supplementary Payments – which will fully mitigate the impact of the benefit cap in Northern Ireland up to 2019-20 – are expected to total around £25 million (£1 million in 2016-17 and £8 million a year in 2017-18 to 2019-20).[136]

Further information on the Supplementary Payments scheme and other assistance for families affected by the benefit cap in Northern Ireland is available on nidirect:

> **What help is available for affected households?**
>
> Finding work could mean that the Benefit Cap would not apply to you because qualifying for Working Tax Credit will mean that you are not affected by these new rules.
>
> You can receive help and assistance in finding work by contacting your nearest Jobs & Benefits office / Social Security Office / Job Centre where an Adviser will support you in your search for work.
>
> An additional Supplementary Payment, available until 31 March 2020 to cover any loss of housing benefit, may be available for households with children, identified as being affected by the Benefit Cap from 7 November 2016. This does not affect your tax credits entitlement, and you won't have to pay any tax on it.
>
> If you are affected by the Benefit Cap, you do not need to apply for a Supplementary Payment. The Department for Communities will identify who is eligible and the payments will cover any loss of Housing Benefit.
>
> The Supplementary Payments are made every four weeks in arrears and are paid to the person who receives the Housing Benefit - this could be the claimant, their landlord or a letting agent acting on the landlord's behalf.
>
> Any landlords or letting agents must be on the Landlord Register to receive a Supplementary Payment where applicable. If they are not, the payments are made to the benefit claimant.
>
> Households affected by the Benefit Cap after 7 November 2016 may also be entitled to a Supplementary Payment, provided they have been in receipt of one of the benefits included in the Benefit Cap calculation since 7 November 2016.
>
> Anyone affected by the Benefit Cap who is not eligible for a Supplementary Payment, may be eligible to apply for a Discretionary Housing Payment to make up for a reduction in their Housing Benefit.

135 Impact Assessment for the benefit cap Northern Ireland, July 2016
136 Explanatory memorandum for the Welfare Supplementary Payment (Benefit Cap) Regulations (Northern Ireland) 2016, para 7.1

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