

SCRAP THE CAP

THE IMPACT OF THE BENEFIT CAP IN 2024 AND WHY IT NEEDS TO GO

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INTRODUCTION: WHAT IS THE BENEFIT CAP?

The benefit cap was initially introduced under the Conservative-Liberal Democrat coalition government in 2013. The Chancellor George Osborne argued that the cap would save taxpayer money while also imposing behavioural changes on benefit claimants which would result in them moving into work. The benefit cap was one of several policies that helped to break the link between households' *needs* and their entitlement to support.¹

When the cap was first introduced in April 2013, it was set at £500 per week and it only affected only a small number of families.² It was also tied to average wages, justified by the argument that a benefits-claiming household should not be receiving more than the average a 'working' household could receive. In 2016, the cap was reduced to £383 per week for households outside of London and £442 for those in London. The cap was then frozen until April 2023, when it was increased for the first time in response to the cost-of-living crisis. Today the cap stands at £25,323 per year for families living in London and £22,020 for families living elsewhere.³

The reduction in the cap and the decision to freeze it for many years led to more households being affected by the cap over time, as the maps below from Child Poverty Action Group show.⁴

February 2014



February 2018



February 2023



Number of children living in households affected by the benefit cap. Note: The darker the shade of red the more children affected. Source: Child Poverty Action Group 2023 report, based on Office for National Statistics (boundaries) and DWP Stat Xplore.

¹ <https://sticerd.lse.ac.uk/CASE/NEW/PUBLICATIONS/abstract/?index=11048>

² <https://assets.publishing.service.gov.uk/media/5a759bed40f0b67b3d5c7d45/benefit-cap-october-2013.pdf>

³ <https://www.gov.uk/benefit-cap/benefit-cap-amounts>

⁴ <https://cpag.org.uk/sites/default/files/2023-08/The%20benefit%20cap-%20an%20unhappy%20anniversary.pdf>

The amount claimants can receive before their benefits are capped depends on whether they live inside or outside London, if they are single or in a couple, and if they have dependent children. Some people are exempted from the cap, such as those over state pension age, disabled people in receipt of Personal Independence Payments, and carers of disabled children in receipt of Child Disability Living Allowance. (A full list of exemptions is available on the government website.⁵)

Single parents – 84% of whom are mothers – are at the sharpest end of the policy.⁶ Single parents outside London receive a maximum of £1835 per month in means-tested benefits, no matter how many children they are looking after. This leads to severe hardship for many families. Two legal claims have been taken to the Supreme Court to argue that the policies discriminate against single mothers and cause child poverty (see Chapter 3).

The government only has a legal obligation to review the cap once every 5 years, meaning that, in theory, the cap could remain at current levels until 2027. Even then, there is no duty to raise the cap, only to review it. The intensity of hardship faced by capped households and the number of households capped are only set to increase while the cap is in place at its current level.

September 2024 statistics

According to statistics from September 2024, between February 2023 and May 2024, the number of households who had their benefits capped rose by 61% from 77,000 to 123,000, primarily as a result of rising rents (which are included in the cap) and the government's decision to increase benefits by 6.6%, announced in the autumn budget in 2023.⁷ Those who are capped have not seen the benefit of this increase, and have become worse off in real terms.

As of May 2024, 87% of households that are currently capped include children. The analysis shows that 87,000 single parent households were capped, of which 55% had at least one child aged under 5 years. Despite the government's insistence that the cap is designed to get people working, just over a third of people on Universal Credit who are subject to the benefit cap are assessed by the DWP as not required to look for a job because they are caring for young children.

In this research piece, we will look at the arguments the government uses to justify the cap (Chapter 2: 'Escaping the cap'), then consider the two Supreme Court cases against the cap (Chapter 3: 'Legal challenges to the benefit cap'). We then share testimony from one of GMLC's clients and her son, who were subject to the cap in 2024 (Chapter 4: 'Numbers don't tell the whole story'). In the final chapter, we argue for the scrapping of the cap in addition to the two-child limit on benefits, another key driver of child poverty. Short of that, we recommend changes that could be made to make the cap less discriminatory and cruel. Appended to this report is a template letter to MPs to ask them to intervene and scrap the cap.

⁵ <https://www.gov.uk/benefit-cap/when-youre-not-affected>

⁶ <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/bulletins/familiesandhouseholds/2022>

⁷ <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-may-2024/benefit-cap-number-of-households-capped-to-may-2024>

ESCAPING THE CAP: IMPOSSIBLE CHOICES

If claimants are not in one of the groups 'exempted' from the benefit cap, the government has put forward two key options for escaping the cap: entering paid work for more than 16 hours a week and/or moving to cheaper accommodation.

Barriers to work for those hit by the cap

The main argument the government advances is that claimants who want to be exempted from the cap should get into paid work, as people can also escape the benefit cap if they begin to work for 16 hours a week at the national living wage. For some people this is doable, but for many who find themselves capped for a long time, it is an insurmountable challenge.

Though the benefit cap may incentivise moving into work for those who can, other households are subject to the cap for a long time, often those families with pre-existing barriers to entering work. The government evaluated the benefit cap in 2017 after the reduced cap was introduced, completing two survey waves. They found that:

The drop in numbers making or planning behaviour change regarding work between the two survey waves may indicate that the majority of those who are work-ready, or face less significant barriers to work have made the necessary changes to move into employment in the first year of being subject to the lower cap. This may also partially explain why being capped a larger amount is only associated with employment changes at wave one, and not wave two [of the study]. This leaves a pool of claimants, including those with self-reported health conditions or very young children/ large families, who are much less able and therefore much less likely to move into work, and for whom any larger reduction in benefits will not necessarily stimulate further employment-related changes. This group has, or must, find other ways to manage their reduced benefit income and may be disproportionately affected by the benefit cap in other ways.⁸

In particular, single parents with young children can struggle to maintain both work and childcare commitments, requiring work that marries up with hours where childcare is available, affordable and within travelling distance.

Parents with young children

In interview carried out by the Larger Families Project, it was clear that the parents in families with several children affected by the benefit cap were suffering from knock-on effects of the policy.⁹ They spoke about suffering from anxiety, stress, depression and insomnia, with one parent stating, "I'll be up most nights thinking about, oh God the rent". One parent commented in relation to entering paid

⁸ <https://www.gov.uk/government/publications/lower-benefit-cap-quantitative-analysis-of-outcomes-of-capped-households/evaluation-of-the-lower-benefit-cap>

⁹ <https://largerfamilies.study/>

work, “if I was having to pay for childcare through the day and then childminders to pick them up and things like that, again all that money has to come out of my wage”.

To make work more manageable for parents with young children, the last government introduced up to 15 hours of free childcare for children between 9 months and 3 years.¹⁰ This was in addition to existing childcare available for children over 3 years old. However, the scheme was delayed in being rolled out until this September, and with numbers of childcare places falling and demand for them rising, it is as yet unclear whether it will be practicable for parents to make use of the expanded funding – or if the supposed availability of childcare will simply be used to further justify punishing benefits claimants.¹¹

Though this sounds like it could help parents get back into work, accessing childcare payments can be a bureaucratic nightmare that discourages a lot of parents from continuing to work. As the childcare costs element is claimed retrospectively, parents must pay upfront for childcare then submit invoices, and then in theory they are reimbursed. However, parents have to submit invoices in a very tight timeframe after childcare is provided, and GMLC has seen many examples where parents have not been able to sustain a job or additional hours, and have felt compelled to give up their jobs in the face of unaffordable childcare costs. In February 2023, Action for Children condemned the existing childcare costs scheme as “not fit for purpose”,¹² while the Working Families Index reported 41% of low-income families going into debt to pay for childcare.¹³

Either way, children under 9 months old are still being offered no childcare under the scheme. Plus, when children are between 9 months and 3 years old, the government is only offering 15 hours free childcare, an hour short of what would be needed to cover a claimant’s 16 hours of work a week to escape the cap – even before travel time to pick up children is taken into account.

Ill or disabled claimants

Another example of those who struggle to escape the cap is people who are ill but do not meet the threshold for disability benefits, or people awaiting disability benefits who are forced to live in poverty while they wait for assessments or appeals to be heard. In March 2024, there was a 33% increase in the number of PIP appeal cases waiting to be heard,

Case study: Iqra’s story

Iqra is a single mum with 4 children. One of her sons is disabled. When she approached GMLC, she was benefit capped, but couldn’t find work because of needing to care for her son. When her landlord imposed a rent increase, the cap became even more punitive. GMLC helped Iqra to apply for disability benefits for her son to enable her to escape the cap, but she had to wait several months for a determination. In this time, she was reliant on other forms of government support, like Discretionary Housing Payments, to help her cover her rent, and struggled to meet her household’s needs. When her child was awarded Disability Living Allowance, the cap was lifted, but she did not get money back for the period before the award.

¹⁰ <https://www.bbc.co.uk/news/education-62036045>

¹¹ <https://www.bbc.co.uk/news/uk-politics-68059858>

¹² <https://www.actionforchildren.org.uk/our-work-and-impact/policy-work-campaigns-and-research/policy-reports/all-worked-out-the-limits-of-work-as-a-route-out-of-poverty-and-hardship/>

¹³ <https://workingfamilies.org.uk/wp-content/uploads/2023/05/Working-Families-Index-Spotlight-Report-2023-final.pdf>

now at 79,000, with the average time taken to hear a case having increased from 24 to 25 weeks.¹⁴ These delays result in disabled people waiting for a prolonged period of time to receive their entitlements, during which time they may be benefit capped, exacerbating their health issues.

Currently, 7 out of 10 PIP appeals succeed, suggesting that these benefits are often wrongly refused. Despite this, many disabled people give up before appealing as the appeal process can be difficult to navigate, leaving them subject to the benefit cap despite being too unwell to work.¹⁵

Working households trapped by the cap

Even claimants who are managing to work at least 16 hours can find themselves trapped in the benefit cap with no applicable exemptions that could help them escape the cap. For example, many benefits claimants (including adults with children) are pushed into training or apprenticeship routes, where wages are as low as £5.28 per hour, only a few pence over half of the minimum wage, meaning they need to work twice as many hours to reach the earnings threshold that exempts them from the cap.

Also, many low earners are paid on a four-weekly cycle. This means that when a Universal Credit entitlement is assessed, only one pay cheque for four weeks earnings are counted in a calendar month. This fails to take into account the fact that a claimant's earnings taken over a calendar month are enough to be exempt from the cap. Therefore, in some situations the cap is unfairly placed onto families who are working the required hours and following government guidance.

What cheaper accommodation?

The government has also suggested moving into cheaper accommodation or “negotiating a rent reduction” as a means of limiting the impact of the cap.¹⁶ The idea tenants can negotiate rent reductions presumes tenants have a level of bargaining power which is unrealistic when they can simply be evicted if they fail to pay higher rent increases.¹⁷

Case study: Laura’s story

Laura is a single mum of 4 kids, currently living in an overcrowded private rented house. Until 2023 when her oldest child turned 5, Laura was benefit capped and two-child limited, meaning her benefits were significantly lower than her entitlement. In 2023, Laura started work, but she could only find work in a local school on apprenticeship wages (now £5.28 per hour). This meant that in order to escape the benefit cap, she was required to work full-time hours, rather than the 16 hours usually required at minimum wage. Even working full time, Laura is reliant on Universal Credit to help her pay her rent, bills and other essential living costs due to the lower wage an employer can pay when they label a job an apprenticeship.

¹⁴ <https://www.benefitsandwork.co.uk/news/seven-in-ten-pip-appeals-succeed,-latest-figures-show>

¹⁵ See Gabrielle’s story in GMLC’s ‘Ten Year(s) InJustice’ exhibition brochure: <https://www.gmlaw.org.uk/wp-content/uploads/2024/02/Standard-PDF-of-exhibition-brochure.pdf>

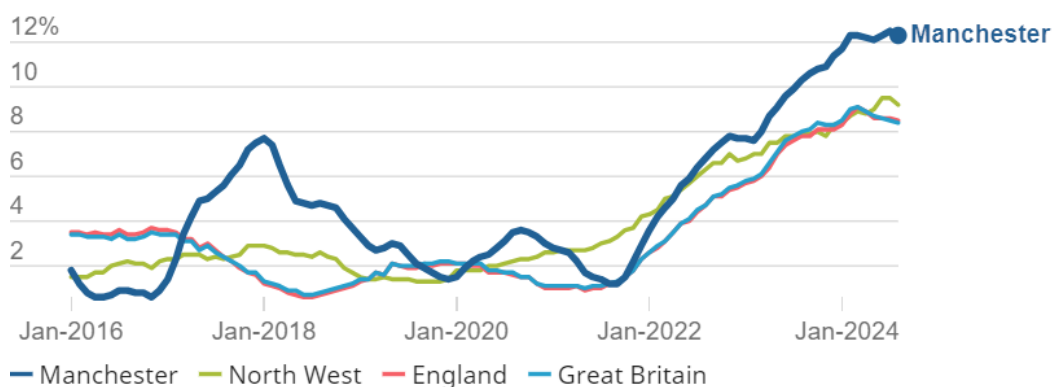
¹⁶ https://assets.publishing.service.gov.uk/media/5a7b7f5040f0b62826a03f6c/benefit-cap-factsheet_24.07.13.pdf

¹⁷ Nick Bano describes the relationship between rent increases and eviction, especially in the private sector, in his book *Against Landlords* (2024), briefly described in GMLC’s interview with him in March 2024: <https://www.gmlaw.org.uk/2024/03/27/an-interview-nick-bano-how-to-solve-the-housing-crisis/>

Rents in the private sector have increased massively across the UK during the cost-of-living crisis, and social rents have also been increasing alongside service charges.¹⁸ Therefore, finding cheaper accommodation has also become much more difficult. The price of rent is something tenants have little to no control over, and successive governments have failed to legislate to ensure rents and charges stay affordable. The price of private accommodation in particular is out of reach for many families: private rental prices rose by 6.2% in the 12 months to January 2024.¹⁹ In Manchester, private rents rose by 12.3% between January 2016 and August 2024.²⁰

Annual change in rents in Manchester

Private rental price annual inflation, Manchester, January 2016 to August 2024



Source: Price Index of Private Rents from the Office for National Statistics

One parent who had moved into smaller accommodation to reduce her rent told the Larger Families Project: “we’re squished and squeezed in this house, there’s five of us in a three bedroom ... and the house is riddled with damp”. Even where cheaper accommodation is available, it is often a long way from families’ communities, too small for larger families, or in poor condition. This can leave vulnerable families in living conditions that have further negative effects on their mental and physical health.

Obtaining social housing is not a viable option for many families as the waiting list for social housing continues to grow. As of March 2023, there were 1.29 million households on local authority waiting lists. This represents an increase of 73,000 households compared to March 2022 and is the highest number of households on the waiting list since 2014, when measures were taken to reduce numbers, for example by striking hundreds of thousands of households off waiting lists due to stricter eligibility criteria.²¹ Manchester Move, the social housing allocations tool for Manchester City Council region, warns:

¹⁸ <https://www.bbc.co.uk/news/articles/ce7x901l8pko>

¹⁹ <https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/indexofprivatehousingrentalprices/january2024>

²⁰ <https://www.ons.gov.uk/visualisations/housingpriceslocal/E08000003/>

²¹ <https://www.theguardian.com/housing-network/2016/may/12/council-waiting-lists-shrinking-more-need-homes>

Average waiting times for applicants in Band 2 with an award date after 2021 for 4 bed and larger family homes will be well in excess of 6 years and may be as high as 10-12 years for those that have recently been placed in this band.

Building or acquiring more social homes would help to ease the problem, but the scale of building would need to be enormous to make a real impact, and it does not solve the problems created by poor housing policy upstream. Wider changes would be needed to make more affordable housing available in the medium-term. For example, rent controls in the private sector could help to ease the stress on private renting households and stop people becoming homeless in the first place, as well as reducing government spending on housing benefit.²² Another policy decision that could help would be ending the Right to Buy, which could stop council housing stock from being lost to the private sector.²³

As a result of having few choices during the housing crisis, the benefit cap results in families being effectively trapped in low quality rented properties that they cannot afford, at risk of rent increases and eviction. Many benefit capped households become homeless and struggle to escape homelessness because they cannot afford to rent anywhere new.²⁴

It is clear that the benefit cap has not worked in the way the government intended and has instead pushed many families deeper into poverty without offering them a viable way out.

²² New Economics Foundation calculated that the government will pay £70 billion to private landlords over the next 5 years: <https://neweconomics.org/2024/01/government-subsidising-private-landlords-70bn-over-next-five-years>

²³ More than 4 in 10 council homes sold under Right to Buy are now owned by private landlords, and over 100,000 ex-social homes have been lost to the private sector since 2015: <https://neweconomics.org/2024/05/more-than-4-in-10-council-homes-sold-under-right-to-buy-now-owned-by-private-landlords>

²⁴ <https://www.crisis.org.uk/ending-homelessness/benefits-and-employment/housing-benefit/#:~:text=As%20the%20cost%20of%20living,by%20inflation%20in%20April%202023.>

LEGAL CHALLENGES TO THE BENEFIT CAP

There have been two major court cases challenging the legality of the benefit cap since it was introduced. Both were cases involving single mothers who claimed that the benefits cap was discriminatory and therefore did not comply with the European Convention on Human Rights. Both cases went up to the Supreme Court on appeal – the highest court in the UK’s court system. Unfortunately, neither claim succeeded, and below we summarise what happened and why the claims were not accepted by the court.

In 2014, in a case we will call *SG*,²⁵ two single mothers claimed that the benefits cap discriminated against women, as the cap disproportionately affected lone parent households and the vast majority of lone parent households were women. In 2019, in *DS and DA*,²⁶ five single mothers claimed that the benefits cap was discriminatory as it treated single mothers the same as groups that were relevantly different to them (e.g. people without children). Both of these challenges were unsuccessful, although very close, as the judges were divided 3 – 2 on each case. The arguments brought forward by the Applicants and the reasons why their cases were unsuccessful are outlined below.

SG v Secretary of State for Work and Pensions (2014)

In 2014, two single mothers brought a case against the Secretary of State for Work and Pensions, making the argument that the benefits cap discriminated against women. The logic was this: the benefit cap sets an upper limit on the benefits income received by benefits-claiming households, a large number of which are single-parent households. The majority of single parent households are headed by single mothers. Therefore, the cap disproportionately affects single mothers. In *SG*, this was argued to be a violation of Article 14 of the European Convention of Human Rights, the right not to be discriminated against, and Article 8, the right to respect for private and family life. They also pointed to Article 3(1) of the UNCRC which states that: “In all actions concerning children, whether undertaken by [...]courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”

Most of the judges determined that Article 3(1) (“the best interests of the child”) was not relevant in determining whether the cap violated Article 14 because a) it was not incorporated into UK law and b) the effect of the cap on the child is the same regardless of the sex of the single parent. Two dissenting judges, Lady Hale and Lord Kerr, disagreed, arguing that this Article is relevant in assessing the proportionality of the cap. The judges all agreed that the cap did disproportionately affect women; however, they disagreed on whether this constituted a violation of human rights.

²⁵ *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

²⁶ *R (on the application of DS and others) (Appellants) v Secretary of State for Work and Pensions (Respondent)* [2019] UKSC 21

Lord Reed, who voted to dismiss the appeal, considered whether the cap was a proportionate means to achieve a legitimate aim. The stated aims of the cap are to a) not reward a non-working family with an income, in the form of benefits, to exceed a working family's; b) to allow for fiscal savings in order to redirect government spending; and c) to incentivise parents to work. Lord Reed argued that the proportionality of the cap in achieving these aims is a question for Parliament, not a question for the court. His role was to assess whether the aims were legitimate, which he believed they were, not the level at which the cap should be set.

By contrast, Lady Hale applied the 'manifestly without reasonable foundation test' to both the aims and proportionality of the cap. In *James v United Kingdom* [1986]²⁷, paragraph 46 states that the courts should: "respect the judgment of the national legislature as to what was in the public interest unless it was manifestly without reasonable foundation". A test for this was formulated by Lady Hale in *R (Tigere) v Secretary of State for Business Innovation and Skills* [2015]²⁸: "(i) does the measure have an legitimate aim sufficient to justify the limitation of a fundamental right; (ii) is the measure rationally connected to that aim; (iii) could a less intrusive measure have been used; and (iv) bearing in mind the severity of the consequences, the importance of the aim and the extent to which the measure will contribute to that aim, has a fair balance been struck between the rights of the individual and the interests of the community?" Lady Hale determined that the benefits cap's application to single parents was manifestly without reasonable foundation because it deprives children of their basic needs and discriminates against those who are less able to go to work to escape the cap. As these are disproportionately women, this is a violation of the Convention.

Despite the dissenting judgment from Lady Hale (now retired) and Lord Kerr, the result was that the benefit cap was not found to be unlawful. Even though the court admitted that the benefit cap was discriminatory towards women, this discrimination was considered 'a proportionate means of achieving a legitimate aim', which is the way that discrimination can be legally justified. This arguably emboldened the government to take their next step: to significantly reduce the level of the cap in 2016.

DS & DA and others v Secretary of State for Work and Pensions (2019)

The question of the legality of the lowered benefits cap was brought in *DA and DS* in 2019. *DA and DS* was put forward by five applicants: three single mothers and two of their children under the age of two. They argued that they faced discrimination under Article 14 as a result of being treated the same or similarly to groups whose situations are relevantly different to theirs, such as dual-care parents with children under two or five, lone parents without children under two or five, and all others who are subjected to the cap who are not lone parents with children under two or five.

Following the European Court of Human Rights case *Thlimmenos v Greece* (2000)²⁹, a government must justify treating groups who are relevantly different in the same way. The Applicants pointed to

²⁷ ECHR 8 EHRR 123, IHRL 55

²⁸ UKSC 57

²⁹ 31 EHRR 12

groups such as those in receipt of Carer's Allowance and of Guardian's Allowance, who are exempted from the cap. The reason they state that they should be treated differently is because one of the aims of the cap was to incentivise parents to go back to work, but in having children below school age, they were unable to go back to work because they needed to care for their children full time. The government pointed to the fact that they offer 30 hours free child-care a week during term time, though this only applied to children aged between 3 and 4, so did not benefit the mothers with children under 3 years old. Since the aim of welfare benefits is to "put recipients just above the poverty line", the Applicants argued that the court could not deny that a cap on benefits puts these families who are unable to work below the poverty line. The effect of this on the children is that it "negatively affects their educational attainment, health and happiness" and has long term effects into adulthood.

The judges applied the 'manifestly without reasonable foundation' test described above. Lord Wilson determined that: "The appellants have not entered any substantial challenge to the government's belief that there are better long-term outcomes for children who live in households in which an adult works and this is a reasonable foundation." Lord Carnwath commented that the cap is harsh and difficult to everyone it is placed on, and that the government had carefully debated and thought about exemptions to the cap and the interests of children. This is despite the fact that the judgment admits: "Has the revised cap incentivised those on benefits to work? The government accepts that the statistical evidence is sparse."

Lady Hale again disagreed with this conclusion, and pointed to the requirement in European Union law that a measure be "suitable" to achieving its aims. She argued that the cap: "...does not achieve fairness as between those in work and those on benefits" and that the fiscal savings from this were minimal and offset by increased costs elsewhere. She stated in her judgment that: "The Housing Benefit Regulations 2006, as amended by the Benefit Cap (Housing Benefit and Universal Credit) (Amendment) Regulations 2016, are unlawful insofar as they apply to lone parents with a child or children under the age of five, in that: a. They involve unjustified discrimination against lone parents of children under the age of five, contrary to article 14 of the ECHR read with (i) article 1 of the First Protocol and (ii) article 8 of the ECHR; b. [also] read with article 8 of the ECHR in the light of article 3 of the UNCRC.

Once again, Lady Hale was in the minority, and the cap was left in place.

Conclusion

In conclusion, despite the evidence that the benefits cap traps large numbers of households below the poverty line and causes hardship for families with children, both significant legal attempts to challenge the cap have failed, and the cap was not deemed unlawful. These cases set precedents, which makes it more difficult to challenge the cap legally. Any new legal challenge would need to be distinguished from *SG* and *DS and DA*, as the law generally does not allow the same legal points to be examined again in the higher courts.

NUMBERS DON'T TELL THE WHOLE STORY:

INTERVIEW WITH AMINA AND FATEH

Amina first approached GMLC in 2023 because she was having problems with her housing situation. Amina lived in a private rented house in Manchester with her husband and six children. The house was too small for them and in poor condition like a lot of private rented homes, but the family were coping okay until their landlord Ahmed suddenly sold the property while they still lived in it, handing it over to Sally, who Amina had never met before. Sally claimed she had had no idea the house still had tenants in it when she bought it, and threatened Amina and her family with eviction. After some negotiation, Sally said she would take a rent increase instead of evicting them, though she wanted the rent to go up from £700 to £1100 per month.

Amina couldn't believe it. She and her husband were both working, but on their part-time incomes and with the price of essentials rising, they couldn't afford to pay an extra £400 a month in rent. Amina also had another baby on the way. They approached the Council for help, and their Homeless Prevention Officer tried to pressure them to pay part of the rent increase, asking them if maybe they could sell their cat to cut costs. This is why they ended up speaking to GMLC.

Amina had her seventh child in December 2023. Due to complications in the birth, Amina had to have a caesarean section, and spent a while recovering. Amina's husband left the family home in early 2024, leaving Amina on her own with her seven children – her oldest son Fateh now 19, and her youngest just a few months old.

Amina applied for Universal Credit to supplement her maternity pay in March 2024. Sally was now asking for £1100 per month and threatening to evict her due to rent arrears if she didn't pay it. Amina asked for an advance payment from Universal Credit to cover some debts, but she still couldn't afford Sally's new rent.

When the first UC payment finally arrived, Amina was horrified. The total payment for the whole month (minus a trickle of child benefit, also capped by the two-child limit) was £1,341.96 – which was meant to include the £1,100 in rent. Amina's entitlement – the subsistence level income the government says claimants in Amina's situation are entitled to – was £2,592.48 - £1,123.74 for the children, £1,100 for the rent and £368.74 for Amina herself. However, Amina was getting £1,107.23 taken off her entitlement as a result of the benefit cap. In very real terms, she was being asked to pick between feeding her children and paying her rent. On top of that, UC were taking 'deductions' from her to repay her advance payment.

When Amina's maternity pay ended, she started to receive even less from Universal Credit. By July 2024, the benefit cap being imposed on Amina was £1,248.72, deductions were still being taken off for the advance payment and debts, and her total Universal Credit payment was £1,258.46. She was losing almost 50% of her baseline entitlement. At this point, Sally started rent arrears proceedings against Amina's family in court. Amina just couldn't make the numbers add up.

We interviewed Amina and Fateh, her oldest son who had recently started working to try and supplement the family's income while also studying full time at university.

GMLC: So I know that you first experienced the benefit cap this year. What does the benefit cap mean for you in terms of how your life has had to change?

Amina [with Fateh interpreting]: Obviously life didn't change for the better, I think we took a big hit. First we think about the rent, then we think about food and other stuff like clothes and extra activities. Once you've paid rent, you're left with pennies to do grocery shopping for a whole month and pay bills like the internet and energy bill.

Grocery shopping has become a depressing thing because it's become difficult trying to figure out if we have enough to get us to the end of the month. Especially now school's starting, there's uniform, shoes and equipment, stationary – I had to explain to the kids, "this year you need to wear last year's uniform".

Also, leisure time used to be a common thing in our family, but it isn't there anymore. We have to constantly think about priorities now. How do you explain your kids when you used to get this or that for them, and now you just can't?

GMLC: What sort of social things did you used to do that cost money that aren't happening anymore?

Amina [with Fateh interpreting]: Every time the kids were on half term we would have a family day out, go to the Trafford Centre, and they would go to the arcade and have some food and just end their half term nicely. We don't do that anymore. Also, in our neighbourhood, sometimes the community get together and get this big coach and to go to Blackpool and do these nice things as a community. We weren't able to partake in those, although it was a regular thing we used to join in with. So it's isolated us a bit.

GMLC: What would you say to the people who think that you should've gone straight back to work after having a baby and not taken any time off?

Amina [with Fateh interpreting]: Well I had a c-section, so getting back to work immediately after giving birth was near impossible. I had to recover first. Even after recovering, as mothers I think we have a duty to be there in those first months of a baby's life, to actually sit down and give them attention. This time I didn't have anyone to help me with that other than my kids.

GMLC: The other thing the government says about the benefit cap is that you should just try and find a cheaper house. Did you try this, and if so, how did it go?

Amina [with Fateh interpreting]: We've had a three-year battle with eviction, so we've been looking for houses for ages. Even when it was cheaper a few years ago, whenever we went to a viewing, the first couple of questions would be "who works in the house? How much do you earn? How many kids do you have?" The moment we explained our circumstances, we would just never get that call back. I understand from their standpoint they don't want to give a house to a family that can't afford it. But finding a four-bedroom house that we could actually afford is impossible. Now rent prices have gone up by £400 or £500 a month for similar houses in our area, and we have an even lower income. So it's difficult.

GMLC: I know you've been trying to apply for a Discretionary Housing Payment from the Council to help pay your rent. Has this helped?

Fateh: No. I can explain because I dealt with the case. Essentially the way [the Homeless Prevention Officer] laid it out to us was that if the rent went up, we would pay a certain amount and the rest would be taken care of by the Council. But he didn't actually state how long that support would be going on for, and we've heard from friends that sometimes it would go on for like 4-6 months and then after that they were left with actually having to pay the full amount. But it wasn't an easy process. The [Homeless Prevention Officer] explained the process to the landlord, so now the landlord thinks she's owed that money and that it's easy for us to get it, so why don't we just pay her? But we haven't got the money.

GMLC: How would it affect your lives if the benefit cap was scrapped?

Amina [with Fateh interpreting]: If the benefit cap were taken off, I think most of our problems would go away. You've seen how much we were supposed to get, and I think that's an adequate amount for us to actually pay the rent the landlady is asking for. And then if we say "oh we need repairs", she would be able to do those because she would have a sufficient amount to actually do the repairs, so we would live a better state too. I was talking earlier about how our lives changed - those things could go back to normal. But I think getting rid of the benefit cap would kind of be the solution to our problems.

GMLC: So I wanted to ask Fateh how the benefit cap has affected *your* life over the last few months and also how being the interpreter for the family has affected you through all of these legal problems.

Fateh: In regards to my life, it takes a lot of real estate in your mind. I've dealt with the whole housing situation since I was in Year 11. It's a problem that doesn't want to go away and it's hard to stare at this one problem for a very long time and not come up with a solution. The solution is beyond my means.

GMLC: If the Prime Minister was here right now and you had a chance to say a couple of sentences about why we should get rid of the benefit cap, what would you say?

Fateh: I would say: pay attention to people. Life is complex and everybody has a different case. I know the benefit cap was created to kind of force people to get into work. But in cases where it's a single parent household, and when they just had a baby for example, like mum, it's stupid. It's easier if you think of people as numbers on a sheet, but that doesn't tell the whole story. People need a certain amount to be able to live.

CONCLUSIONS AND RECOMMENDATIONS

The benefit cap has been repeatedly shown to be harmful to the families it claims to be encouraging back into work. As benefits levels are already set at subsistence levels, the cap reduces people's income to below subsistence levels, often substantially and for prolonged periods of time, inevitably causing short-term and long-term harm to the children of those affected. The benefit cap combines with other policies to deepen people's poverty, and often punishes the same 'crime' (for example, having more than two children and a low income) repeatedly. These policies include:

- **The two-child limit.** The two-child limit means that claimants with more than two children do not receive additional benefits for any child born after 6 April 2017.³⁰ The two-child limit has recently been in the news for its negative effect on families.³¹
- **Benefit sanctions.** Claimants that the DWP decides must look for work can already be sanctioned and lose part of their subsistence income for failing to comply with DWP demands, such as missing Jobcentre appointments or not searching for work for the required number of hours per week.³²
- **Deductions for advance payments.** When claimants first apply for benefits, there is a 6-week wait for the DWP to process the claim, during which time claimants can ask for an 'advance payment'.³³ This is then deducted from their benefits in the following months, and comes off the total they receive, not just their entitlement, meaning they may receive even less than if the benefit cap was operating alone.
- **Debt recovery.** Landlords, utility providers, councils and other creditors can apply to be paid directly out of a claimant's benefits payments, and these deductions are taken from the amount claimants are actually paid, not the entitlement. In practice, these deductions rarely exceed 25% of the standard allowance – but for over 25s in 2024, this could be almost £100 in additional deductions per month.

In effect, these policies combine to cause immense hardship, including for children, who have no control over their parents' working lives. Removing the two-child limit – which was recently debated in Parliament – would be valuable for some households, but without also removing the benefit cap, many families would still be benefit capped and not receive their full entitlement.³⁴

Shelter research from 2019 has shown that the impoverishing effects of the benefit cap can also deter domestic violence survivors from leaving their abusers.³⁵ At a time when the government's commitments to the housing security of domestic violence survivors is making headlines,³⁶ it is irrational to ignore the negative role the benefit cap plays in the lives of survivors who leave their abusers and then, often, become single parents.

³⁰ <https://www.gov.uk/guidance/claiming-benefits-for-2-or-more-children>

³¹ <https://www.theguardian.com/society/article/2024/jul/28/two-child-benefit-cap-how-work-cost-scrap>

³² <https://www.gov.uk/government/statistics/benefit-sanctions-statistics-to-november-2023-official-statistics-in-development/benefit-sanctions-statistics-to-november-2023-official-statistics-in-development#:~:text=The%20statistics%20show%3A,sanction%20on%20the%20count%20date.>

³³ <https://www.citizensadvice.org.uk/benefits/universal-credit/claiming/get-advance-payment/>

³⁴ <https://edm.parliament.uk/early-day-motion/62321/ending-the-twochild-benefit-cap>

³⁵ <https://blog.shelter.org.uk/international-womens-day-we-must-see-an-end-to-women-in-housing-poverty/>

³⁶ <https://todaysfamilylawyer.co.uk/starmer-says-domestic-abuse-victims-will-have-security-they-deserve/>

In July 2024, Alison Garnham, chief executive of the Child Poverty Action Group, said:

“The government’s new child poverty taskforce must make an early commitment to abolishing this cruel policy. Overnight that would reduce the depth of poverty for around 300,000 children.”³⁷

Resolution Foundation found that scrapping the two-child limit and the benefit cap would boost the incomes of the poorest families by £1,000 next year – money which would go straight back into the economy in the form of spending on essentials.³⁸ As Lady Hale argued in *DS and DA*, the cost of abolishing the cap – around £500 million – may well be offset by reduced costs elsewhere – for example, in claimants’ reduced reliance on other public funding, such as Discretionary Housing Payments, homelessness assistance and legal advice. These numbers are difficult to quantify because the consequences of the cap for each claimant are so wide-ranging.

What can individuals to do oppose the cap?

If you want to oppose the benefit cap, we would encourage you to:

- Share GMLC’s thread on the benefit cap on Twitter/X:
<https://x.com/gmlawcentre/status/1835993270217744889>
- Share people’s stories on other social media, such as this Youtube video where a benefit capped mum talks about her experience of the cap:
<https://www.youtube.com/watch?v=qhzyzXAqvsA>
- Write to your MP to ask for them to scrap the cap (see our template letter in Appendix I);
- Speak to your friends and family about the injustice of the cap to challenge ‘benefit scrounger’ narratives that prop up policies like the benefit cap and the two-child limit.

What can the government do about the cap?

Short of scrapping the benefit cap, there are several changes that could be made that would make the cap less punitive and discriminatory, which we would recommend:

1. Raise the level of the benefit cap to cover the increase in Local Housing Allowance and benefits in April 2024, and commit to raising it in line with other benefits in future years.
2. Create extra exemptions to the cap which take into account the circumstances when claimants struggle to escape the cap through work:
 - a. Do not apply the cap in months where a claimant is awaiting a determination of their capability for work;
 - b. Lift the cap after claimants have applied for disability benefits such as PIP or child DLA, until such a time as their entitlement is decided and any appeal period is over;
 - c. Do not apply the cap to Claimants who are single parents with a child under 3 years old.

³⁷ <https://www.theguardian.com/society/article/2024/jul/31/benefit-cap-traps-families-in-crowded-rat-infested-homes-report-finds#:~:text=Alison%20Garnham%2C%20the%20chief%20executive,poverty%20for%20around%20300%2C000%20children.%E2%80%9D>

³⁸ <https://www.resolutionfoundation.org/publications/catastrophic-caps/>

3. Ensure that benefits claimants who work enough hours but who are paid 4-weekly are not disadvantaged by the cap by calculating their income on a monthly basis.
4. Change policy so that 16 hours of training or work, even if it does not meet the earnings threshold, exempts claimants from the cap, so that apprentices and those doing training courses are not capped.
5. Apply any deductions (for example, for repayment of Advance Payments of Universal Credit) to Claimants' entitlement, not to the capped total.
6. Adopt a policy of rejecting requests for deductions for debts, such as rent arrears and energy bills, for capped claimants unless the claimant proactively consents to them or asks for them.
7. Control private rents to prevent landlords taking advantage of increased government rates of Local Housing Allowance by imposing rent increases.
8. Exclude housing costs from the calculation of the cap, so that the income households receive for their living costs is not slashed as a result of landlords raising rents.

GMLC would encourage the government to consider implementing these changes. However, fundamentally, the only way to tackle the injustice of the cap and all its consequences in claimants' lives would be to *scrap the cap*.

We would echo Fateh's words to the Prime Minister: "[P]ay attention to people. Life is complex and everybody has a different case [...] It's easier if you think of people as numbers on a sheet, but that doesn't tell the whole story."

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APPENDIX I: TEMPLATE LETTER TO MPs

SEPTEMBER 2024 VERSION

Dear MP,

I write to ask for you to argue in Parliament for the government to scrap the benefit cap. The benefit cap limits the amount of means-tested welfare benefits that benefit claimants can receive. The cap outside London is currently £1,835 a month for families with children, and does not take account of the size of people's families.

New statistics

Government statistics released in September 2024 show that the number of households that had their Universal Credit claim capped at May 2024 was 118,000, a 65% increase from 71,000 at February 2024. In May 2024, 87% (110,000) of households that had their benefits capped included children.

In practice, these statistics mean that tens of thousands more families now have their subsistence incomes slashed month on month. This is most likely due to the fact that in April 2024, housing benefits (which are included in the cap) were increased to cover more rents, and benefits were increased with inflation. This pushed more claimants up into the cap, which deprived them of the benefit of the increase.

Why the cap doesn't work

Though the cap is designed to pressure people back into work, this is unrealistic for many households. The cap discriminates against single mothers and unwell people who are waiting for disability benefits or do not meet the threshold. These groups are often unable to go to work for more than 16 hours a week, but are not exempted from the cap. The policy has been in place for many years, and given the hardship it has caused, if this approach worked you would now expect it to have succeeded in its aim of incentivising people to work. Instead, many people are 'trapped' by the cap, impoverished and unable to afford basic essentials.

The other way the government has argued that people should try to escape the cap is to find cheaper housing. Housing has been getting more expensive all over the country, especially in the private rented sector, and the government has failed to take any measures to stop rents from rising rapidly. Tenants cannot control this and should not be punished for rent rises that were not their choice.

Please take action

I ask you to argue for scrapping the cap. It would help fight child poverty and support households who need it most.

Please reply to my email/letter at the above address to let me know what you will be doing about this issue, and about child poverty more generally.

Yours faithfully,

YOUR NAME