CIH written evidence on the Benefit cap Inquiry (2018)

About CIH

1.1 The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple – to provide housing professionals and their organisations with the advice, support and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries across the world.

1.2 Further information is available at: www.cih.org

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1.3 Sam Lister, Policy & Practice Officer, sam.lister@cih.org
Summary of our key positions

2.1 The tax and benefits system is designed so that people in work are generally better off in work than on benefits because support is calibrated to working 16 hours per week at the minimum wage.

2.2 The cap is based on the false comparison between the whole of a person’s income if they are on benefits and only part of their income if they are in work. In particular, the in-work benefits: child tax credit, working tax credit, child benefit and housing benefit are left out of the comparison for in work households.

2.2 However, child care costs for lone parents can be problematic and can wipe out the in built bias to work. This is because child care costs are only partially covered and access to inexpensive child care is limited. Affordable child care schemes are often over subscribed.

2.5 We are concerned about the effect of the cap on women escaping domestic violence. Newly separated parents are less likely to benefit from the grace period and so can be subject to the cap with immediate effect. Children conceived as a result of rape or coercive behaviour that are not counted for the purpose of the two child limit are taken into account when the cap is calculated.

2.6 At least 60 per cent of households affected by the cap are those who the DWP already accepts should not have a full work requirement for the time being.

2.7 The lower benefit cap means that small and medium sized households are now the majority of households affected and these affected households are no longer confined to areas of expensive housing.

2.8 Small and medium sized households affected by the cap because they live in more expensive private rented accommodation are unfairly punished for successive Governments’ failure to deal with the shortage of affordable housing.

2.9 Homelessness does nothing to improve a claimant’s prospects of finding work. The costs of dealing with homelessness for a household affected are far in excess of those that would be required to prevent it by restoring support.

2.10 Taking all of the above into account CIH is calling for the removal of the reduced benefit cap.
Glossary

3.1 *Legacy benefits*: the term used by the DWP to describe the system of benefits and tax credits that is being replaced by universal credit namely: income-based jobseeker's allowance; income-related employment and support allowance; income support; child tax credit; working tax credit; and housing benefit.

3.2 *Work allowance*: the amount of earned income that isn't counted when entitlement to universal credit is calculated (the equivalent in legacy benefits to ‘earnings disregards’).

Without the cap are workless households be better off on benefit?

4.1 The short answer is no, despite public perceptions to the contrary. People are not generally better off on benefits than working. The tax and benefits system was designed in such way that levels of in-work support are calibrated to the minimum wage. As long as someone is working 16 hours per week and being paid the minimum wage they are better off in work – as is clearly demonstrated in the examples below.

4.2 Tables A and B show total income for a lone parent with two children, paying a social rent of £90.00 per week (the average for two-bedroomed local authority dwelling). Table A shows the total income from all sources if the claimant was working 16 hours per week. Table B shows the total out of work support for the same household.

Example: lone parent with two children paying a rent of £90 per week

<table>
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<tr>
<th>Table A: working 16 hours at minimum wage</th>
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<td><strong>Legacy benefits:</strong></td>
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<tr>
<td>Gross pay</td>
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<td>Net pay</td>
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<td>Child benefit</td>
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<td>Working tax credit</td>
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<td><strong>Net income</strong></td>
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4.3 Tables A and B show that a lone parent with two children working 16 hours per week is around £89 per week (£4,657 per year) better off than if they would be on out-of-work benefits.

4.4 Table C shows the same household in work with net earnings (after tax and national insurance) of £20,000 per year (i.e. the level of the cap). It shows that they would be £171 per week (£8,896 per year) better off than they would be on out-of-work benefits.

* Housing benefit starts at £0.50 once the rent reaches £110.57 per week and then covers the whole of any excess over that (or for a private renter, the whole of the excess up to the local housing allowance).
4.5 Tables A to C show that the principle on which the cap is set – that people should not be better off on benefit than in work is built into the tax and benefits system. Households are clearly better off in-work than on benefits even without it. Support for the cap is based on the false comparison between some of the income of working households with the all of the income of those who aren’t working. In particular child benefit, child tax credit and housing benefit are ignored completely for in-work households but counted in full for out-of-work households.

4.6 The higher level of support for in-work households occurs because legacy benefits are already calibrated to working 16 hours per week at the minimum wage. As earnings increase benefits are withdrawn at a rate of less than 100 pence for each on pound earned so the position improves as hours or earnings increase. A household would only be worse off if in-work support was withdrawn at a rate greater than 100 pence. The introduction of tax credits eliminated effective marginal tax rates (EMTR) of 100 pence or more from the tax and benefits system altogether. Although EMTRs can exceed 90 pence across a narrow range of earnings, the system was designed so that only a very small number of households are affected – mainly those only with the highest rents. The primary aim of universal credit (UC) is to build on these reforms by eliminating EMTRs in excess of 80 pence altogether.

The problem of childcare costs

4.7 The features of the benefits system described above show the position for households without childcare costs. Child care costs are partially covered by both legacy benefits and UC – up to maximum limits. These features can result in an employment trap especially for lone parent households:

- claimants have to cover any excess costs above the maximum limits (£175 per week for the first child, £300 per week for two or more children). These can be problematic for parents with three or more children and/or who live in areas where the cheapest schemes are already over-subscribed; and
- in legacy benefits only 70 per cent of actual cost is covered by tax credits (and 100 per cent in housing benefit). In UC, 85 per cent of actual costs are covered.

It is clearly unfair to penalise lone parents while they are waiting for a place on an affordable childcare scheme to become available.

Changes to the UC work allowance and work incentives

5.1 Recent changes to the benefits system have undermined work incentives for lone parents notably the reduced work allowance from April 2016 (which also weakens work incentives for childless households). For lone parents the new

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1 Budget 1998. The Modernisation of Britain's Tax and Benefit System, Number 3: The Working Families Tax Credit and Work Incentives
work allowance is £73 per month lower than what it would have been had the change not taken place. The net loss is £45.99 per month (£551.88 per year) or all of their earnings if they earn less than it. This does not take into account the fact that the work allowances have only been uprated once (April 2018) since UC was introduced (April 2013).

5.2 Some compensation was made through the reduction of the earned income taper from 65 per cent to 63 per cent, although this is only worth 13.6p for each additional £10.00 earned and so is unlikely to have any noticeable effect on return to work rates. Overall it seems rather odd to target in-work benefit cuts specifically at lone parents who are by far the largest group of claimants affected by the benefit cap.

5.3 There have been various other changes made to legacy benefits since the introduction of UC and most of these have cut in-work and out-of-work support simultaneously, mostly on a new claims only basis. For households affected by the cap these changes usually make no difference (see the two child limit for an exception to this) but new in-work claimants receive less support for taking-up or remaining in low paid employment than they otherwise would have done. An example of this is the loss of the family element in legacy benefits, the UC equivalent is the higher rate child element paid for the first child. This is worth £545.00 a year in tax credits (plus a further £235.56 if also on HB) and £544.92 in UC. This change has already occurred in legacy benefits and in UC the change is being phased in. But the overall result will be the same: reduced levels of in-work support.

The benefit cap and the two child limit

6.1 In the medium to long term the introduction of the two child limit means that fewer households will be affected by the cap, and arguably the two child limit makes the whole concept redundant. Before the two child limit was introduced support tax credits increased by £53.46 per week for each child, plus £13.70 in child benefit. This applies to both in-work and out-of-work households, so that once fully implemented there will be an increase in the number of working households that are just managing or facing in-work poverty.

6.2 During the transition families already in receipt of three or more child elements in their legacy benefits continue to get them to ensure that no one will be worse off (three child families cannot claim UC during this phase). But for families within scope for the cap any transitionally protected elements continue to be counted towards it. In effect the cap is being used as a proxy for the two child limit and to circumvent the promise that no one will be worse off and is a cut by stealth.

6.3 Worse still households that include an element for a child who is exempt from the two child limit continue to have those elements counted towards the benefit cap. These are children and young people who:
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- are part of a multiple birth;
- were conceived as a result of rape or controlling or coercive behaviour
- have been adopted, or whose parents have died, or
- are being looked after by the claimant to prevent them from going into care.

Which households are affected by the cap?

7.1 The latest DWP statistics (May 2018) show that of the 60,083 legacy benefits claimants that had their housing benefit capped:

- 30,810 were on income support (IS)
- 8,760 were on employment and support allowance (ESA)

Both of these benefits are paid on the basis that the claimant is, at that time, not expected to carry the full range of work-related activity that is expected of a claimant on jobseeker’s allowance.

Lone parents with a child aged under five

7.2 As at May 2018, 30,810 capped households on legacy benefits get IS, entitlement to which is mainly limited to lone parents with a child aged under five (including single pregnant women). Certain other groups are entitled to IS but they are mostly exempt from the lower cap, and given that you cannot get IS if you qualify for ESA, it seems likely that all, or nearly all, of the 30,810 are lone parents with a child aged under five. A slightly higher number of all capped households (32,936) are lone parents with a child aged under five – the difference (2,126) could include lone parents with a child aged under five on ESA and those who are on child tax credit and/or HB only.

7.3 There is no exemption from the cap for lone parents that are recently widowed or for lone parents escaping domestic violence. In particular, if the former partner was previously in work immediately before their death/separation, but the parent with care was not, the lone parent cannot benefit from the 39 week grace period they would get had they remained a couple. This means that the cap starts immediately following separation – even for those women separating for their own health and safety and/or of their children. Only those who move out to live in a refuge/hostel escape the cap (although this is not technically an exemption – their HB isn’t counted towards the cap) albeit that this form of housing is nearly always more expensive than remaining in the family home.

7.4 The published statistics do not show how many in the lone parent group are in employment but work less than 16 hours per week. (As a general rule you cannot get ESA if you are in any kind of work). Its is somewhat ironic that one of principle features of UC is that it improves work incentives for households working less than 16 hours a week and abolishes the incentives in legacy benefits to increase hours worked up to 16, and from 16 or more to 30 hours. In fact in recent months the DWP has been actively promoting the message that
being able to work less than 16 hours is one of the big advantages of UC over legacy benefits.

People with limited capability for work

7.5 Entitlement to ESA is dependent on the claimant having limited capability for work due to sickness or disability. The threshold to pass this test is high and is set according to the DWP’s own criteria. For example, the claimant would have to show that:

[They] cannot move between one seated position and another seated position which are located next to one another without receiving physical assistance from another person; or

Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the claimant.

There are alternative conditions but they are all calibrated to what is deemed to be an equivalent level of disability.

7.6 The statistics show that 8,760 of capped households on legacy benefits get ESA and, it seems likely that 2,000 of these are lone parents with a child aged under five (see above). It is not possible to say how many of the remainder are: lone parents with child aged five or older; couples with children where one of them or both of them have limited capability for work; or single (only 50 couples without children are capped). But it seems reasonable to assume that around half of the remainder are either lone parents or single person households (after deducting lone parents with children under five, 45 per cent of the remaining capped households with children are lone parents with older children).

7.7 Overall, it seems reasonable to assume that at least three in every five households (and maybe as high as two out of every three) that are capped are not expected to be looking for work for the time being, according to the DWP’s own criteria for judging this.

Changes in the profile of capped households following its reduction

8.1 Households affected by the original (£26,000) cap where heavily concentrated in London where both private and social rents are higher. The majority (53 per cent) of capped households were large families (four or more children), and outside London almost nine out of every ten capped households were large families. Higher rates of capped households occur in the larger urban centres which have higher black and minority ethnic populations (e.g. the West Midlands) reflecting the larger family sizes. Over 80 per cent of small and medium sized households affected by the old cap were in London.

8.2 Figures 2 and 3 in Annex A show that two out of every three households affected by the new cap are small or medium sized households (childless or one to three children). Over half of capped households (56 per cent) are two and three child families, most of which (41 per cent of all capped households) are three child
families. Nearly three quarters (72 per cent) of the two child capped households are in the greater South East of England (East, London and South East regions). A similar proportion (73 per cent) of the single person capped households (4281 households nationally) are in London.

8.3 It seems particularly harsh to cap households on the basis of their housing costs when high rents are symptom of the failure of successive governments to deal with the shortage in supply. But generally capped households don’t live in expensive housing – over half (56 per cent) of three child capped households live in social housing and there are over 1000 in every region and country of Great Britain (Annex A). It is unclear exactly where they are supposed to live that is likely to have a lower rent. Those that live in private rented housing most likely don’t qualify for social rented housing or have a low priority on the waiting list due to its severe shortage.

**CIH research about claimants’ experience of the lower benefit cap**

9.1 Following our own analysis CIH was concerned about the likely effects of the reduced benefit cap in autumn 2016. So we followed this up with a series of interviews with 18 people affected by the lower cap. All of those affected were households with at least one child, some lone parents, some couples. We also spoke to staff working for social housing providers to get their views on the impact of the cap.

9.2 Our research\(^2\) found that:

- Work is not proving to be the “best route out of poverty” as the Government claims – this is so because of the high costs of childcare, other costs associated with working and the changes to benefits that occur when people move into work
- The lowered benefit cap is causing significant hardship to households who have no realistic prospect of escaping it
- Almost all the households we spoke to reported increased stress as a result of the cap. Added to this, many had an adult and/or child with a long-term health condition with additional costs associated with it
- The cap is impacting on children with our interviews showing that they are not receiving the same life chances as other children, for example, missing out on educational visits and school trips
- The high cost of childcare is a barrier to people getting into work or increasing their hours if they work already.

9.2 With respect to whether the measure was meeting its objectives to improve work incentives; change attitudes towards work; make financial savings and reduce long-term dependence on benefits we found:

\(^2\) CIH (2016), *Feeling the pinch: the lowered benefit cap one year on*
Claimants affected by the cap often faced significant barriers to find work or increase their hours. Although most were aware that claiming working tax credit would exempt them from the cap, many were not in a position to do so, for example, they had recently given birth or had children with special health or developmental needs. The findings of this research chime strongly with the recent judgement that the cap causes hardship to this group for “no good reason”.

Only two of the claimants we spoke to had found work to escape the cap – in both cases on a self-employed basis. However, both complained that they had received little or no help and advice with their business start up and both said that partial help with childcare eroded their gains (one was relying on help from family/friends to get free childcare for their youngest child).

Although the cap may help with perceptions about fairness for households in work we found areas where the cap is manifestly unfair and causing considerable hardship.

Several people described how they had gone without food, heating or were in some form of arrears as a direct result of the cap. Some households had used food banks or said they could not afford basic clothing for their children. Many were reliant on help from family members or other sources. It should be questioned whether hardship of this type is a price worth paying for such a nebulous goal.

Reducing the overall benefits bill by capping may reduce costs in the short term. However, we spoke to several households who were clear that they were threatened with homelessness because of the cap. We know that crisis intervention in homelessness cases is more expensive than developing systems that don’t allow people to face the risk of homelessness in the first place.

All the households we spoke to were either in work, planning to return to work or had genuine reasons why working for at least 16 hours a week was difficult at that time. We found no suggestion in any of the households we spoke to that living on benefits was a “lifestyle choice”. Most of the households had either been in work previously or were planning to go back into work and showed no signs of treating benefits as a “free ride”. We therefore challenge the narrative that there are a significant number of people that are happy to live on benefits.
Annex A: Households affected by the lower cap by geographic region and family size (May 2018) *(Source: DWP Stat-xplore)*

*Figure 1: social renter households (point in time caseload May 2018)*

*Figure 2: private renter households (point in time caseload May 2018)*