Revised Benefit Cap

Last updated: June 30, 2017

*R (DS and Others) v Secretary of State for Work and Pensions*

On 9 March 2017 CPAG issued a claim for judicial review in the High Court against the Secretary of State for Work and Pension (SSWP) to challenge the legality of the benefit cap which was lowered further in November 2016. CPAG is acting on behalf of two single mothers who are affected by the cap due to their caring responsibilities. One of the claimants has children with significant health needs while the other has previously fled domestic violence.

Background

The original cap on benefits was introduced in 2013 and was set at £26,000 for a couple or a lone parent regardless of the number of children in the family (the Original Cap). CPAG intervened in a case which went all the way to the Supreme Court against the Original Cap in the case of [*R (SG) v Secretary of State for Work and Pensions (Child Poverty Action Group and another intervening)*](http://www.bailii.org/uk/cases/UKSC/2015/16.html) , heard in April 2014. By a majority of 3 to 2 [the Supreme Court upheld the Original Cap](http://www.cpag.org.uk/content/benefit-cap-cpag-intervention).

The level of the cap was revised with effect from 7th November 2016, reducing the overall level of benefits (the Revised Cap). The Revised Cap is set at different levels depending on where the claimant lives: it is set at £23,000 for couples/lone parents in Greater London and £20,000 for couples/lone parents outside the capital.

The Revised Cap is expected to significantly increase the number of households affected by a cap. According to [the government’s own impact assessment](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/548741/welfare-reform-and-work-act-impact-assessment-for-the-benefit-cap.pdf) 88,000 households overall, comprising at least 244,000 children are expected to be affected which is 64,000 more households, and approximately 161,000 more children, than the Original Cap. The Revised Cap disproportionately impacts on lone parents and their children, who are far more likely to be capped (approximately 67% of all capped families are lone parents) and are least likely to be able to avoid its effects due to their caring responsibilities. Evidence shows that the Revised Cap is already having a stark adverse effect on vulnerable non-working families.

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The two claimants in the present case are based outside of London and are both single mothers. One of the claimants has five children; the youngest of these is 3 years old and a number of the children suffer from medical conditions. The total amount of her benefits (income support, child tax credit, child benefit and housing benefit) mean that she is over the weekly limit of the cap (£384.62) even before housing benefit is taken into account. Accordingly, her housing benefit has been reduced to a nominal 50p a week whereas her actual rent is £480 per month. The other claimant has four children, with a youngest child of 2 years old, and has previously fled domestic violence. The total amount of her benefits mean that she was not subject to the Original Cap. However she is now over the limit of the Revised Cap and has therefore seen her housing benefit reduced by £81 per week.

Neither of the claimants are currently able to work a sufficient number of hours (16 hours for lone parents) to avoid the application of the Revised Cap due to their caring responsibilities. Both claimants are currently relying on discretionary housing payments to meet the shortfall of their rent, topped up in the case of one of the claimants by child maintenance payments which would otherwise go towards expenditure on the children.

CPAG is arguing, on behalf of the two claimants that Revised Cap discriminates against women and also the children of lone parents. CPAG argues that this is in breach of the SSWP’s obligations under the European Convention on Human Rights and is irrational.