



Zacchaeus 2000

**Z2K Briefing on Welfare Reform & Work Bill
House of Lords – Committee Stage**

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Introduction

The Zacchaeus 2000 Trust (Z2K) is a London-wide anti-poverty charity. In 2011, we established the *NextDoor* service to help those threatened with homelessness as a result of the Coalition Government's cap on Local Housing Allowance (LHA) and the subsequent £500 a week Benefit Cap for families with children. In 2013, we set up *NextDoor Plus* to provide support for those families forced to move home as a result of this policy.

Overview of the Bill

Z2K is opposed to many of the measures in the Bill as we believe they will result in already low-income households either being made worse-off financially or homeless. We disagree with the four-year long freeze on Child Benefit and Child Tax Credits, and the restriction on Child Tax Credits and Universal Credit to a maximum of two children. We are also opposed to the cut in the level of Employment & Support Allowance for those in the Work Related Activity Group and the four-year freeze on Local Housing Allowance (LHA) rates of Housing Benefit as this will increase the number of households forced into rent arrears.

However, Z2K's over-riding objections to the Bill are to the provisions in clauses 7 and 8, lowering the Benefit Cap to £440 a week in London (and to £385 outside London). In our experience of helping hundreds of those affected by the current £500 a week cap over the past two years, this policy has had a devastating impact on the lives of some of London's poorest families. In particular, despite ministerial claims to the contrary, we have seen many families accrue such high levels of rent arrears that they end up losing their homes.

DWP's Impact Assessment of the reduced cap estimates that 120,000 households will be affected.¹ However, this assessment includes no detail on the number of children affected, how many will be affected in each local authority area or region, and nothing on the number affected who are not actually required to be in work. Ministers have repeatedly failed to answer Parliamentary Questions requesting this information. Meanwhile, leaked DWP papers suggests it will result in at least 40,000 more children falling below the poverty-line.²

Z2K's briefing therefore sets out the real impact of the current £500 a week Benefit Cap, including examples of families who have been hit by it. Many of those households will be hit again, along with tens of thousands more mothers with very young children, full-time carers, disabled claimants and those deemed too ill to work. The cap results in vulnerable families facing an almost impossible choice between feeding and clothing their children, heating their homes and paying the rent.

Z2K supports amendment 72 deleting the lower caps from the Bill. Failing that, we hope all full-time carers, homeless households and disabled people will be exempted from the cap.

¹ <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>

² <http://www.theguardian.com/politics/2015/may/29/household-benefit-cap-plunge-40000-kids-poverty-memo>

Summary: what is wrong with the cap?

Z2K is opposed to the Benefit Cap on a point of principle. We believe that low-income households should receive the Social Security benefits to which they are entitled, and not have them artificially restricted by a cap. However, the policy also fails the tests ministers themselves have set for it. None of their claims stand up to serious scrutiny.

“It incentivises people to move into employment”

The reality is that the vast majority of those affected by the cap are not in a position to move into employment. DWP’s own figures show that 15 per cent of capped households are in receipt of a benefit (JSA) which requires them to be immediately available for work.³ These claimants already face benefit sanctions if they are not deemed to be looking for work sufficiently hard enough. The Benefit Cap has not been shown to have anything more than a marginal impact on claimants moving into work.

“It’s about making sure families on benefits don’t earn more than those working”

DWP said that the original £26,000 per year cap was set at that level because it reflected average earnings and was supposed to mean that no unemployed household would receive more in benefits than a working counterpart. In reality, even before the cap, no unemployed household could receive more than a working one in the same circumstances. This is because a family earning £26,000 would actually be entitled to around £14,000 in benefits, including Child Benefit, Working Tax Credits and Housing Benefit. Clause 8 of the Bill removes all mention of the cap being set by reference to average earnings.

“The Benefit cap saves money”

The current £500 a week cap was originally said to save £270 million a year. It is now admitted that the figure is less than half of that. DWP now claims that lowering the cap will save a further £325 million a year. Given past practice, this figure will take no account of the additional costs to local authorities of having to deal with the thousands of families who will be made homeless as a result of this policy the tax payer.

“The lower cap will not cause homelessness”

Analysis by housing solicitor Giles Peaker⁴ has shown that at a reduced cap of £23,000 a two parent household with three children would not receive enough Housing Benefit to cover the rent for a three-bedroom social property. For “Affordable Rent” homes, he calculates that even a household of two parents with two children would not be able to cover the rent for a property of two bedroom or more. No adequately-sized private rented sector home in London would be affordable to a capped two parent household with two children.

³ <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-may-2015>

⁴ <http://nearlylegal.co.uk/blog/2015/06/an-inconvenient-problem-2/>

Household Benefit Cap

DWP initially suggested that the Benefit Cap would impact upon an initial group of around 67,000 households. However, by the time its Impact Assessment was published, it had revised down that estimate to 56,000 households losing an average of £91 a week from their Housing Benefit – almost £5,000 a year. These 56,000 households were thought to include around 180,000 children. DWP claimed the Benefit Cap would save the Exchequer around £270 million a year.⁵ By the time the cap began to come into effect in April 2013, the total number of households affected had been revised down again to 40,000.

Latest Statistics

DWP reports that between April 2013 and May 2015, 62,571 households across the UK had their Housing Benefit capped.⁶ 95 per cent of those households had dependent children. Of those, 34,855 were single parent families and 23,961 were couples with dependent children. It is not possible to be certain how many children have been affected by the cap so far, but the figure will be at least 150,000. 45 per cent of those affected live in London.

These statistics also show that 22,456 households were affected by the cap at the end of May 2015. This total included 14,309 single parent families and 6,937 couples with dependent children. 18,168 of those 21,244 families had three or more children – 86 per cent of families currently affected. By its very nature the Benefit Cap discriminates against larger families, especially those with three or more children. The most recent statistics for each London borough are set out in Table 1 (page 12).

DWP's initial Impact Assessment in January 2012 estimated that 40 per cent of those affected would be in receipt of JSA. However, this figure was revised down to 34 per cent in July 2012, and the actual proportion of those affected in May 2015 was just 15 per cent.⁷ In numerical terms this equates to just 3,300 households. The remainder of those currently affected are not actually expected to be in work. This is broken down as follows:

- 21 per cent are in receipt of ESA (Work-Related Activity Group)
- 49 per cent are on Income Support (mostly lone parents with young children)
- 6 per cent in receipt of Carer's Allowance
- The remaining 9 per cent are in receipt of other benefits.

The fact that the cap now overwhelmingly impacts on those who are not expected to work is one of its most pernicious features. This probably also explains the fact that nearly half of those currently capped have been so since it was first implemented.⁸

⁵ Impact Assessment for the Benefit Cap (DWP, July 2012)

⁶ <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-may-2015>

⁷ Hansard, Written Answers (03 July 2015)

⁸ Hansard, Written Answers (17 September 2015)

Z2K's Experience of the Impact of the Cap

Over the past two and a half years, Z2K has supported nearly 300 London households affected by the Benefit Cap. Many of those households were already affected by the Coalition Government's initial cap on Local Housing Allowance (LHA), which restricted Housing Benefit payments to a maximum of £400 a week, and had left some families facing significant shortfalls in their rent that needed to be made up from other benefits.

In advance of the Benefit Cap coming into force, Ministers argued that households affected by it would take steps to either work enough hours to qualify for working tax credit, renegotiate their rent in situ, or find alternative accommodation. In Z2K's experience, people in areas of high housing demand are rarely in a position to renegotiate their rents. Equally, most of these households cannot move easily into employment.

Case Study

"Georgina" is a single mother with 3 children (aged 4, 7 & 10). Her only income is Social Security benefits and she relies on the support of local friends and family. Her HB was first cut as a result of the LHA caps, and so, in order to remain close to her support network, she downsized into a 2 bedroom flat at a rent of £330 per week. From August 2013, she was subject to the Benefit Cap and her HB was reduced. After rent and bills Georgina and her three children were left with £128 a week to live on.

The overwhelming majority of affected households we have seen are families living in the private rented sector. Their homes are expensive because of their location rather than quality. For these families, it invariably proved impossible to negotiate a cheaper rent with their landlord. Our advisors tried to help them find more affordable accommodation, but in most cases it proved impossible to find them a tenancy near their home area sufficiently cheaper that it brought them below the Benefit Cap level.

Z2K helped most of these clients apply for a Discretionary Housing Payment (DHP) to cover the shortfall. While a fair number were initially successful, many were not and these families ended up having to try to make up the difference from other benefits. Inevitably, most of those clients were unable to maintain these payments and quickly accrued rent arrears, which resulted in possession action by their landlord. Some of those we were able to help initially have had their applications to renew a DHP for a further period rejected.

A significant number of those we helped were eventually evicted and ended up homeless in temporary accommodation (TA) brokered by their local authority (sometimes at a significantly higher cost than their previous rent). Capped families cannot simply move into something cheaper as that would almost inevitably result in the authority deciding to cease its duty and ending their "Reasonable Preference" for social housing.

Case Study

Mr & Mrs A have two children under five. Mr A was working as a cleaner in London, but he could not get enough hours to exempt him from the cap. They applied for a DHP, but were unsuccessful. After failing to find other work the family accrued rent arrears and were evicted. Their local authority accepted a homelessness duty towards the family and placed them in TA in High Wycombe. Due to the long journey time, Mr A was no longer able to work his hours as a cleaner and lost his job. He has been unable to find employment in High Wycombe.

- **Z2K supports Lord Best's Amendment 73 and Lord Kerslake's Amendment 90A exempting statutorily homeless households from the cap.**

Lone Parents

Many of the families we have seen face significant barriers to entering employment. Most want to work, but are unable to accept low paid and insecure employment because these jobs did not cater for their family's needs. Mothers with young children tell us that the lack of affordable childcare severely limits the number of jobs they could apply for, which need to be for a small number of hours during school time.

- **Z2K supports Baroness Sherlock's Amendment 90 exempting those on Income Support from the cap, including lone parents with young children**

Disabled / Seriously Ill Households

Z2K has also advised many clients on ESA who simply could not work as a result of injury or illness, had been signed off by their GP, and so were not expected to actively seek employment. As this was usually only at the lower Work-related Activities level of ESA, they were not exempt from the cap. Most were incapable of escaping the cap by moving immediately into work. However, our advisors were able to help a number of clients successfully apply for a Personal Independence Payment, which makes them exempt.

Case Study

Brenda suffers from a severe liver condition, which means she is not expected to work and is in receipt of ESA. She was first forced to move as a result of the LHA caps when her reduced HB left her in arrears and she was evicted. Shortly after moving, she was affected by the benefit cap. She was awarded a DHP but this did not cover the whole shortfall. After struggling to meet the shortfall she has accrued arrears and her landlord has begun possession proceedings.

- **Z2K supports Baroness Sherlock's Amendment 89, exempting all those disabled and seriously ill people in receipt of ESA from the cap**

Full-time Carers

One of the most shocking features of the cap is that it applies to 1,360 households in receipt of Carer's Allowance. This benefit is only paid to those who are looking after a disabled person for more than 35 hours a week on average – effectively the equivalent of full-time employment. Carers also lose their entitlement if they earn more than £102 a week, which makes it extremely difficult to work 16 hours week or more without losing their allowance.

Case Study

Jacqui is the full-time carer for her son who has severe Asperger's. He receives DLA, but because he is a non-dependent she is not exempt from the cap. She needs to stay nearby and her local authority have awarded her a DHP until March 2017. However, she still needs to cover a £20 a week shortfall from her Carer's Allowance. The lower cap will necessitate an even larger DHP award of nearly £200 a week. If that is not agreed, she will not be able to pay the rent shortfall and will face eviction.

DWP has made great play of the fact that 94 per cent of carers in receipt of Social Security benefits in excess of the cap are exempted because the person they care for is in the same household and in receipt of an exempting disability-related benefit. However, ministers have provided no justification why the remaining 6 per cent of full-time carers should be capped. Several thousand more full-time carers will be affected by the lower cap.

In November 2015, three full-time carers challenged the application of the cap to their entitlements in the High Court. In his withering judgment against the Government, Mr Justice Collins first poured scorn on DWP's use of the term to "workless families" to describe giving full-time care to a relative, saying that it was "somewhat offensive" and that,

"reasonable people would recognise that to care for a seriously disabled person is difficult and burdensome and could properly be regarded as work" and that "those who are prepared to make the sacrifice involved in undertaking such care would not normally be regarded as work shy and content to rely on benefits".

Mr Justice Collins concludes *"that (this policy) has produced hardship, there can be no doubt"* and that *"consideration should be given to whether there should be an amendment which does at least exempt individual family carers such as these claimants since these are very few and the cost to public funds if the cap is to be maintained is likely to outweigh to a significant extent the cost of granting the exemption".*⁹

- **Z2K supports Baroness Sherlock's Amendment 88 exempting all those in receipt of Carer's Allowance from the cap and also Baroness Meacher's Amendment 75 exempting Carer's Allowance from calculations of income to be capped.**

⁹ <http://www.bailii.org/ew/cases/EWHC/Admin/2015/3382.html>

Discretionary Housing Payments

In Parliamentary debates, ministers repeatedly argued that the increased budget for DHPs (£165 million in 2013/14, £135 million in 2014/15 and £125 million in 2015/16) will support those households most affected. However, as the National Audit Office (NAO) reported in November 2012, those DHPs only add up to six per cent of the savings due to be made by the HB reforms and *“it is not clear how the current level of funding for DHPs has been determined.”*¹⁰ When challenged over this shortfall during the debate on the Benefit Cap regulations in 2012, DWP Minister, Mark Hoban MP conceded 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.”¹¹

In any case, this DHP funding has also been available to those affected by the “Bedroom Tax” and caps on LHA, including the Shared Accommodation Rate, as well as those affected by the Benefit Cap. In fact, DWP itself said that the amount of DHP specifically for Benefit Cap cases would be £65 million in 2013/14 and £45 million in 2014/15.

In practice, the delayed roll-out of the Benefit Cap from August 2013 instead of April 2013, meant that there was a little less pressure on DHPs than anticipated and some authorities were able to substantially meet the shortfalls of many of those affected, thus saving them from falling into rent arrears and facing eviction and homelessness. In some cases, boroughs deliberately under-spent DHP budgets and were allowed to roll funding over into 2014/15 to supplement that year’s pot.

Things were much harder in 2014/15 as the Benefit Cap was in force for all 12 months of the financial year. Many DHP funding pots were significantly oversubscribed and many authorities prioritised applications from those social tenants affected by the “Bedroom Tax” or homeless households in temporary accommodation. A number introduced extensive conditions on DHP awards. Even those London boroughs that topped up their DHP pot, tended to focus the extra money towards homeless families in an effort to maintain the supply of temporary accommodation. DWP’s own research showed that nearly half of those affected by the Benefit Cap had not heard of DHPs.¹²

The Chancellor confirmed in the July Emergency Budget that DHP funding will be £800 million over the next five years. This breaks down as a budget of £150 million in 2016/17, rising to £185 million in 2017/18. While we welcome this increase, it is clearly insufficient to support those worst affected by the new cap, particularly given the continuing impact of the Bedroom Tax on council and housing association tenants.

¹⁰Managing the impact of Housing Benefit Reform (National Audit Office, November 2012)

¹¹House of Commons - Second Delegated Legislation Committee, 06 November 2012: Column 26

¹² In-Depth interviews with people affected by the benefit cap (DWP, 2014)

DWP Review of the first year

In December 2014, DWP published its review of the first year of the Benefit Cap. Given the rhetoric that preceded the cap's introduction, it is not surprising the report concluded that,

“ the evaluation reports show evidence of behavioural change. The movement into work for those households affected by the Benefit Cap is higher than movement into work by a comparable group of households not affected by the cap.”¹³

The statistical basis for this claim that the Benefit Cap has increased the proportion of households moving into employment was the following findings:

- 19 per cent of capped households in the May 2013 cohort were in work after a year compared to 11 per cent for a similar uncapped group.
- After controlling for a range of observable difference capped households were 4.7 percentage points more likely to enter employment than uncapped ones.

Z2K is not persuaded these “findings” support the conclusion reached. The study does not identify the actual causal factors that explain why more capped households than uncapped ones are moving into work. The proxy used to identify households moving into employment (starting a claim for Working Tax Credits) is at best an inexact measure. And the numbers of claimants involved is actually rather small. Behind the 19 per cent figure, for example, are just 2,000 families who had someone move into paid work in the 12 months after May 2013.

In a press release on 06 November 2014, DWP claimed that, “*More than 12,000 households have made the choice to move into work or stop claiming Housing Benefit because of the benefit cap.*” The UK Statistics Authority investigated this claim and concluded that,

“the available numerical evidence does not demonstrate a particularly strong causal link between the Benefit Cap and the decisions made by individuals about moving into work As a result, our view is that it might have been more appropriate to adopt more cautious wording in the press statement.”¹⁴

Interviews with affected claimants

DWP also commissioned the Cambridge Centre for Housing & Planning Research to undertake in-depth interviews with 50 households affected by the cap. In its summary report, DWP claims that these interviews found, “*half reported that they had looked harder for work, broadened the type of work they were willing to accept, tried to increase their hours of work, or started to look for work in response to the cap.*”¹⁵

¹³ The Benefit Cap: a review of the first year, (DWP, December 2014)

¹⁴ <http://www.statisticsauthority.gov.uk/reports---correspondence/correspondence/letter-from-sir-andrew-dilnot-to-jonathan-portes-171214.pdf>

¹⁵ The Benefit Cap: a review of the first year, (DWP, December 2014)

This research was designed to help understand the impact of the Benefit Cap, but, the author herself makes it clear that *“It is not possible to draw robust generalisations from a small sample such as this.”*¹⁶ Despite this caveat, DWP has repeatedly used the responses to this survey to endorse its view that the cap has improved work incentives.

IPSOS Mori Survey

DWP also commissioned IPSOS Mori to survey over 1000 households affected by the cap in February 2014 (Wave 1). Follow-up interviews were conducted with 468 of those households in August 2014, to determine what changes in their circumstances and attitudes had taken place. DWP’s summary report highlights the finding that the proportion of these claimants looking for work increased from 24 per cent in Wave 1 to 38 per cent in Wave 2. As with the in-depth interviews, however, the researchers added a caveat, stating that,

“it is important to keep in mind that results from wave 2 are based on a specific group of claimants and reflect the characteristics of this group at a specific point in time. They will therefore not necessarily be representative of the entire affected claimant population as reflected by official statistics published on the Benefit Cap.”¹⁷

DWP’s summary downplays both this caveat and the revelation that around one-third of those affected told IPSOS-Mori they were spending less on “household essentials”. It has not commissioned any further research into the health and well-being of affected families.

Moving house

DWP also emphasised the finding that only 14 per cent of those in scope for the cap in May 2013 had moved house, compared to around 11 per cent for a group with benefit entitlement just under the cap level. IPSOS-Mori’s finding that the proportion of affected households saying they were looking to move house actually fell from 42 per cent in Wave 1 (February 2014) to 36 per cent in Wave 2 (August 2014) was claimed to provide further evidence fears of widespread homelessness had proved unfounded.

This figure should come with the same caveat about it being an unrepresentative sample. More importantly, it doesn’t actually identify all moves. Short-distance moves where the claimant stays within the same postcode sector are not counted. This includes families who, in order to stay in the same area, have downsized and therefore overcrowded themselves. The relatively small numbers from this cohort who have moved might be explained by DHPs covering the Housing Benefit shortfall and temporarily forestalling the need to move.

¹⁶ In-Depth interviews with people affected by the benefit cap (DWP, 2014)

¹⁷ Post-implementation effects of the Benefit Cap (Wave 2 survey)

Supreme Court Judgment

All the evidence shows that the Benefit Cap disproportionately hits lone parents. That is one of the key reasons Z2K strongly supported the legal challenge to it by the Child Poverty Action Group and Shelter Children's Legal Service as being unlawful under Article 14 of the European Convention on Human Rights and also in contravention of the United Nations Convention of the Rights of the Child (UNCRC).

This challenge ultimately failed in the UK Supreme Court. However, three of the five judges there found that the Benefit Cap was not compatible with the UNCRC's stipulation to treat the "best interests" of the child as the primary consideration. Two of these three judges also found the cap to be discriminatory against women. In her concluding statement, the Deputy President of the Supreme Court, Lady Hale states that,

"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 to adequately house, feed, clothe and warm themselves and their children. Furthermore, the greater the need, the greater the adverse effect This prejudicial effect has a disproportionate impact upon lone parents, the great majority of whom are women"¹⁸

Responding to this judgment, Work & Pensions Secretary, Iain Duncan Smith MP, said, "*I am delighted that the country's highest court has agreed with this government and overwhelming public opinion that the benefit cap is right and fair.*"¹⁹

This claim is simply untrue. The Supreme Court found the cap is lawful, not that it is "right and fair". Lord Carnwath, who was one of the three judges who accepted the cap is not unlawful, actually concluded that "*the Secretary of State has failed to show how the regulations are compatible with his obligation to treat the best interests of children as a primary consideration.*"²⁰ He also called on the Government's forthcoming review of the Benefit Cap to address the implications for its obligations under the UNCRC.

Conclusion

The lower £23,000 a year cap in London (and £20,000 outside) will simply serve to further impoverish those already affected by the current cap, as well as tens of thousands more mums with very young children, full-time carers, homeless households, disabled claimants and those deemed too ill to work. Z2K supports Amendment 72 effectively deleting the lower caps from the Bill, but failing that, we hope ministers will at least agree amendments exempting these vulnerable groups of claimants from the cap.

¹⁸ https://www.supremecourt.uk/decided-cases/docs/UKSC_2014_0079_Judgment.pdf

¹⁹ <https://www.gov.uk/government/news/supreme-court-finds-in-favour-of-benefit-cap>

²⁰ <https://www.supremecourt.uk/cases/docs/uksc-2014-0079-judgment.pdf>

Table 1

	Number of Households Capped April 2013 to February 2015	Number of Households currently capped (February 2015)	Borough's own estimate of no. of households affected by lower caps
Barking & Dagenham	749	314	No reply yet
Barnet	1,099	381	No assessment
Bexley	355	159	460
Brent	2,252	898	2,904
Camden	610	263	No reply yet
Croydon	1,007	313	955
Ealing	1,700	769	1,532
Enfield	2,191	761	2,946
Greenwich	504	205	518
Hackney	950	410	2,904
Hammersmith & Fulham	661	265	No assessment
Haringey	1305	462	897
Harrow	695	239	No assessment
Hillingdon	599	242	No assessment
Hounslow	592	220	No assessment
Islington	626	257	600
Kensington & Chelsea	652	280	No reply yet
Lambeth	675	263	No assessment
Lewisham	774	316	No reply yet
Newham	1,144	407	No reply yet
Redbridge	791	304	No assessment
Southwark	452	205	No reply yet
Tower Hamlets	1,472	650	1,615
Waltham Forest	761	318	No assessment
Wandsworth	876	310	814
Westminster	1,444	651	No assessment

