**The Benefit Cap**

(The information below is taken from the CPAG Welfare Benefits and Tax Credit Handbook 2016 - 2017. It refers to the Benefit Cap level as it is in this year.)

**Changes to the Benefit Cap noted in the July 2015 Budget**

From November 2016 the Benefit Cap amount will reduce from £26,000 a year to £20,000 a year (outside London). This will have a significant effect on those in rented housing who are in receipt of Housing Benefit, which will be reduced due to the Benefit Cap. Families with three or more children will be most affected. This is likely to result in families who are capped being unable to afford to pay the rent, increasing rent arrears, evictions and homelessness.

***There are various exemptions from the Benefit Cap and these are explained below. It is in the interests of housing associations and local councils to contact tenants most likely to be affected by the Cap to explore whether they can support them to gain exemption from the Cap. This may be through help to access the correct disability benefits, by helping them to obtain paid work or by other means. The information below explains the details of exemption to the Cap.***

**An amendment has been passed recently removing Carer’s Allowance (CA) from the benefits included within the cap. Regulations will be introduced to exempt anyone in receipt of CA OR who has who has ‘underlying entitlement’ to CA from the cap entirely.**

**The Benefit Cap**

A ‘benefit cap’ may limit the total amount you can be paid from certain specified benefits.

If the total amount of your benefits is capped, the cap is applied:

* By reducing the amount of your Housing Benefit (HB) or
* By reducing the amount of your Universal Credit (UC)

If you are not entitled to HB or UC, the cap is not applied. The benefit cap is also not applied to your HB if you are at least the qualifying age for Pension Credit (PC) and you (and your partner, if you are in a couple) are not getting Income Support (IS), Income Based Jobseekers Allowance (JSA), Income Related Employment and Support Allowance (ESA) or UC.

There are other exceptions to when the cap is applied and in some circumstances the cap is not applied immediately.

You can appeal against having the benefit cap applied through your Housing Benefit. However, there is no right of appeal against a decision to apply the benefit cap through UC. Instead, you must ask for a revision or supersession.

***When is the cap not applied to you?***

1. If you are not getting HB, for people below the qualifying age for PC or not getting UC, the cap does not apply.
2. If you or your partner are working and get Working Tax Credit (WTC) the cap does not apply.
3. If you or your partner (or in some cases, your child) are entitled to one of the “disability benefits” below, the cap does not apply

***Disability Benefits***

* ESA that includes the support component (known as the ESA (Support Group))
* UC that includes the limited capability for work related activity component
* Attendance Allowance (or you are entitled to it but are not paid while you are in hospital or a care home)
* Disability Living Allowance, Personal Independence Payment or Armed Forces Independence Payment. This exemption also applies if the person entitled is a child for whom you or your partner is responsible. The exemption continues while the person entitled is not paid the benefit while they are in hospital or a care home.
* Industrial Injuries Disablement Benefit, Reduced Earning Allowance or Retirement Allowance.
* A War Pension (or you are entitled to it but are not paid while you are in hospital or a care home.
* **In receipt of Carer’s Allowance (CA)** and **those who have ‘underlying entitlement’ to CA (but are not paid due to overlapping benefit rules) will be exempted from the cap entirely**

1. If you or your partner has been working recently, there may be a “grace period” in which the cap does not apply. The “grace period” is 39 weeks if

* You or your partner were previously in work (either employed or self-employed) for at least 50 weeks out of the 52 weeks before the last day of work

*And*

* In that 50 weeks, the person in work was not entitled to IS, JSA or ESA.

The “grace period” begins on the day after the last day of work. You count as still in work while on maternity, adoption, paternity or shared parental leave, or while receiving Statutory Sick Pay (SSP)

1. If the cap would be applied through your UC, you are exempt from the cap if you and /or your partner work, provided your combined earning are high enough. (See section “Work Related Exceptions”)
2. If you get HB, the cap is likely to apply because the amount of your HB may be relatively high. If the amount of your HB decreases (eg, because you have moved to cheaper accommodation), this may mean that the cap no longer applies.

**When the benefit cap applies**

The benefit cap only applies if:

* You get HB for people below the qualifying age for PC, or you get UC; *and*
* None of the exceptions apply; *and*
* The total amount of certain specified benefits you (and your partner, if you are a member of a couple) receive is above a certain level for HB and UC (see below)

When calculating the amount of benefit you receive, the general rule is that your full benefits entitlement is taken into account. Deductions for repayment of overpayments, payments to third parties, council tax debts, fines and sanctions are generally ignored. *There are some exceptions if the cap is applied through your HB and you get Child Tax Credit CTC, Widowed Mothers Allowance or Widowed Parents Allowance.*

**If you get Housing Benefit**

If you get HB, unless there is an exception *See “When the Benefit Cap Does Not Apply”* the cap applies once your (and, if you are in a couple, your partners) weekly entitlement to certain “specified benefits” (see below) exceeds £500 a week if you are claiming as a couple or as a lone parent, or £350 a week if you are claiming as a single person.

**Note** the level at which the cap is set is reducing from 2016- 2017 to £20,000 a year (outside London).

***Specified Benefits for HOUSING BENEFIT***

* IS
* JSA
* ESA, if neither you or your partner are in the Support Group (ESA is not taken into account while you are disqualified from receiving it)
* HB, except for “specified accommodation”. This means “exempt accommodation or accommodation provided by a housing association, charity, voluntary organisation or English county council to meet your needs for care, support or supervision; temporary accommodation provided by one of these bodies or a LA because you have left home because of domestic violence; or a LA hostel where you get care, support or supervision
* Bereavement Allowance
* Child Benefit
* Guardians Allowance
* Incapacity Benefit
* Maternity Allowance (MA)
* Severe Disablement Allowance
* Widowed Mothers/Parents Allowance (after £15 disregard)
* Widows Pension
* CTC (but if you are repaying an overpayment from the previous tax year, the amount of CTC taken into account is reduced by the amount deducted for the repayment)

The LA does not have to decide whether or not to apply the cap unless it is told by the DWP that it may apply in your case or that you have had a change in your benefit entitlement. However, it can decide to apply the cap on the basis of information or evidence suggesting that it should do so.

**If You Get UC**

Unless there is an exception, the cap applies once your (and your partners) monthly entitlement to specified benefits exceeds £2167 a month for couples or lone parents, and £157 a month otherwise. **Note** the level at which the benefit cap is set is changing in 2016/17. Your benefit payments are converted into monthly amounts for this calculation.

***Specified Benefits for UNIVERSAL CREDIT***

* UC
* JSA
* ESA, if neither you or your partner are in the Support Group (ESA is not taken into account while you are disqualified from receiving it)
* Bereavement Allowance
* Child Benefit
* Guardians Allowance
* Maternity Allowance
* Widowed Mothers Allowance/Widowed Parents Allowance
* Widows Pension

**When the Benefit Cap Does Not Apply (Generally)**

There are a number of situations in which the benefit cap does not apply. Generally, these exceptions apply to;

* Work or recent work, including a ‘grace period’ after stopping work. The “grace period” is 39 weeks and begins on the day after the last day of work if;
  + You or your partner were previously in work (either employed or self-employed) for at least 50 weeks out of the 52 weeks before the last day of work

*And*

* + In that 50 weeks, the person in work was not entitled to IS, JSA or ESA.

**Note;** You count as still in work while on maternity, adoption, paternity or shared parental leave, or while receiving statutory sick pay (SSP).

* Entitlement to a particular disability benefit as follows;
  + ESA that includes the support component (Support Group)
  + UC that includes the limited capability for work related activity component
  + Attendance Allowance (or you are entitled to it but are not paid while you are in hospital or a care home
  + Disability Living Allowance, Personal Independence Payment or Armed Forces Independence Payment. This exemption also applies if the person entitled is a child for whom you or your partner is responsible. The exemption continues while the person entitled is not paid the benefit while s/he is in hospital or a care home
  + Industrial Injuries Disablement Benefit, Reduced Earnings Allowance or Retirement Allowance
  + Carers Allowance (or underlying entitlement to CA)
  + A War Pension (or you are entitled to it but are not paid while you are in hospital or a care home)

**Work Related Exceptions (If the benefit cap should be applied through your HB)** it is not applied if;

* You (or if you are a member of a couple, your partner) are entitled to WTC. This includes if you have claimed WTC but have a nil award because of your income; *or*
* You are within a “grace period” after finishing work.

The “grace period” is 39 weeks and begins on the day after the last day of work if;

* You or your partner were previously in work (either employed or self-employed) for at least 50 weeks out of the 52 weeks before the last day of work

*And*

* In that 50 weeks, the person in work was not entitled to IS, JSA or ESA.

**Note;** You count as still in work while on maternity, adoption, paternity or shared parental leave, or while receiving statutory sick pay (SSP).

**Work Related Exceptions (If the benefit cap should be applied through your UC)** it is not applied if;

* You or your partner are working (either employed or self-employed) and have net monthly earnings of at least £430 in your UC monthly assessment period. Your partners earnings are added to yours; *or*
* You are within the 39 week “grace period”

The benefit cap is not applied for a “grace period” of 39 consecutive weeks, if;

* Your earnings (or your and your partners combined earnings) from employed or self-employed work are now less than £430 a month but, immediately before the first day on which this applies, your earnings (or your combined earnings) had been at least £430 a month in each of the preceding 12 months;

*or*

* Before your current period of entitlement to UC, you stopped paid employed or self-employed work and, before you stopped work, your earnings (or your and your partners combined earnings) had been at least £340 a month in each of the preceding 12 months.

The grace period begins on the most recent day on which either condition applies.

**How the Benefit Cap is Applied: HOUSING BENEFIT**

If the cap is applied through your HB the LA reduces your HB by the amount by which the total amount of the specified benefits you receive exceeds the cap, ie by the amount it exceeds £500 week if you are a couple or lone parent, or £350 week otherwise. You must be left with at least 50p a week HB so that you can still access discretionary housing payments and other passported payments.

**How the Benefit Cap is Applied: UNIVERSAL CREDIT**

If the cap is applied through your UC, the DWP reduces your UC by the amount, by which the total amount of the specified benefits you receive exceeds the cap, ie by the amount it exceeds £2167 a month if you are a couple or lone parent or £1517 a month otherwise. However, if you are entitled to the childcare costs element in your UC and this is more than the amount by which your specified benefits exceeds the cap (the excess), your UC is not reduced. If it is not more than the excess, your UC is reduced, but the excess is reduced by your childcare costs element before the reduction is applied.