

High Court rules benefit cap unlawfully discriminates against lone parents with young children ^[1]

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EXCERPTS

The High Court has ruled today that the application of the benefit cap to lone parents with children under two is unlawful because it discriminates both against the children and their parents.

The case was brought by four lone parent families and challenged the revised benefit cap introduced by the Welfare Reform and Work Act 2016, a flagship policy of the Conservatives that the Government may now be forced to change.

The Government is appealing the court's decision.

Under the current revised benefit cap, households are limited to receive a maximum amount of £20,000 in welfare per annum for those living outside of, and £23,000 per annum for those living within Greater London, a stark reduction from the previous annual maximum of £26,000.

All those who receive benefits are required to work at least 16 hours per week in order to avoid the cap, or 24 hours a week between two people in the case of a couple.

Mr Justice Collins ruled that the application of the revised benefit cap to lone parents with children under two amounts to unlawful discrimination, adding that 'real misery is being caused to no good purpose'.

Two of the claimants and their children had become homeless because of domestic violence. They claimed that, due to their caring responsibilities and the cost of childcare, they were unable to work the required minimum 16 hours per week to escape the cap. As a result, their benefits were cut.

Their legal team successfully argued that the Secretary of State for Work and Pensions had failed to take into account the disproportionate impact of the benefit cap on lone parents, who are overwhelmingly women, and their children.

In his ruling, the judge referred to data provided by the Department of Work and Pensions, according to which 66 per cent of capped households were lone parents with children as of May 2016.

Mr Justice Collins said in his judgment that the cap was 'capable of real damage' to people such as the claimants.

'They are not workshy but find it, because of the care difficulties, impossible to comply with the work requirement. Most lone parents with children under two are not the sort of households the cap was intended to cover... Real misery is being caused to no good purpose,' he added.

Law firm Doughty Street's Caoilfhionn Gallagher QC and Jennifer Robinson, who formed part of the claimants' legal team, and Martin Westgate QC, representing homelessness charity Shelter, who supported the claim, said in a joint statement after the ruling, 'The Secretary of State recognises that lone parents of very young children under two should not be expected to work. Free childcare hours for low income families start only when children reach the age of two. However, no exemption to the benefit cap was made for this group.

'The Claimants argued that the Secretary of State's failure to exempt them from the benefit cap has a profound impact upon them and their children, which is discriminatory and unlawful, in breach of Article 14 ECHR.'

While the Government announced that it would appeal against the ruling, family organisations welcomed the High Court's decision.

Ellen Broomé, chief executive at the Family and Childcare Trust, who acted as a witness to support the claimants' case, said, 'We welcome the High Court's recognition that childcare challenges can make it impossible for some lone parents to move into work.

'The Family and Childcare Trust submitted in evidence to the High Court that single parents with young children are often frozen out of work by the high costs and patchy availability of childcare – effectively torpedoing single parents' ability to boost their social mobility. The Government must make sure all parents are better off working once they have paid for childcare.'

Dalia Ben-Galim, director of policy at Gingerbread, the charity for single parents, which also gave evidence in the case, said, 'This is a fantastic result that offers real hope for some of the most vulnerable families in the UK. When it comes to single parents, the benefit cap rules risked pushing them into ever deeper poverty.'

Alison Garnham, chief executive of Child Poverty Action Group, said, 'In exposing the absurdity and cruelty of the benefit cap, we hope this case is the beginning of the end for this nasty policy. It is a policy that punishes the vulnerable for being vulnerable and even fails on its own terms.'

'Marketed as a policy all about forcing people who are able to work into work, the shocking reality is that the government itself acknowledges 7 in 8 households hit by the cap cannot work because they are looking after very young children, are too ill to work or have a work-limiting disability. Two thirds of families affected are lone parents.'

Ms Garnham added that it was 'not surprising' that in the Government's own evaluation only 16 per cent of capped families moved into work, and that 11 per cent would have moved into work anyway.

'It is for these very reasons why CPAG has also brought a legal case on behalf of two lone parents and their families challenging the lawfulness of the cap as it applies to lone parents irrespective of the age of their youngest child,' she said.

A Department for Work and Pensions spokesman said, 'We are disappointed with the decision and intend to appeal. Work is the best way to raise living standards, and many parents with young children are employed.'

'The benefit cap incentivises work, even if it's part-time, as anyone eligible for working tax credits or the equivalent under Universal Credit, is exempt. Even with the cap, lone parents can still receive benefits up to the equivalent salary of £25,000, or £29,000 in London and we have made Discretionary Housing Payments available to people who need extra help.'

-reprinted from Nursery World

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