



Benefits Newsletter May 2017

1. First Tier Tribunals and Human Rights

In November 2016 following an appeal by Jayson and Jacqueline Carmichael, the Supreme Court ruled that for bedroom tax and LHA purposes, couples are unable to share a bedroom due to a disability would be allowed a bedroom each. The Housing benefit and Universal Credit rules were changed to reflect this decision and came into force on 1st April 2017.

However, the Carmichaels, were taken back to the Upper Tribunal on 27th April 2017 to consider whether or not the First-Tier Tribunal had the power to take into account human rights legislation when considering whether they were allowed to have a bedroom each. A panel of three UT Judges considered this case and ruled that:

- "1. Mr Carmichael's appeal against Sefton Council's decision dated March 5, 2013 is allowed.*
- 2. Mr Carmichael's housing benefit entitlement is to be recalculated without making the under-occupancy deduction of 14%.*
- 3. The reason for so directing is that if the Tribunal or the Council were to apply this deduction there would be a clear breach of Mr (or Mrs) Carmichael's Convention rights, contrary to section 6(1) of the Human Rights Act 1998 (R (on the application of Carmichael and Rourke) (formerly known as MA and others) v Secretary of State for Work and Pensions [2016] UKSC 58)." For full decision see [CH/3609/2014](#).*

There are currently 170 'Carmichael look-alike' cases before the UT in England and Wales and 40 in Scotland and many more before First-Tier Tribunals which have been suspended pending the outcome of the Supreme Court and UT hearings, however these cases remain suspended whilst the DWP appeals further.

On 3rd May 2017 the UT refused the DWP permission to appeal this decision so they have appealed to the Court of Appeal for permission to appeal; in the interim the UT decision has been suspended for 28 days from 27th April. See [DWP statement](#) and [HB Guidance](#)

2. Housing Benefit

Bedroom Tax Housing Benefit Circular

The DWP has updated the Housing Benefit Circular giving details of how the new regulations relating to couples who are unable to share a bedroom will be applied. Originally the regulations stated that an extra room would only be allowed if one of a couple had a 'physical disability', but the new regulations only referred to a disability. The HB Circular has now been amended to remove the reference to physical disability. See [HB/A3/2017 \(Revised\)](#)

Discretionary Housing Payments – High Court Judgment

The High Court has found that Hammersmith and Fulham London Borough Council misapplied its discretionary housing payment (DHP) policy by failing to consider an award of a long term DHP to a disabled claimant living in a specially adapted property. See *Halvai (R on the application of) v London Borough of Hammersmith and Fulham* [2017] EWHC 802 (Admin) (9 March 2017) See [Nearly Legal Article](#)

3. Benefit Cap

The Works and Pensions Select Committee Inquiry

The Works and Pensions Select Committee has discontinued the inquiry into the impact of the benefit cap following the dissolution of Parliament. They have published the evidence they have obtained so far which provides an initial indication of the difficulties faced by claimants, housing providers and local authorities following the lowering of the cap in November 2016.

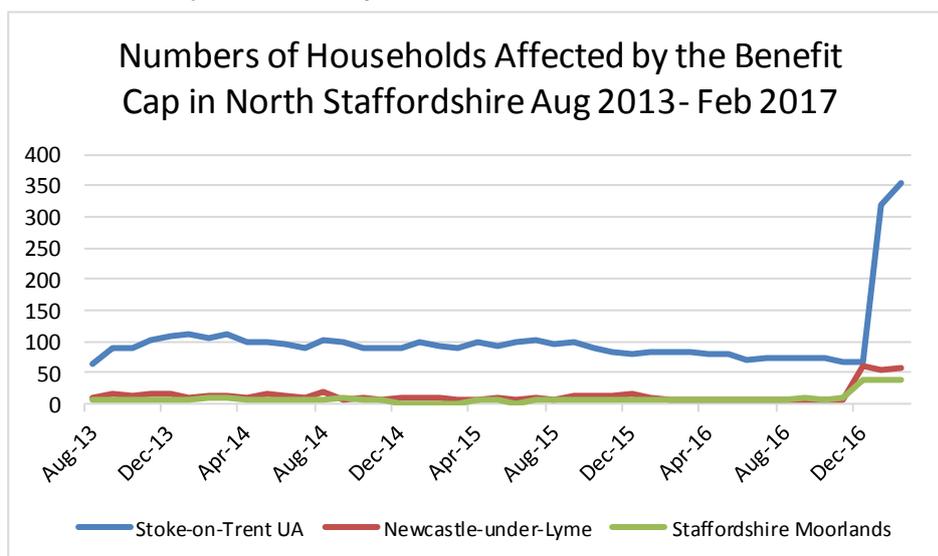
Committee member Karen Buck MP said -

'As the benefit cap starts to bite across Britain it looks from the evidence we've seen so far like a drastic cut to income for people who are really unable to cut their living costs any further. The evidence does not show us that being plunged further into poverty encourages or helps people to find work, and the vast majority of those hit by this cut are already recognised as unable to work at the moment. It is very hard to see any benefit from the benefit cap.'

For more information, see [Benefit cap 'starting to bite' across Britain](#) from

Benefit Cap Statistics

[The latest statistics](#) provided by the DWP shows a dramatic rise in the numbers of households affected by the benefit cap since the cap decreased to £20,000 a year for families in November 2016. There were 352 households in Stoke-on-Trent affected by the benefit cap in February 2017, all had 2 or more children.



	Feb-17					
Number of dependent children	2	3	4	5	more than 5	Total
Stoke-on-Trent	17	152	112	50	15	352
Newcastle-under-Lyme	5	34	13	5	..	58
Staffordshire Moorlands	..	22	10	5	..	37
Total	24	200	139	60	25	446

57% of households affected by the benefit cap in Stoke are in the social rented sector and 43% in the private rented sector.

	Social Rented Sector	Private Rented Sector
Stoke-on-Trent	198	149
Newcastle-under-Lyme	41	21
Staffordshire Moorlands	23	15
Total	263	184

66% of households affected by the benefit cap in Stoke are lone parents and all of these lone parents are female.

	Single with child dependant(s)	Couple with child dependant(s)	Total
Stoke-on-Trent UA	235	120	353
Newcastle-under-Lyme	43	15	58
Staffordshire Moorlands	23	8	37
Total	300	145	449

Number of dependent children	Single Female with child dependants					Total
	2	3	4	5	More than 5	
Stoke-on-Trent	5	83	72	34	13	214
Newcastle-under-Lyme	..	25	10	..	..	39
Staffordshire Moorlands	..	18	7	..	..	23
Total	10	123	92	40	13	279

Statistical disclosure control has been applied to this table to avoid the release of confidential data. Totals may not sum due to the disclosure control applied

4. Future funding for supported housing

The Works and Pensions Secretary Damian Green announced in September that they will be introducing a new funding model for supported housing from April 2019. They are proposing that core rent and service charges will continue to be paid at LHA levels by Housing Benefit or Universal Credit. However, the additional costs of supported housing will no longer be paid by Housing Benefit or UC, but instead ‘an amount of funding’ will be devolved to local authorities in England to disperse locally. (Wales and Scotland will have different arrangements)

In response to this proposal the House of Commons Communities and Local Government and Work and Pensions Committees have published a [joint report](#), which examines the proposals and recommends an alternative to the proposed model for funding supported housing.

Their recommendations include:

- Establishing a set of national standards to enable monitoring of the quality of provision in all supported housing in England and Wales.
- Ensuring that tenants are appropriately and adequately supported in seeking redress where the quality of the service they receive is inadequate. In particular, ensure that tenants can make complaints without fear of the consequences;
- Introducing a Supported Housing Allowance banded to reflect the diversity of provision in the sector and sufficient to ensure supported housing tenants will only require recourse to top-up funding in exceptional circumstances;
- Emergency accommodation should be funded through a locally administered grant system, while refuges—which operate as a national network—should have a separate funding mechanism that reflects their unique role;
- The exemption from the Shared Accommodation Rate should be extended to younger tenants wishing to leave supported housing so as to ensure the benefits system does not discourage people from leaving supported housing when they are ready to do so and also provide them with a greater choice of appropriate accommodation;

5. Personal Support Package for disabled people

In the latest edition of [Touchbase](#) the DWP has announced a 'Personal Support Package' for disabled claimants who are not eligible for the work-related activity component for ESA/UC, to help them to find employment. They are funding more places on 'Work Choice' which is a work programme for disabled claimants and 1000 extra Mental Health Support Places.

6. Universal Credit

Works and Pensions Select Committee Inquiry

The Works and Pensions Select Committee has [written to Damien Green](#) the Secretary of State for Works and Pensions following their inquiry into Universal Credit to highlight concerns about the implementation of UC which were given in evidence to the Committee:

- claimants waiting 12 weeks or more for their first payment, resulting in hardship and distress;
- vulnerable claimants struggling to adapt to receiving universal credit as a single monthly payment;
- the seven waiting days at the start of a claim, for which claimants receive no benefit, adding to claimants' financial difficulty;
- rent arrears amongst universal credit claimants rising;
- poor communications between landlords, support organisations and the Department where universal credit 'full service' is operating; and
- universal credit inadequately supporting claimants in emergency temporary accommodation.

UC Housing Element for Homeless Families

In areas where the full digital version of Universal Credit has been rolled out there are difficulties for Councils who are temporarily rehousing families as UC housing costs are paid directly to families as part of their UC and they are likely to receive these costs after they have left temporary accommodation. [The Guardian](#) has reported that Ministers are intending to change this policy so that the rent is paid by Housing Benefit. We have heard nothing further.

Statistics

The [latest statistics](#) published by the DWP show that 520,000 people were on the Universal Credit caseload across the UK, as of 13th April 2017. Of these 190,000 (37%) were in employment.

Local Authority	New Claims 23 rd March – 13 th April 2017	Caseload 13 th April 2017		
		Total	Not in emp	In emp	Total*
Stoke-on-Trent	151	957	576 (37.6%)	1,532
Newcastle	57	405	254 (38.4%)	662
Staffs Moorlands	30	134	103 (44%)	234
Total*	238	1,496 (61.5%)	935 (38.5%)	2,430

43% of claimants on the UC caseload in North Staffordshire are under 25;

under 25s	Not in employment	In employment	Total*
Stoke-on-Trent UA	424	226	649
Newcastle-under-Lyme	176	115	289
Staffordshire Moorlands	52	50	105
Total*	653	388	1,046

In April 2017, 178 claimants (7.3%) had in-work conditionality and were expected to be looking for better paid work and 465 claimants (19.1%) were working with no conditionality applied to their claim.

Conditionality Regime	Searching for work	Working with requirements	No work requirements	Working no requirements	Planning for work	Prep for work	Total*
Stoke-on-Trent	1,106	113	32	269	5	7	1,532
Newcastle	448	46	21	149	..	6	662
Staffs Moorlands	159	19	8	51	..	..	234
Total*	1,714	178	56	465	7	9	2,430

**Figures in these tables have had statistical disclosure control applied to avoid the release of confidential data. Totals may not sum due to the adjustments.*

Universal Credit Sanctions

The DWP has started to publish statistics about the number of Universal Credit Sanctions on the Stat-Xplore website. In 2016 there were 654 UC sanctions applied in North Staffordshire, which is almost the same as the number of JSA sanctions.

UC Sanctions North Staffs (adverse decisions – sanction applied)	2016 Total
Stoke-on-Trent	393
Newcastle	193
Staffordshire Moorlands	65
Total	654

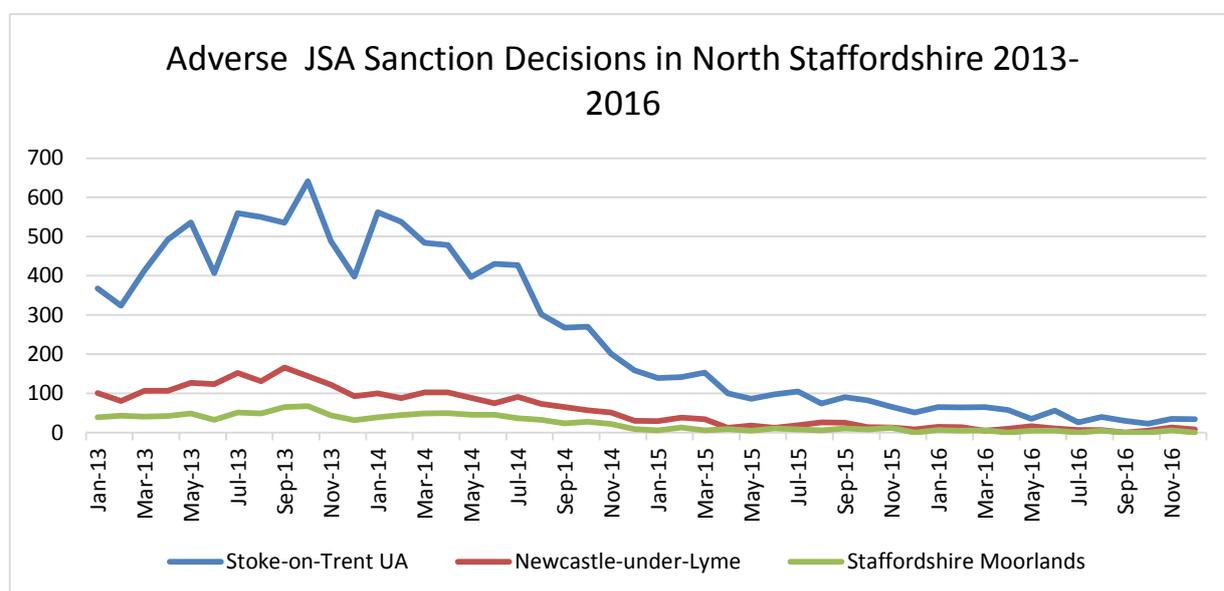
The majority of sanctions are low level sanctions – 7 days up to 28 days, for failures to attend work-focused interviews.

UC Sanctions (adverse decisions – sanction applied)	December 2016 – Level of Sanction Applied				
	Lowest Level	Low Level	Medium Level	High Level	Total*
Stoke-on-Trent	..	76	5	..	86
Newcastle	6	31	..	7	33
Staffordshire Moorlands	..	5	..	..	5
Total*	7	111	5	5	129

UC Sanctions (adverse decisions – sanction applied)	December 2016 – Reason for Sanction				Total*
	Availability for Work	Employment Programmes	Reason For Leaving Previous Employment	Work-Focused Interviews	
Stoke-on-Trent	5	0	0	78	86
Newcastle	0	0	0	33	33
Staffordshire Moorlands	0	0	0	5	5
Total*	9	0	6	116	129

7. JSA and ESA Sanctions

The latest [JSA and ESA sanctions statistics](#) published in May 2017 continue to show a considerable decrease in the number of JSA sanctions applied in North Staffordshire.



JSA Sanctions North Staffs (adverse decisions – sanction applied)	Stoke	Newcastle	Moorlands	Total*
Jan 2013 – Dec 2013	5,713	1,450	573	7,732
Jan 2014 – Dec 2014	4,574	918	432	5,861
Jan 2015 – Dec 2015	1201	248	81	1533
Jan 2016 – Dec 2016	529	108	45	674
Total	11,961	2,724	1128	15,806

7,059 of sanctions in North Staffordshire (44%) were applied to claimants aged 16-24.

The pattern of ESA decisions also shows a downward trend over the last 4 years. The number of actual sanctions applied (adverse decisions) is very low when compared to the number of claims actually referred for a sanction; only 27% of all decisions are actually adverse decisions.

ESA Sanctions	Stoke		Newcastle		Moorlands		Total*	
	all	adverse	all	adverse	all	adverse	all	adverse
Jan 2013 – Dec 2013	447	70	103	7	86	13	637	92
Jan 2014 – Dec 2014	530	181	113	33	59	19	695	237
Jan 2015 – Dec 2015	175	73	34	9	23	16	227	98
Jan 2016 – Dec 2016	215	51	70	16	15	5	294	75
Total	1,368	382	315	71	175	49	1,862	501

**Figures in these tables have had statistical disclosure control applied to avoid the release of confidential data. Totals may not sum due to the adjustments.*

8. DWP Mandatory Reconsiderations Targets

In a response to a [Freedom of Information request](#), the DWP has stated that one of its 'key performance measures' is to uphold 80 per cent of decisions where the claimant has requested a mandatory reconsideration.

In their reply they stated that the key measures which used by the DWP to monitor Mandatory Reconsideration performance are -

- 90 per cent to be cleared within target; and
- 80 per cent of the original decisions to be upheld (decisions have either been unfavourable to the claimant or the previous decision has been maintained).

The DWP's actual performance measures for April 2016 to March 2017 are -

- 70.2 per cent cleared within target; and
- 87.5 per cent of the original decisions upheld.

9. Personal Independence Payment

Lord Henley has given a [written answer](#) to a question about whether or not someone will lose their enhanced level of mobility following the changes in the assessment criteria brought in on 16th March:

'No Personal Independence Payment (PIP) claimants will see a reduction in the amount of PIP previously awarded by the Department for Work and Pensions as a result of the regulations being introduced, including the point at which their claim is next reviewed.'