



## Benefits Newsletter November 2016

### 1. Bedroom Tax – Supreme Court Decision

On 9<sup>th</sup> November 2016 the Supreme Court published the decision which considered if the Bedroom Tax (Removal of Spare Room Subsidy) was discriminatory on the grounds of disability in the cases of *R (MA and others) v Secretary of State for Work and Pensions* and *R (Rutherford and others) v Secretary of State for Work and Pensions*. The Supreme Court also considered if a panic room for a woman who had been rehoused in a secure home by the police would not count as a spare room; *R (A) v Secretary of State for Work and Pensions*. See <http://www.bailii.org/uk/cases/UKSC/2016/58.html>

The Supreme Court ruled in favour of just two of these cases:

- **The Carmichaels** Jacqueline Carmichael from Southport, who has spina bifida is unable to share a bedroom with her husband Jayson as she has to sleep in a hospital bed and there is not enough space for a second bed in the room.
- **The Rutherfords** who need a bedroom for a carer to stay overnight to care for their disabled grandson.

The following cases were unsuccessful and the Supreme Court ruled in each of these cases that DHPs should be sufficient to cover their needs:

- James Daly, from Stoke, whose severely-disabled son stays with him several nights a week as he and his ex-partner share the caring responsibilities.
- Richard Rourke, from Derbyshire who needs an additional bedroom to store mobility equipment.
- Mervyn Drage, from Manchester, who has lived in his three-bedroom flat for 19 years and is unable to move due to his mental and physical health problems.
- JD who is the mother of a severely disabled adult daughter who are living in a 3 bedroom house which has been adapted for the needs of the daughter.

A was also unsuccessful in her claim relating to her panic room; the Supreme Court ruled that A must continue to receive Sanctuary Scheme protection for as long as she needs it, but they did not accept that the application of the bedroom tax breached her Human Rights and this need can be met through DHPs. Her legal team is now appealing to the European Court of Human Rights.

[http://www.hmsolicitors.co.uk/news/category/item/index.cfm?asset\\_id=1667](http://www.hmsolicitors.co.uk/news/category/item/index.cfm?asset_id=1667)

### DWP Response

The DWP has published a Housing Benefit circular in response to the judgment.

*'The Court declared that Mrs Carmichael (the fifth 'MA' case who cannot share a bedroom with her husband because of her disabilities) and the Rutherfords (the grandparents of a severely disabled child who need an additional room for the child's overnight carer) had suffered disability discrimination contrary to Article 14 of the European Convention on Human Rights.*

*No immediate action needs to be taken by local authorities (LAs) following this judgment. The Court did not strike down the legislation underpinning the size criteria. As such LAs must continue to apply the rules when determining Housing Benefit claims as they did before today's judgment and the judgment does not require any LA to re-assess the HB of*

existing claimants. LAs should continue to award DHPs to claimants who they consider require additional financial support.

The Department is considering the Court's judgment and will take steps to ensure it complies with its terms in due course. The Department will notify LAs once a decision has been taken'

So unless there is a change in the legislation, anyone in same situation as the Rutherfords or the Carmichael's and does not already have an appeal pending, can apply for a [supersession](#) of the original housing benefit decision, which is a form of appeal that allows a benefit decision to be changed at a later date because there has been a change in circumstances. They could also apply for a Discretionary Housing Payment from their local Housing Benefit Office.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/567125/u3-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/567125/u3-2016.pdf)

## 2. Universal Credit

### Breaking News – UC Roll-out

The DWP has published the list of roll-out dates for the roll-out of the full version of UC across the UK up to September 2018. Stoke-on-Trent will transition to the full UC in March 2018, Staffordshire Moorlands in May 2018 and Newcastle Borough in September 2018. See

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/569317/universal-credit-transition-rollout-schedule-phase-4-to-6-2017-to-2018.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/569317/universal-credit-transition-rollout-schedule-phase-4-to-6-2017-to-2018.pdf)

If you would like to know what the full version of UC will be like, there is a short video available on YouTube click [here](#) to view it.

### Latest UC Stats

The latest statistics published by the DWP show that 401,852 people were on the Universal Credit caseload across the UK, as of 13<sup>th</sup> October 2016. Of these 160,703 (40%) were in employment.

In North Staffordshire there are currently 1,966, UC claimants on the UC caseload whose claim for UC has been awarded; this has increased from 1,755 in Sept (up 12%).

Local Authority	New Claims 6 <sup>th</sup> Oct -19 <sup>th</sup> Oct 2016	Caseload 13 <sup>th</sup> Oct 2016		
		Not in empl	In empl	Total*
Stoke-on-Trent	94	620	529 (47.4 %)	1145
Newcastle	27	354	268 (43 %)	627
Staffs Moorlands	13	103	94 (50.3%)	194
<b>Total</b>	<b>134</b>	<b>1077 (54.7%)</b>	<b>891 (45.3%)</b>	<b>1,966</b>

44.6% of claimants on the UC caseload in North Staffordshire are under 25; this is a decrease from 44.7% in September 2016. The number of under 25s in employment has increased from 359 in August to 381 in September.

Under 25s	Not in employment	In employment	Total*
Stoke	304	219	522
Newcastle	148	131	281
Moorlands	33	31	73
<b>Total</b>	<b>485</b>	<b>381</b>	<b>876</b>

In October 2106 there were 143 claimants who had in-work conditionality and were expected to be looking for better paid work; an 18% increase from September.

Conditionality Regime	Searching for work	Working – with requirements	No work requirements	Working – no requirements	Total*
Stoke-on-Trent	642	78	14	265	1004
Newcastle	408	49	13	142	627
Staffs Moorlands	115	10	0	62	194
<b>Total</b>	<b>1166</b>	<b>143</b>	<b>36</b>	<b>470</b>	<b>1825</b>

\*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.

<https://www.gov.uk/government/statistics/universal-credit-29-apr-2013-to-13-oct-2016>

### 3. Benefit Cap Implementation Dates

The new benefit cap was introduced on 7<sup>th</sup> November 2016 for all HB and UC claimants living in Newcastle borough and Staffordshire Moorlands on 7<sup>th</sup> November. However it has not yet affected all Housing Benefit claimants living in Stoke-on-Trent. The new cap was applied on 7<sup>th</sup> November to the 55 households that were already capped under the old rules, but people who have not already been capped will not have the cap applied to their HB until 19<sup>th</sup> December 2016.

For implementation dates see [http://data.parliament.uk/DepositedPapers/Files/DEP2016-0811/PQ\\_51568.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2016-0811/PQ_51568.pdf)

There have been reports some local authorities applying the new cap to new cases before the implementation date. The DWP has issued new guidance to local authorities instructing them to remove the cap if they have applied it before the implementation date.

See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/570389/g11-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570389/g11-2016.pdf)

#### Benefit Cap Statistics for the £26,000 cap

The DWP published the latest statistics showing the number of families affected by the £26,000 benefit cap which is reducing Housing Benefit for families who have a benefit income of over £500 a week. In North Staffordshire in August 2016 87 households were affected losing up to £150 a week in Housing Benefit. The benefit cap did not affect any single childless people in the area.

August 2016	Total	Amount of Benefit Capped			Number of Children in the family		
		Up to £50	£50.01 to £100	£100.01 to £150	3	4	5 or more
Newcastle-under-Lyme	8	6				5	7
Staffordshire Moorlands	5	8				0	5
Stoke-on-Trent UA	74	48	26	6		24	50
<b>Total</b>	<b>87</b>	<b>62</b>	<b>26</b>	<b>6</b>		<b>29</b>	<b>62</b>

Numbers have been randomly adjusted to avoid the release of confidential data. For this reason, individual cells may not sum to totals.

<https://www.gov.uk/government/collections/benefit-cap-statistics>

#### 4. Staffordshire County Council Crisis Support Scheme

Staffordshire County Council has taken the decision to end their Crisis Support Scheme which was set up in April 2013 to replace Crisis Loans and Community Care Grants, due to a £15m short-fall in funding for 2016/17. The scheme will close on 31<sup>st</sup> December 2016; the last day for applications for white goods is Tuesday 20<sup>th</sup> December and the last day for applications for food or fuel is Friday 30<sup>th</sup> December at 2pm. To view the minutes of the Council meeting click [here](#)

#### 5. ESA Breaking News

##### Backbench Motion requesting a delay in the cut to the Work-Related Activity Component/Limited Capability for Work Element

The £29.05 per week paid to ESA/Universal Credit claimants who are in the Work-Related Activity Group (WRAG) is planned to be cut for all new claimants from April 2017. However on 17<sup>th</sup> November a [Backbench motion](#) was passed unanimously by 127 votes to ask the Government to delay the introduction of this cut until 'appropriate alternative measures to progress the commitment to halve the disability employment gap have been considered', as part of the Autumn Statement on 23<sup>rd</sup> November. The motion was supported by Backbench MPs from all parties.

#### 6. Consultation to the exceptions to the 2 child limit on CTC and UC

The Child elements of UC and Child Tax Credit are set to be limited to a maximum of two children from April 2017. The government is currently consulting on proposed exceptions to the rule in cases of multiple births, certain groups of children in the care system or at risk of entering it, and those born as the result of rape. The consultation closes on 27 November 2016. Click [here](#) to see the full document.

#### 7. Personal Independence Payment

##### PIP assessment Guide

[The PIP Assessment Guide](#) which is the DWP's guide for carrying out PIP Assessments was updated in September. There are a few interesting changes in Section 3 which looks at the assessment criteria and how they are to be interpreted including guidance on how to consider assistance for getting in and out of a bath and or shower.

Does the claimant need assistance to get in or out of a BATH?	Does the claimant need assistance to get in or out of a SHOWER?	Does the claimant score points under descriptor 4e?
Yes	Yes	Yes
Yes	No	Yes
No	Yes	Yes
No	No	No

This guide is not part of the legislation and does not replace legislation or case law relating to PIP.

##### Reminder - New website for advice on completing PIP forms

LASA has published a new website which has to assist agencies to complete PIP applications including relevant case law. See <http://pipinfo.net>