

Refugee Council submission Work and Pensions Select Committee Inquiry: Benefit Cap

August 2018

About the Refugee Council

The Refugee Council is the largest organisation devoted to supporting refugees and people seeking asylum in the UK. We provide a broad range of services for both children and adults, including an advice service that supports new refugees to access welfare benefits as part of their integration into the UK, and integration support for refugees who arrive in the UK through resettlement schemes. Amongst our clients, we regularly see refugees who are subject to the benefit cap.

Executive summary and recommendations

The barriers that refugees face when navigating the benefits system mean that they are far less able to become exempt from the benefit cap than non-refugees might be. Consequently they are more likely to face the impact of the cap (such as being unable to pay rent) while simultaneously being disabled or having limited capability for work activity. Equally, many are in a position of being willing to work but unable to access employment, which in turn would exempt them from the cap.

In the case of resettled refugees, they are often brought to the UK from camps in other parts of the world, with promises of secure housing and support, only to be put in situations that make it almost inevitable they will be subject to the benefit cap, because they have no choice as to where they are provided with housing.

On this basis, the government should be implementing an exemption from the benefit cap for all new refugees in the UK, lasting for one year from the point at which they are granted refugee leave or they arrive in the country through a resettlement scheme. In the interim, it should consider ways to intervene in areas of policy that make refugees disproportionately more likely to be subject to the benefit cap. In summary, the primary issues refugees face are:

1. An unavoidable reliance on benefits at the point at which asylum is granted. The asylum system forces refugees into poverty, prevented from working, living on asylum support rates of just £37.75 per week, and then giving just four weeks to transition to mainstream provision. These low levels of support mean that new refugees will have no savings once they have been granted refugee leave, and will therefore be reliant on welfare benefits in the first instance to survive. The 28-day move-on period, in which they are required to access housing, benefits and employment, is too short for refugees facing such a profound change in their lives.

RECOMMENDATION: The move-on period should be extended to at least 56 days, to give refugees a better chance to access mainstream support and bringing it into line with the housing duty arising from the Homelessness Reduction Act and waiting time associated with Universal Credit.

2. A failure to mitigate the negative effects of the benefit cap within refugee resettlement schemes. In areas of high housing costs, highly vulnerable refugees coming through international

resettlement schemes are being put in situations where they will almost inevitably be subject to the benefit cap because of the levels of local rents. The best alternative to this is to ensure that they have access to social housing at the point at which they come to the UK.

RECOMMENDATION: Government should work with housing associations and local authorities to facilitate better access to social housing for the relatively small numbers of refugees who do arrive via a resettlement scheme. If local rent levels would result in a family reaching the benefit cap, accommodation should be selected on the basis that they can access social housing from day one.

3. Difficulties in accessing employment. The asylum system does not allow the vast majority of people seeking asylum to work during the period of their claim, meaning that those who are then granted refugee status have a gap in their employment record and often no relevant UK work experience. This is one reason why refugees suffer from disproportionately high levels of unemployment in the UK, and are therefore much less likely to become exempt from the benefit cap through working the required hours.

RECOMMENDATION: People seeking asylum should be allowed to work from the first day of their claim, without restrictions on which occupations they can enter.

4. Failings in disability benefits assessments. Refugees have a higher incidence of health problems than the general population, and also face barriers accessing the healthcare they require. However, many who would be exempt from the benefit cap through receipt of disability benefit or the Limited Capability for Work Related Activity component of Employment Support Allowance (ESA) or Universal Credit (UC), find that they are initially underscored and are only able to receive a correct assessment after a lengthy appeals process.

RECOMMENDATION: Government should urgently review its disability benefits assessments regime, with a view to understanding why such a high proportion of appeals are won, and with an aim of increasing the number of correct decisions made in the initial assessment.

5. Difficulties in disclosure for trauma patients. A high proportion of refugees are trauma survivors. ESA, UC, Personal Independence Payment (PIP), Disability Living Allowance (DLA), and Attendance Allowance (AA) rely on the applicant disclosing relevant information about their medical needs. A symptom of post-traumatic stress disorder is Avoidance; avoiding talking or thinking about a traumatic incident and anything connected to it. Assessors who are not suitably aware of symptoms related to trauma may therefore be unable to analyse the full medical needs of an applicant.

RECOMMENDATION: Government should review the guidance under which trauma patients are assessed for disability benefits, and seek a new assessment procedure for these applicants, including guidance for decision makers.

Introduction

The policy intention of the benefit cap recognises that there are people in certain circumstances who should not be capped because they are either working but still cannot afford their basic needs, or are unable to work and therefore need support to subsist.

For the broad group of refugees, though, this approach fails to recognise the specific circumstances that mean refugees are a) much more likely than others to have a sudden and immediate reliance on benefits; b) more likely to have difficulties accessing employment; and c) more likely to have mis- or undiagnosed health conditions that would exempt them from the cap if properly recognised. Furthermore, resettled refugees have no choice as to which part of the country they are brought to and housed in.

Therefore refugees are more likely to be subject to the benefit cap, but less able to make themselves exempt. The difficulties presented by these structural issues are only exacerbated by other integration barriers that refugees face, such as lack of fluent English, limited knowledge of their rights, and no experience of the UK benefits system.

The Refugee Council works with refugees who have been resettled to the UK from refugee camps in other parts of the world, and chosen for resettlement on specific vulnerability and risk criteria.

We also run an advice service for newly recognised refugees (who have received refugee status within the last 6 months) in London, for individuals who are homeless or at risk of destitution. Typically our clients will have come through the asylum route, living on asylum support rates of £37.75 per week and in paid-for asylum accommodation. On being given refugee leave, new refugees enter the 'move-on' period and have 28 days to transfer to mainstream welfare benefits and housing.

The length of the move-on period has been repeatedly identified as being inadequate in ensuring that refugees are able to transition without falling into destitution or homelessness.¹ However, one area of policy that has been less examined is the difficulty that refugees will have during the move-on period in ensuring they make choices that avoid the benefit cap.

An unavoidable reliance on welfare benefits and limited choices

For new refugees who have no savings and limited support networks, it is extremely likely that they will need to rely on welfare benefits once they stop receiving asylum support after they have been granted asylum. However, if they are living in an area with a high cost of living, and have dependents, they may struggle to find suitable housing within that four-week period that can be paid for within the benefit cap.

At this stage of their lives, refugees are unavoidably on welfare benefits and have been forced to make very quick decisions about their living circumstances, often with limited advice and support. It is therefore unsurprising that the intention of the benefit cap, in terms of behavioural change, would have limited influence on individuals trying to avoid homelessness.

For those who are capped, the results are predictable: destitution, homelessness, and indebtedness directly follow from the short move-on period of 28 days that forces people to make choices that they may otherwise avoid if given a more reasonable amount of time.

The Refugee Council regularly works with refugees who have come through the asylum process and are immediately facing the benefit cap, because they have had insufficient time to find suitable housing and to try to access employment.

RECOMMENDATION: The move-on period should be extended to at least 56 days, to give refugees a better chance to access mainstream support and to bring it into line with the housing duty arising from the Homelessness Reduction Act and the waiting time associated with Universal Credit.

A failure to mitigate the negative effects of the benefit cap within refugee resettlement schemes

The benefit cap was in place before government introduced its two newest refugee resettlement schemes – the Vulnerable Person's Resettlement Scheme (VPRS), and the Vulnerable Children's Resettlement Scheme (VCRS) – but the government does not appear to have taken the policy's effects into account when budgeting and planning for these schemes.

The VPRS is a scheme to resettle 20,000 vulnerable refugees from the Syrian conflict by 2020, while the VCRS will resettle 3,000 at-risk children and their families from the Middle East and North Africa by the same point. In both schemes, refugees are chosen for resettlement by UNHCR, the UN's refugee

¹ See https://www.refugeecouncil.org.uk/assets/0003/7935/England_s_Forgotten_Refugees_final.pdf
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agency, with decisions based on a number of criteria that indicate the vulnerability of the families being resettled.²

In areas of high housing costs, larger families who are often resettled under the schemes, are more likely to be affected by the benefit cap. The Refugee Council sees this particularly in Hertfordshire, where we run resettlement for the region and where private rents are higher than in many other parts of the country where resettlement takes place.

When families first arrive, councils commit to using Home Office funding to cover the difference between the housing benefit figure and the actual rent. However, with the exception of Universal Credit recipients, families are not usually subject to the cap immediately. Rather, they are awarded full benefits and then later informed that they are affected.

This is applied inconsistently, meaning some families find out after some months, while others can be told after up to a year. Suddenly being informed that they are entitled to a lower benefit amount is confusing for new refugees and leads to unexpected financial difficulties. It can also lead to a perception of unfairness amongst vulnerable people who are new to the country, leading to general sense of distrust with all government and government affiliated services.

In practice, being informed of a benefit cap later in the claim also means that councils are less willing to use Home Office funding to cover the rent difference, and instead advise families to apply for discretionary housing payments (DHPs). The time-limited and discretionary nature of DHPs, coupled often with long waiting times for decisions on them, cause undue distress and worry to vulnerable groups, who have been resettled under the belief they will be provided with secure housing.

Our experience in Hertfordshire is that DHPs are usually only granted for 3 months; moreover, local authority staff have little knowledge about the circumstances or workings of the refugee resettlement schemes, meaning their decisions do not take into account the particular situations of newly resettled refugees.

68% of the resettled families that the Refugee Council supports in Hertfordshire are subject to the benefit cap, with a large number only left unaffected because they are in receipt of pension credit. Of those affected, a few councils have agreed to supplement the gap in rent created by the benefit cap. However, this has only been where families are in social housing and the difference has therefore been minimal.

Some other clients have also been able to cover the gap themselves through the benefits they get. Where the effect is small and within the family's budget, this has been helpful in terms of them recognising their rent obligations, helping them to budget more effectively and incentivising them to look for work and a more varied type of employment.

However, a significant proportion are affected by gaps in rent that cannot be made up, often in the private rented sector (PRS). Councils choose to house resettled refugees in the PRS because of a lack of available social housing and because of the perceived political sensitivities around providing social (particularly council) housing to newly resettled refugees.

Where rents are then subsidised by councils, this is at a higher cost to the state, and the lack of security means that refugees are less able to integrate, encountering more difficulties in learning English and finding employment. Refugees trying to move to privately rented homes with lower rents are often blocked because of an unwillingness from private landlords to let to housing benefit claimants.

² See <http://www.unhcr.org/uk/protection/resettlement/558c015e9/resettlement-criteria.html>

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RECOMMENDATION: Recognising the barriers to finding housing at rents that fall within the benefit cap, government should urgently work with local authorities and social housing providers to mitigate the effects of the benefit cap and where rent levels are high, ensure immediate access to social housing for new refugees who arrive in the UK through the VPRS and VCRS.

Difficulties in accessing employment

Research shows that refugees are disproportionately more likely to be unemployed, and less likely than others to be exempt from the benefit cap as a result of numbers of hours worked, or income received. This is particularly evident in London, where almost one third of refugees in the UK live.³

An Ipsos MORI survey carried out for the GLA in 2010 found that the employment rate for refugees in London was 31%, compared to 61% for the general population and 59% for the London black, minority and ethnic (BAME) population. In addition, the majority of refugees looking for work took more than a year to find a job, or could not find a job at all.⁴

In addition, there is evidence that refugees are disproportionately concentrated in low-skilled, low-paid and insecure jobs.⁵ This is despite the fact that refugees are well-qualified, albeit not as qualified as the general population.

A number of barriers to employment or better-paid work for refugees have been identified, including a lack of adequate English language teaching, difficulties for refugees in evidencing the legal right to work, a lack of knowledge of the UK work culture, and a lack of UK work experience.

While some of these factors may seem unavoidable given the circumstances under which refugees come to the UK, the lack of UK work experience is created by the UK's asylum rules that do not allow those seeking asylum to work during their claim.

This means that individuals will have gaps in their CVs, and will have missed out on months or years of potential working time, during which they could have built up skills and experience and accumulated savings, and then potentially be in a position to work and not be reliant on benefits at the point at which they are granted asylum.

RECOMMENDATION: People claiming asylum should be allowed to work from the first day of their claim, ensuring that they can build up important work experience, start to get integrated and contribute to the economy as quickly as possible.

Failings in disability benefits assessments

The Refugee Council regularly supports new refugees who may be eligible to receive a disability benefit or the Limited Capability for Work Related Activity component of ESA or UC, which would then exempt them from the benefit cap.

However, our experience with clients is that the vast majority of our ESA and PIP applications are underscored by the health assessment teams subcontracted by the Department for Work and Pensions. We know that underscoring is taking place because once we have undertaken the lengthy process of mandatory reconsideration and then appeal, a successful application is invariably granted.

³ Cebulla et al (2010), *Spotlight on refugee integration: findings from the Survey of New Refugees from the UK*, p.17

⁴ Ipsos MORI (September 2010), *A survey of refugees living in London: Report for the Greater London Authority*.

⁵ London Development Agency (2004), "Refugees and the London Economy: Maximising the Economic Potential and Impact of London's Refugee Communities", Draft Research Report prepared for the LDA by Michael Bell Associates) and ICAR (May 2003), p, 21.

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Unfortunately, the appeals process can take up to 6 months (a minimum of 13 weeks before initial assessment, then commonly 2-6 weeks until a mandatory reconsideration decision, then roughly 12 weeks until an appeal is heard), during which time refugees are unable to be exempt from the benefit cap, despite being eligible.

Furthermore, as new refugees are unable to begin this process while they are seeking asylum, it is unavoidable that new refugees who should be exempt from the benefit cap due to Limited Capability for Work related Activity or disability will be capped for some period of time.

Government policy should aim to maximise the number of correct decisions being taken on the first assessment. This may require longer appointment times, and should be informed by better guidance for decision makers on what applicants should disclose and what they do not need to.

RECOMMENDATION: Government should urgently review its disability benefits assessments regime, with a view to understanding why such a high proportion of appeals are won, and with an aim of increasing the number of correct decisions made in the initial assessment.

Difficulties in disclosure as trauma patients

Research shows that refugees have higher rates of post-traumatic stress disorder (PTSD) than other groups.⁶ A symptom of PTSD is Avoidance: avoiding talking or thinking about a traumatic incident and anything connected to it.

For example, a client with a broken ankle as a result of a traumatic experience may struggle to walk and be in severe pain but fail to disclose this to a GP. Discussing the ankle does not necessitate discussing the trauma, but the two are linked in the mind of the patient.

The Refugee Council regularly sees clients who have serious medical issues of which their GP is unaware. This makes the process of applying for and evidencing Limited Capability for Work Related Activity and disability benefits much harder and requires the support of others who understand trauma and the benefit system.

RECOMMENDATION: Government should review the guidance under which trauma patients are assessed for disability benefits, and seek a new assessment procedure for these applicants, including guidance for decision makers.

Conclusion

Whatever conclusions can be made about the efficacy and fairness of the benefit cap for the general population, its current scope and design do not take account of the specific needs of new refugees in the UK. This includes both those who are exiting asylum support and entering the mainstream welfare benefits system after making an asylum claim, and those who are directly brought to the UK through a resettlement scheme.

Therefore, while the conclusions listed above can make the system work better for new refugees, and help lessen the likelihood of them being subject to the benefit cap and the negative consequences that accompany it, there is another action that could be taken.

Government should recognise the singular circumstances in which refugees come into the welfare benefits system, and the fact that resettled refugees have no choice over the geographical area into which they are resettled, and impose a one-year exemption from the benefit cap for all new refugees,

⁶ See <https://www.mentalhealth.org.uk/statistics/mental-health-statistics-refugees-and-asylum-seekers>
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from the point at which they are granted refugee leave, or the point at which they are resettled into the country.

This would affect a relatively small number of people but would be the best route to achieving positive outcomes in terms of avoiding homelessness and destitution for a group that the UK has agreed to protect, and would also help to support their long-term integration and future prospects.

For more information about anything in this briefing, please contact:

Seb Klier
Parliamentary Manager
Refugee Council
Seb.klier@refugeecouncil.org.uk
020 7346 1038