[i]Work and Pensions Committee

Oral evidence: Benefit Cap, HC 1477

Wednesday, 21 November 2018

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Watch the meeting

Members present: Frank Field (Chair); Heidi Allen; Ruth George; Steve McCabe, Chris Stephens.

Questions 141 - 223

Witnesses

I: Justin Tomlinson, Parliamentary Under-Secretary of State for Family Support, Housing and Child Maintenance, DWP, and Pete Searle, Policy Director, Working Age Benefits, DWP

Written evidence from witnesses:

Department for Work and Pensions

Examination of witnesses

Witnesses: Justin Tomlinson and Pete Searle.

Q141 **Chair:** Justin, I do not know whether I should say welcome back or it is good to have a member of the Committee as a Minister. Could you introduce yourself and we will also ask Pete to do so?

Justin Tomlinson: I am Justin Tomlinson, I am the Family Support, Child Maintenance and Housing Minister within DWP. Technically, I think I am still listed on this Committee so I am looking forward to asking myself some really tricky questions.

Chair: As long as you as you do not ask us.

Pete Searle: I am Pete Searle and I am the director for Working Age Benefits Policy at DWP.

Q142 **Chris Stephens:** Minister, welcome back. Just to kick off, obviously the main objective of the benefit cap was to attempt to incentivise claimants to move into work and ensure that no one receives more in benefit than those who are working, regardless of circumstances.

My first question to you, essentially, is how effective do you believe is the benefit cap in getting people into work?

Justin Tomlinson: We have three objectives. The first was the economic wellbeing of the country as we sought to put some form of control on our welfare spending. We have clearly secured that objective because last year, without taking into account any form of behavioural changes, we saved £190 million. We are projected to save an additional £110 million, £100 million and then £110 million over the next three years with the lower level of the cap.

We also wanted to put in place a reasonable limit, which is in effect our fairness test. We recognised that we were spending £10 million on just 300 families, as an example. We did not think it was right for hardworking families often seeing people able to get more in benefits than they were able to get through full time work themselves.

Finally, specifically on the point you raised about incentivising people into work, what we have seen is that those who have started on the cap—so of the original legacy benefits cap of about 190,000 who went on there—70% have now moved off, of which 59% have gone into work. What we are seeing is that of those who are capped compared to those in similar circumstances who are uncapped, there is a 41% increase of those who are able to flow into work.

Pete Searle: To clarify that 59% figure was actually 39% who went into work.

Justin Tomlinson: Yes, that is 59,000 people.

Q143 **Chris Stephens:** Thank you. When you consider all the costs to the taxpayer, is the benefit cap saving money or is it the case that other public authorities are picking up the cost?

Justin Tomlinson: That was my point about last year there being £190 million saving and over the next three years, £110 million, £100 million, £110 million, in addition to that. That excludes the behavioural changes. For example, those who are going into work would then also be paying tax, which then goes into the Treasury. There is a clear saving and that was one of the three core objectives.

Q144 **Chris Stephens:** Some of the evidence that has been presented to the Committee, Justin, is that the additional costs are being passed on to local authorities in rent arrears, for example, because of the benefit cap. Has the Government done any analysis on that? That is obviously something that has been put in front of the Committee for us to consider.

Pete Searle: We have not seen evidence of significant costs being passed on to local authorities. Where there are costs being deliberately passed on to local authorities, with funding, it is around things like discretionary housing payments and additional administration costs that the Government has funded to cover the additional support that local authorities provide.

Q145 **Chris Stephens:** Have you been given any evidence from local authorities that rent arrears have increased as a result of the benefit cap, for example?

Justin Tomlinson: One of the things is that we, as part of this, provide the discretionary housing payments money, for which there are four sections, of which one of them is in theory—it is not ring-fenced but is allocated according to anticipated need—to address issues with the benefit cap. The idea with the benefit cap is to nudge and incentivise people to change their circumstances, both because that is beneficial for them and because during the initial evaluation back in 2014 where there were very detailed analyses, including face-to-face interviews of claimants, there was significant evidence that showed it did incentivise people to make behavioural changes, which are beneficial to their family life, to their health and wellbeing and their ability to ultimately have more money in the long term.

Q146 **Chris Stephens:** In answer to that, Justin, I think some evidence has been presented to the Committee that the cap itself would only be responsible for about 400 people moving into work, there will be other factors. Would you agree with that?

Justin Tomlinson: We are seeing 180 households a week coming off the legacy cap and we have seen about 59,000 people move into work. I accept that not all of those will have necessarily been because of the benefit cap but, again, the analysis that was peer-reviewed by the IFS back in 2014 did acknowledge it was a significant factor within that. It is probably not all 59,000 but for those people, where it has made a difference, it has significantly improved their life chances and not just for them but for their children. What we do know is that children in workless households are five times more likely to be in poverty than those where both parents are in full-time work.

Pete Searle: That evaluation did concretely show that it was the impact of the cap that was causing a significant increase in the proportion of people who were moving into work. That was, as you say, peer-reviewed by the IFS.

Justin Tomlinson: The IFS said it was the reasonable sense of the likely effect of the cap on movements on to working tax credits. To avoid the cap you do not have to necessarily be in full-time work and on working tax credits, it could be 16 hours, and on Universal Credit it is £542 income to then be exempt from the benefit cap.

Chris Stephens: Of course the cap was different in 2014 to what it is now. That is something we will consider because the cap had reduced.

Q147 **Chair:** Justin, can I ask for those figures that you gave at the very beginning supporting the case that the cap has had any effect, whatever adjective we might want to add to that, of moving into work?

Justin Tomlinson: If we just look at the original legacy benefit people who were capped—there are obviously people capped now on Universal Credit, much smaller numbers relatively but the numbers reflect the same percentages—of the 190,000 that were capped up to April 2018, we are now looking at 130,000 that are now not capped, of which about 52,000 have moved into work, which is about 39%.

Not all of those will have been because they had been capped but, as the evidence analysis has shown, that was a big incentive as part of that. Others will have perhaps changed their circumstances. One of the options available to work coaches is helping them to look at ways to reduce their housing costs. That could be moving or it could be helping them negotiate with their landlords to get a discount on their contract renewals in their private or social housing. Others, for various other reasons, will have come out of the system.

Q148 **Chair:** Did you take a period prior to the period that you are talking about, Justin, as a control group to see whether the migration from benefit to work was similar or not?

Justin Tomlinson: Yes. Part of the evaluation looks at those who are capped and those in very similar circumstances—perhaps households just beneath what would be the cap level—and what we saw was that those households that were capped were 41% more likely to move into work. Where you look at lone parents, that goes up to 51%.

In London, for both normal capped households and lone parents, that can go as high as 70%.

Q149 **Chair:** Comparing with the group that was not capped, the chances of you moving into work as a single parent were—did you say—40%, 51%?

Justin Tomlinson: It is 51% as a lone parent compared to those in very similar circumstances just beneath the benefit cap. Again, with the analysis that looked at it, some 44% of claimants said, over the following six months, they were more actively looking for work. That could be working directly with the work coaches, or it could be attending more interviews. As I said, it does not have to be full-time work; it can be that 16 hours or £524 in that first stage.

Pete Searle: Those figures control for differences in circumstances. They control for differences in number of children between those two groups, so they are robust comparisons of like for like.

Q150 **Ruth George:** The vast majority of people subject to the benefit cap are not subject to any sort of work conditionality; they are deemed not to need to look for work. Why is it that 81% of the people affected by the benefit cap, which you have said you are looking at as the main reason for moving people into work, have no conditionality? They are not required to look for work.

Justin Tomlinson: Every individual has their own individual circumstances. There are obviously, rightly, exemptions within the system but the whole principle of the benefit cap is that you should not be getting more in benefits than what is the four out of 10 median gross family income. Where we apply conditionality, it is where we would expect that household to be actively looking for work, but if we do not think we should apply the conditionality, it does not mean that other circumstances cannot be changed within that house, particularly in terms of looking at the housing costs.

Q151 **Ruth George:** The vast majority of claimants, 92%, are on the child tax credit in that they have children, most of whom are under four, under school age. What is the impact on those parents of being forced to go out and to seek work, often when formal childcare is not available?

Justin Tomlinson: That is a very fair question, because in that 2014 initial analysis 43% of those who had not yet flowed into work did raise the cost of childcare, which is why it was very welcome that under Universal Credit we go from the 70% cost of childcare, which was the case for legacy benefits, up to 85%. For those who have an issue with the 15% gap or the upfront cost, you can then use the flexible support fund to help bridge it, not just as you go into work but as you are attending interviews.

Q152 **Heidi Allen:** Justin, I don’t mean to be rude but that flexible support fund needs to be flipping flexible because it like the Messiah, it is going to fix everything. We need separate support for child care because that does not work—people cannot find the money upfront.

Justin Tomlinson: Where they feel that that will make the difference, particularly during that interview process, accessing those. What we have seen is, of lone parents, 51% are more likely to go into work than those just below the capped level.

In terms of what is expected of parents, if the child is under the age of one, then there is no expectation. Once the child gets to two—

Q153 **Ruth George:** Why are they being benefit capped?

Justin Tomlinson: Because there are other things that can then be changed, for example their housing costs and other circumstances, which maintains the principle of fairness within the benefit system.

Pete Searle: Just because they are not required to look for work doesn't mean they cannot. For example, almost 50% of lone parents with children aged two or younger are in work. Lots of parents in these circumstances do work and can work, so it is incentivising them to do so even though they are not required to look for work under the conditionality regime.

Q154 **Ruth George:** Most people who are on a benefit cap and on benefits not working will be looking for low-skilled work, the vast majority of which does not fit certainly around school hours. It tends to be evening work, shift work where formal childcare is not available so people have to cobble around for informal childcare. When they have to move, children have to change schools, and they often move to very inferior housing. What is the Department doing to monitor the impact of the benefit cap on families and particularly on families with children?

Justin Tomlinson: We are in the middle of doing very detailed research at the moment. There are two parts to that. The National Centre for Social Research is doing a full evaluation and we are also doing an impact analysis but that will be peer-reviewed by the IFS and we expect those findings to come in spring 2019. We will be looking at how capped households respond over time; what claimants' behaviours and attitudes are to looking for work; the impact on local services; how local authorities, Jobcentres, et cetera, are working with claimants; and the impact on employment compared with a comparison group of non-capped households. The research is building on the evidence of 2014 because there have been many changes since.

What I would say is that we are not necessarily expecting everybody to seek full time work. On legacy benefits, it was 16 hours; under Universal Credit it is the £542. We have significantly increased the amount of available childcare support, both free and the 85% contribution under Universal Credit.

Q155 **Ruth George:** The free 30 hours childcare is not free because, particularly in London and in areas where the benefit cap is particularly applying, nurseries have to apply top-up fees. It is not free. For somebody who is on benefits going into very low hours of work, those top-up costs of around £50 a week are simply not affordable. Can we clarify that?

Justin Tomlinson: Our analysis of childcare provision is there is supply available. There still needs to be much more work done in that area because there is a difference between different areas. There is a significant improvement year on year to access to either free childcare or to the support that we are given.

Q156 **Ruth George:** It is not free.

Justin Tomlinson: Also, those who are subject to the benefit cap get additional support from their work coach, which is voluntary. They can access additional training, they can access the childcare we talked about and they can have early access to the work and health programme. What we must remember is that this is not only a case about delivering fairness to the benefit system but we know that children in workless households are five times more likely to be in poverty than those in a working household. For children in a workless household, education attainment is—there is very clear evidence on this—going to be significantly worse than those in a working household. It is about unlocking the potential of households and this is a very clear incentive, as seen through the evaluation, and as confirmed by IFS.

Heidi Allen: We do not disagree with that, by the way, it is just the provision out there does not match the policy.

Justin Tomlinson: No.

Q157 **Ruth George:** Those five things that you said you were monitoring, none of them pertained to the impact on families or of children living on an income that is around two-thirds lower than the minimum income standard. Will you now commit to monitoring the impact of severe poverty on those families who are subject to the benefit cap?

Justin Tomlinson: That is part of impact analysis that we are doing.

Q158 **Ruth George:** Not the five things that you have just run through.

Pete Searle: Other outcomes are part of that. It is a broad term. The evaluation will look at how people cope with the cap, how they respond to the cap in a broad range of ways.

Q159 **Ruth George:** Responding to the cap—does that include things like having to switch the heating off and be freezing cold at night? Does it include things like not being able to feed their children to a nutritionally decent standard?

Justin Tomlinson: This is exactly why we introduced the national living wage that over the last three years—

Q160 **Ruth George:** The national living wage is not helping people on the benefit cap.

Justin Tomlinson: It is. Those who are then entering into work, because you yourself said that many of those will be entering into the low skilled entry-level work, which you would predominantly expect to be—

Q161 **Ruth George:** Only 39% of them are entering work, that still leaves nearly two-thirds of them who are not and who are suffering. That suffering you are not measuring.

Justin Tomlinson: Of those, some will have made other changes, including in their housing costs, whether that is either moving or renegotiating what their rental housing costs are, [1]or they could, for example, take in a lodger. There are other circumstances—

Q162 **Ruth George:** Take in a lodger? These are large families, there are often three children in one bedroom, how are they going to take in a lodger? Just a dose of reality here.

Justin Tomlinson: If there are three children in one bedroom then you should start joining us in supporting the release of more family homes through our spare room subsidy changes, which have helped remove 500,000 people off the housing waiting list.

Q163 **Ruth George:** The bedroom tax is not going to help these families.

Justin Tomlinson: It is unlocking family homes and has taken 500,000 people off the housing waiting list. I know from my constituency casework, when I talk to families living next door to people who are in empty dwelling houses they very much support that principle. Getting back to the benefit cap—

Q164 **Chair:** It does not get people to move.

Justin Tomlinson: No, but you cannot dismiss the impact of the national living wage because over the last three years—you yourself said that was where for many of those that would be the types of work that they would be entering into—there is an 8% increase in real terms. That is worth £2,000 a year for a full-time national living wage worker.

Q165 **Ruth George:** It does not affect people on the benefit cap, Minister. It does not affect people who are now subject to the benefit cap, the vast majority of whom are unable to move into work because of the structural problems with doing so. Many of them have a disability, many of them have very young children or they have higher numbers of children where the cost of childcare outweighs the cost of what they get from going to work.

Justin Tomlinson: If they have a disability, qualified through DLA or PIP or the ESA support group, or the higher rate of Universal Credit, then they are exempt from the benefit cap.

Q166 **Ruth George:** There are still people on ESA and 15% of people on ESA are on the benefit cap.

Justin Tomlinson: They are the work-related activity group, not the support group.

Q167 **Ruth George:** You talked earlier about lone parents in the work help group and undergoing training. Why should they be subject still to the benefit cap?

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[1] Q161: On 11 March 2019, the Department for Work and Pensions sent a correction to this transcript. In place of "or they could, for example, take a lodger", the Minister in fact said "or they could've, for example, take a lodger".

Justin Tomlinson: Well, because they are part of the work-related activity group. There is an expectation that they could seek a level of work and therefore it is reasonable to expect them to be subject to the benefit cap. If they are in the support group where they are not expected to be able to find work, but can still be supported to find work, or they qualify for DLA or PIP then they are exempt from the benefit cap.

Q168 **Ruth George:** I will ask again, Minister, what are you doing to monitor the impact on families themselves and their children in particular of living on a level of income that is a third of the minimum income standard?

Justin Tomlinson: That, as we have said, is part of the analysis we are looking at.

Q169 **Ruth George:** The impact on them at the time, not what they do about it, because some cannot find a way out of it—

Justin Tomlinson: All of this is on comparison groups. It is not just looking at those who are directly affected by the benefit cap but it is looking to then see how it compares to those just below the benefit cap to see where there are behavioural changes and so on.

Q170 **Ruth George:** You are wanting to look at behavioural changes; you are not wanting to look at what the impact of severe deprivation is on those families.

Justin Tomlinson: We have said that. We have said that.

Pete Searle: We are looking at people who have been capped and as part of that we will look at changes in their spending choices, how they respond to the cap.

Q171 **Chair:** Do they have enough food? Are you looking at that?

Pete Searle: All we can do is look at what their spending choices are. That will form part of the investigations.

Q172 **Ruth George:** You will be doing in depth analysis, speaking to families who are subject to the benefit cap and finding out how that impacts on them and their children's life chances.

Pete Searle: There will be that sort of qualitative analysis as part of the evaluation, yes.

Justin Tomlinson: We are expecting that in spring 2019.

Q173 **Chris Stephens:** Will you be looking at whether those on the benefit cap have to go foodbanks to get food, because I think that is important? With the spending choices, you will find that some individuals will not have money for food so they have to go local foodbanks.

Q174 **Heidi Allen:** This is presumably a piece of analysis that you are going to embark on and this is qualitative analysis and conversations, there will be a script no doubt that the people doing the work will follow?

Pete Searle: There may be a script or it may be a bit more freestyle than that. We can certainly take away the question of what—

Q175 **Heidi Allen:** There will be some guidance that you give to people who are doing the interviewing. Can we see that to see if it covers some of the questions?

Justin Tomlinson: To be helpful, because remember it is in two strands, the National Centre for Social Research are doing their own research, then we are doing our own, particularly around the impact analysis area. That will be peer-reviewed by IFS who are obviously independent of us. That information will be shared and I am sure you will look at it in great detail.

Q176 **Chair:** That is very helpful. Can I just go back to the example you gave to Ruth? A lone mother with a child under one would not be expected to work but might be expected to change her housing conditions. Supposing she is successful in that, would that in your interpretation trigger a change in circumstances so that the mother would be gently taken on to Universal Credit?

Pete Searle: It would depend whether they are moving into a different local authority area. If they are in the same local authority area then it would not trigger a move on to Universal Credit.

Q177 **Chair:** So within an area, changing your rental circumstances would not trigger moving over to Universal Credit. If you went over the border to another local authority, it would.

Pete Searle: Yes, that is right.

Q178 **Heidi Allen:** I have to tell you that in South Cambridgeshire I had an example just last week where somebody applied for housing benefit that had not before and they were put on to Universal Credit.

Pete Searle: That is a new claim.

Q179 **Chair:** If others respond to the cap by moving into work, would that trigger a claim for Universal Credit, because their circumstances presumably have changed substantially, haven't they?

Pete Searle: Yes, if it would trigger a new claim to benefits then effectively it would trigger a new claim to Universal Credit. Basically the whole country in a few weeks' time will be in UC full service so all new claims, give or take, will be to Universal Credit. If somebody moves into work, 16 hours, a lone parent, they would have claimed working tax credits and now that will become a claim to Universal Credit, yes.

Q180 **Chair:** The cap will also be a pathway to Universal Credit?

Pete Searle: It can be.

Q181 **Chair:** If it is successful, ie it changes people's circumstances, which is what the cap is about, isn't it?

Pete Searle: It can do that.

Q182 **Chair:** There is the business about selling it to people who feel benefits are too generous. The other policy, you have said, is to change how people behave. I am just interested to what extent that change in their behaviour, which you seek, will transfer them on to Universal Credit in a period where there is not transitional protection.

Pete Searle: It can do that. It depends on the nature of the change. It could be, for example, that they do not move house, they negotiate a lower rent. It could be that they move into work of 12 hours, which is very beneficial with the benefit cap. There is a range of things. If it would trigger a new claim to benefit, then effectively it would trigger a claim to Universal Credit.

Q183 **Chair:** If it drops to 12 hours you have to declare the 12 hours work, don't you?

Pete Searle: That is why I said the full benefit of that under the benefit cap is effectively because it reduces your maximum benefit entitlement and therefore reduces the amount by which you are capped, therefore you do benefit if you are capped from—

Q184 **Chair:** I am interested to what extent—in the event of the successful implementation of a policy of capping benefits to which people respond and change their circumstances—the change in circumstances would lead to triggering them on to Universal Credit in a period where there is not transitional protection.

Pete Searle: As I said, in the sort of circumstances I talked about, that would lead to a change on to Universal Credit, yes.

Heidi Allen: It just seems like good behaviour and doing the right thing you end up losing out.

Chair: Ruth, I have moved the questioning away from you. Are you happy with that? I can see you are not happy about where we got to, but can the questioning move on to Heidi?

Ruth George: Yes.

Q185 **Heidi Allen:** We are just thinking an awful lot about natural migration at the moment, because the focus is understandably unmanaged. It just strikes me that a lot of people are moving across more quickly than they perhaps thought they would because of seemingly positive or innocent changes in circumstances and then they lose out.

I had an example this week where somebody was encouraged to claim housing benefit that had not done before, told she would be better off by about £10 or £20 a week, as a consequence she has lost £800 a month in her tax credits. She is like, "Why did I do it?" You cannot undo it once it is done.

Justin Tomlinson: What we do know from legacy benefits, where you frankly had to be a nuclear physicist to navigate your way through them—three different agencies and six different types of benefits—people give up.

Recognising that not everybody can always get it right, and we know from evidence on legacy benefits about 700,000 families missed out on average on £285 a month that they should be entitled to, that is part of the drive of why we have agreed to get the Citizens Advice, an independent, well-respected organisation, to be present in all Jobcentres across the country so that particularly for vulnerable claimants they can give an independent review of what they should or should not be entitled to, as well as providing the support for the digital access and so on. I think that is a really important step.

Q186 **Chair:** If Citizens Advice says to you, "We simply cannot manage the numbers of claimants you—the Department—are wishing us to handle", will that slow down activity on your front? Will this wraparound service actually operate for everyone that needs it?

Justin Tomlinson: That is a really important conversation that I would encourage them to have with us. Part of the reason why their independence is so valued in this is that they can challenge what is expected. We are only looking to migrate 10,000 people next year. We would like to increase those numbers in future years but we have to make sure it is done in a safe and sustainable manner. Their conversation could shape that.

Q187 **Chair:** You are saying the CAB can turn off the tap, or, if not turn it off, reduce the volume of the water coming out of the tap?

Justin Tomlinson: They do not have that direct ability to that but we will be speaking to them constantly about their professional view on the level of support that is required. My role within the Department is to represent vulnerable claimants going through the system. I was a big champion of putting the CAB in there because I recognise that the benefit system is incredibly complicated, for many people, particularly at a time of distress when they are trying to organise all sorts of things, even for our most highly experienced and highly trained work coach staff. This is a really important area of additional support. I will be talking to them regularly, as I know other Ministers will, and we will continue to look at it. I think it is an important first step but, again, it is all part of the test-and-learn process.

Q188 **Chair:** It will be very important if CAB tells Parliament that they are telling you they cannot cope, won't it?

Justin Tomlinson: Yes.

Q189 **Heidi Allen:** Before I move on to my question—sorry to labour it a little bit—we spent so long worrying and stressing about managed migration and whether the regulations are better. The fact the Government have listened to SAC and everybody else saying, "You need to improve these things" says there is a good awareness that people need to be protected and we need to do it in the right way.

How can it be right then, when we are making it our policy that people will not lose out when they move to Universal Credit, so many people are naturally migrating and will naturally migrate. On the one hand we are saying, "Make managed migration as slow as it needs to be to make sure nobody loses out", which is positive. It is pushing it out to the future, but pushing it out means more people potentially have the opportunity to naturally migrate and they will not be transitionally protected. To me that is a massive flaw and does not fit with our sense that we want to do the right thing and make sure nobody loses out. Does the Department not need to look at natural migration in terms of transitional protection?

Pete Searle: The great majority of cases that naturally migrate would have had a very significant change in circumstances.

Heidi Allen: No, we have heard examples where that is not the case.

Pete Searle: If they have moved from no work to 16-hours work that is a very significant change in circumstance. If the number of children they have has changed, that is a very significant change. Therefore, it is very difficult to compare what they were getting under legacy with what they get under Universal Credit with natural migration because the significant factors are not the same.

Q190 **Heidi Allen:** It is not always a massively financial positive reason that is causing somebody to naturally migrate. The example I gave was something very small. There was nobody around to advise her and it just happened. She was told she would be better off, "I will go for housing benefit" and suddenly she is £850, I think it was, a month worse off. That cannot be right. People are entering UC blindly. It is all online. The Universal Credit support package that comes from the CAB only kicks in when you have gone online and triggered it, and once you have triggered UC there is no coming back from it.

I am going to put you a little bit on the spot, please forgive me, but do you think that is right, should transitional protection for natural migration have a little more focus from the Government? We are all looking at managed migration; do we need to look at natural migration more?

Justin Tomlinson: I do not think it is an unreasonable thing to flag. To be fair to both yourself—you have been very passionate on the area of UC in different parliamentary debates—and this Select Committee itself, which has helped shape a lot of the changes we have brought forward, not just in the Budgets but the way we have implemented things, that is why we call it the test-and-learn process. I do not think it is unreasonable to do that. The whole principle of Universal Credit, beyond giving people that personalised and tailored support and that named work coach, is to make sure people have the maximum opportunity to improve their life chances. That is not an unreasonable thing to flag.

Q191 **Heidi Allen:** Thank you. Getting into more of the clunky stuff of how UC works, something that has been flagged to us as a difference between UC and legacy benefit systems is that the cap in the old world used to be applied just to the housing benefit element and in UC it is applied to the whole lot. As a consequence we have had some examples brought to us where if the rent has been paid directly to the landlord the UC system thinks, "There is less money left, I will put the cap on top of that". Then, guess what, all the money is taken away and people have ended up, as a consequence of rent being paid directly, having nothing at all. That has to be a bug in the system that needs looking at, surely?

Pete Searle: There are a couple of different things in there. I do not think whether the rent is paid direct to the landlord or not should make any difference.

Heidi Allen: It seems to, from the evidence we have heard.

Pete Searle: It should not, so if you have cases where you feel it has then it would be good to have details of those and we can look at them outside.

Heidi Allen: Newcastle City Council I think in particular gave us some examples.

Pete Searle: We will be very, very happy to look at that.

Heidi Allen: That led to children being taken into care because they were seen as being in a household that was in deprivation.

Pete Searle: That should not make a difference in itself, the fact the rent is going directly to the landlord.

Chair: The difference is, if it is not, you can spend it on food and the landlord has to wait for their money.

Pete Searle: Sorry, it may make a difference to the relationship with the landlord but it does not make a difference to the cap.

Justin Tomlinson: On that case where you said it ultimately led—

Heidi Allen: There will have been other factors there as well.

Justin Tomlinson: Obviously there will be other circumstances but as a principle, to be very clear here, that is exactly the sort of thing for which discretionary housing payments would have come in. One of the key changes we made on 1 October is the duty to refer. If frontline staff feel a household is vulnerable to becoming homeless, 52 days before they have to work with all agencies to try to avoid that. That is exactly the sort of thing—

Heidi Allen: I would like to put on record South Cambridgeshire is fantastic at that.

Justin Tomlinson: I know perhaps there were other circumstances involved, as you have acknowledged. However, in a pure case like that a discretionary housing payment should have come in.

Chair: We are going to come onto that later.

Q192 **Heidi Allen:** It is the difference in the old to the new, the cap is being applied to the whole UC award rather than just the housing part and the difficulty that can cause.

Pete Searle: The principle the Government wanted to have when it set up the cap in the first place was total benefit income, all the benefits that are assessed, should not be greater than the figures that were set. Practically, under the legacy benefits, it is very, very difficult to execute that beyond cutting the level of housing benefit. In the great majority of cases the amount that is capped is less than the full amount of housing benefit. However, there were some cases where actually the full capping would have been more than that but it stopped at that level. Under UC, you are right, in a small number of cases it can be greater—

Q193 **Heidi Allen:** Do you know how many cases?

Pete Searle: I do not personally know.

Heidi Allen: Perhaps you could find out for us.

Pete Searle: We can check out the number for you but I would see it as being pretty small. That is effectively what the policy is. The Universal Credit approach is delivering the original policy intent. The legacy benefit approach was something that was bit of a stopgap until that full approach could be implemented through UC.

Q194 **Heidi Allen:** You will go away, I am sure, and find us the numbers where this has happened. My understanding is if the rent has been paid directly the system then goes, "That is the only money, that is the only earnings, that is too low" benefit cap, wallop, and the whole lot gets taken away.

Pete Searle: It would not be the whole lot. It would take you down to the capped level of benefits. That is the way it would work.

Heidi Allen: My interpretation—unless I have this wrong, and correct me—is that it is thinking you are earning less because the rent has just disappeared like it was never there so it is looking at a smaller level.

Pete Searle: That really should not be the case. I would be very surprised and disappointed if it was but we can look into it.

Heidi Allen: Yes, if we can share the examples we have been given in evidence.

Pete Searle: Effectively with the Universal Credit system, the Department will know how much benefit income we are paying in total, whether we are paying it to the landlord or the individual, and that calculation should be made irrespective of the destination. I am very happy to look into it.

Heidi Allen: CPAG gave us some examples, we will pass them on to you to look at.

Pete Searle: Please do.

Q195 **Heidi Allen:** Another bug in UC that we hear about is around how the date of your UC assessment payment and your payday and if they do not align, this whole two payments in one month business. I think everybody acknowledges that is a bug that needs looking at. I think there was something pretty damning—Chris might fill us in—where a Scottish council was not going to pay their staff their Christmas pay because they knew it would kick in for low earners.

Justin Tomlinson: It is an issue, particularly where you have bank holidays. Most people are paid month end and a lot of very sensible businesses, to be reasonable, will pay a couple of days early so people have the money in place. In the UC system it looks like they have had a really good month and then the following month—

Heidi Allen: And it kicks you off the next month.

Justin Tomlinson: To be absolutely clear, we are aware of this and it is something we are urgently looking at.

Heidi Allen: This can affect the benefit cap element of this as well.

Justin Tomlinson: We are aware of this, absolutely. You are pushing on an open door there.

Heidi Allen: This is an IT kind of bug that needs looking at.

Justin Tomlinson: Yes.

Q196 **Heidi Allen:** Finally from me, one of the issues we have come across in a number of our inquiries is people who are in temporary accommodation, which has to be the worst place in your life—you are stuck in a B&B, whatever it might be, it is not your choice, the council has put you there—should not those people be taken out of the benefit cap?

Justin Tomlinson: Again, I understand that point. First of all, if the system works correctly it should only be temporary. I agree with the point you have just made. It is absolutely very clear in the guidance on the discretionary payments that that should then step in so people are not subject to the benefit cap because their ability to change their circumstances is being limited by the nature of the housing they have been allocated. Separate to that, that is why the importance of us getting the levels of housebuilding up is so important.

Heidi Allen: Absolutely, but we are not there yet for some people.

Justin Tomlinson: No, but that is what the discretionary housing payments would be expected to cover.

Q197 **Steve McCabe:** I wondered if the Department had any information on what proportion of discretionary housing payments are being spent for that kind of situation, Minister. My sense from the evidence we heard was the vast proportion of it is being spent by local authorities to assist people who already have housing but cannot quite afford it because of their circumstances. Do you have any figures on the proportion? That is a very obvious use of it.

Justin Tomlinson: Sort of. Take last year, we allocated about £166 million for discretionary housing payments, of which we anticipated £38.6 million would be required to help in cases relating to the benefit cap. Superficially, 69% of that money was spent on the benefit cap. However, people may have multiple reasons why they would have applied and that then might get close to the £38.6 million.

Pete Searle: In terms of temporary accommodation, we do not have data, to my knowledge, around that. As the Minister said, the very first thing in the guidance and the best practice around the use of DHPs is, "You should smile upon people in temporary accommodation when you are looking at the use of DHPs".

Q198 **Steve McCabe:** I guess we would have a much stronger answer to Heidi's question if we knew exactly how much of that money was being spent to address the temporary accommodation problem. If it is as high as you imply, it may not be working that badly, whatever the problems. However, my sense is that it was much, much lower. Do you not feel a need to know that?

Heidi Allen: South Cambridgeshire is an expensive area but we do manage homelessness very well. There is a brilliant council. It considers DHP as temporary, one month or two months in council accommodation. It is not ideal but you could be there for a really long time. I do not see councils sitting there, watching this precious DHP budget shrink by thousands of pounds every month just to keep one family in a very expensive location. Perhaps we could have whatever analysis you have of that. Ruth is going to talk to you more about DHP but I do not feel the Department has a real grip on how that money is being spent and the variability across different local authorities.

Justin Tomlinson: It is reviewed every year and each of the local authorities then feed in where they feel it is working or it is not working with their suggestions. That helps shape how we then do the non-ring-fenced allocations. Having been a councillor for 10 years myself I support the principle of not being ring fenced because every area is different and the different levels of support and access to housing change.

Heidi Allen: Of course it does.

Justin Tomlinson: I think we are right to trust the local knowledge and expertise of the local authorities. Broadly with discretionary housing payments, about 95% of the budget is spent. Most spend under their allocation. There are a few who top it, and they are welcome to do that, but most spend just underneath where they are. The levels each year are as we predict the need is required.

Pete Searle: The evaluation we talked about earlier on will also look at the impacts on other organisations, including local authorities. It may well cover that sort of effect and we can certainly look into whether it will or whether it could.

Q199 **Heidi Allen:** One final point from me, what is the harm in taking people in temporary housing out of the benefit cap, and why didn't you?

Justin Tomlinson: Because it is only ever meant to be temporary by nature. It keeps all of the organisations, plus that household, focused on looking for the long-term solution. However, the clear guidance is that those who are in temporary accommodation, because that is the only option available, should be supported through discretionary housing payments.

Q200 **Chair:** I am put into temporary accommodation is that a change in circumstances that would trigger a claim to Universal Credit?

Pete Searle: Generally, no. Certainly not if it is within the local authority, which it generally will be, not always but generally.

Justin Tomlinson: Because it will be paid direct, as it is housing benefit.

Q201 **Heidi Allen:** I get your point but it is just not that family's fault necessarily.

Justin Tomlinson: No, and that is why the guidance is very clear and the evidence is that it is what is prioritised

Q202 **Ruth George:** To elaborate on the DHP, we have heard from people they can be in temporary accommodation for a year or more and it is certainly not their fault in that they are often looking desperately for accommodation that just is not available and cannot be found.

Councils have different policies on DHP and some of them limit it to a maximum of three months so it is not the panacea to the benefit cap either for people in temporary accommodation or other high housing costs. What analysis have you done on what different policies different local authorities have on DHP and how that impacts people on the benefit cap?

Pete Searle: A couple of times a year we get responses back from local authorities about how they are spending the DHP money so we have that broad range of insight from local authorities. It tends to be, "Are you spending it on the benefit cap? Are you spending it on the spare room subsidy?" that sort of analysis.

Q203 **Ruth George:** You are not looking at individual claimants and whether they are able to claim DHP to make up for a shortfall in rental costs or temporary accommodation costs?

Pete Searle: That effectively will be part of the evaluation we were talking about earlier on. DHPs will be one part of that picture. Your point that some local authorities restrict it to three months, I suspect that is a minority and perhaps a small minority.

Ruth George: No, actually the three months was quite high.

Pete Searle: Again, the guidance is pretty clear. It is guidance; it is not instruction. There will be people who will be in circumstances for some time who the Government feel will be deserving of DHP funding, not for one month or two months but for many months and sometimes several years, perhaps not the temporary accommodation cases we are talking about but other cases. I think the majority of councils would recognise that.

Q204 **Ruth George:** However, you do not know what their policies are on DHP. We looked at the councils for every member of the Committee. Just as an example, my own one will take claims for three months, will then look at the possibility of extending for another three months but that is in exceptional circumstances only and not for any more than that. Therefore DHP is not going to solve problems for people who are benefit capped, it is not a long-term solution.

Justin Tomlinson: Without knowing all of the details—

Ruth George: That is not unusual.

Justin Tomlinson: There is the potential to then extend, because that is what our clear guidance would say. However, there is an onus to help get them back out of temporary accommodation, particularly since we strengthened the rules with the duty to refer that was brought in on 1 October. The scenario for that family could be that potentially they become at risk of being homeless. Under duty to refer rules, they would then have to try to find a plan to deal with that either through then extending the discretionary housing payments further or prioritising them for the housing that is available.

Q205 **Ruth George:** You are saying that councils that currently have a limit on the length of time they are prepared to pay DHP will no longer be legally sustainable for people who are in danger of being homeless.

Justin Tomlinson: There would be a duty for them to work with all organisations to try to avoid a situation where a family would become homeless.

Q206 **Ruth George:** We would all love to see that happening. However, I would ask the Department to take a register of local authorities on what their policies are on DHP because that is where so many people are falling through the net. The Government are saying it is down to local authorities. The majority of local authorities spend all of their DHP already and do not have any leeway, which is why they have restrictions in place. We heard from some local authorities they have absolutely huge extra costs because of the benefit cap. Some are prepared to do that and some just are not.

Justin Tomlinson: 95% of councils spend just below.

Ruth George: Only just below.

Justin Tomlinson: Only just below.

Ruth George: They lose it out of their main budget if they spend just above so they have to budget for just below.

Justin Tomlinson: I do not think what you are saying is unreasonable in the sense that is why we do, on an annual basis, review what the feedback is from the local authorities. What I am taking away from this is that you are saying we should be more proactive to try to drill down to individuals, I do not think that is an unreasonable thing.

Pete Searle: We can certainly look at what we know about different councils' policies. Going back to the guidance, the Government are very clear in the guidance that there will be circumstances where people need it for an indefinite period. That is what the guidance is. That is not to say all councils follow that.

Ruth George: No, they cannot afford to.

Pete Searle: Maybe you would like to encourage your local authority to take that approach on the basis of the guidance. Certainly we can look at what different councils do.

Q207 **Ruth George:** Will you be encouraging them to look at that guidance around not limiting DHPs, not looking just at how much councils are spending on DHP and what they are spending it on but looking at the level of demand and how they are having to limit that demand through their policies? That is an important way people are falling through any sort of safety net.

Pete Searle: Yes.

Ruth George: Thank you.

Q208 **Chair:** That is really important. Looking at Wirral, I have always seen this as a rationing process and you have given the local authorities the job of rationing. Are you saying to me they should spend their monies allocated this year and tell you what monies they need for the following year so your objective that the benefit cap should not cause destitution can be implemented?

Justin Tomlinson: The evidence that is provided as part of the annual review is what shapes what is allocated going forward.

Chair: Very good.

Pete Searle: We regularly talk to local authorities, the LGA and other national organisations around their view of the amount of DHPs. They will be very happy to tell us if they think they need more.

Q209 **Chair:** Are you saying if they are asking for a set increase you get the increase for them?

Justin Tomlinson: We have previously increased the levels of discretionary housing payment monies made available to local authorities, particularly where there have been policy changes where we would then anticipate additional funds would be required. We have done that.

Chair: Local authority representatives will be listening to this session.

Justin Tomlinson: There is a wider issue of local government funding but that is standalone from discretionary housing payments.

Q210 **Steve McCabe:** I want to ask a couple of questions about the impact on local authorities of how the Department does its sums and calculations. I notice--in the statement where the Department announced the £60 million for discretionary housing payments we have just been talking about--that for 2018-19 it also announced £8 million for benefit cap administration costs and other new burdens incurred by local authorities operating the cap. What other new burdens did you have in mind?

Pete Searle: "New burdens" is the technical term effectively. Other examples would be working with people affected by the benefit caps and the Jobcentre to help people move into work. One of the things we are proactive with local authorities in doing, when the cap was first introduced and when it was lowered, is to try to work with the people affected to see whether we and local authorities can help them into work. That takes local authority effort, so that is one example of a new burden.

Justin Tomlinson: That was asked for by the local authorities and it recognises that the additional support and additional conversations that are taking place will come at a cost to the local authorities; it was to support that activity.

Pete Searle: Another example is the DHPs and the administration of DHPs, which is something that is work for them and we have to pay for it.

Q211 **Steve McCabe:** How was the £8 million figure arrived at?

Pete Searle: I do not have the detail of that but we can certainly share with the Committee what the breakdown is.

Q212 **Steve McCabe:** That would be nice to know. Do you know what proportion of the £8 million figure was designed to cover benefit cap administration costs and what proportion was designed for other new burdens?

Pete Searle: I do not personally know that, but I am sure something is known and we can share that.

Q213 **Steve McCabe:** What we are trying to get here is some sort of understanding of how well the Department understands what the real costs and impacts are on local authorities. You obviously recognise it to some extent otherwise you would not have made money available for other new burdens. As you say, you had some discussion with the local authorities. However, it would be good to know how the £8 million figure was conceived.

Justin Tomlinson: Remember "burdens" is the technical term. It is about providing that additional support.

Q214 **Steve McCabe:** I think most of us know what burdens are, particularly when it says, "other new burdens incurred by local authorities". I do not know how technical it needs to be. Presumably you were anticipating that there was going to be extra cost of work, some of which you have just outlined that has a cost attached to it.

Justin Tomlinson: Yes, we want to give the additional support because it has to work two ways.

Q215 **Steve McCabe:** It would be really helpful if there was any further information on that because I think we would like to understand that.

One other thing I wanted to ask about was you will be aware one of the burdens that local authorities now say they have is that it is quite difficult for them to identify Universal Credit clients because they do not get access to that information. Are there any plans to share that data with local authorities?

Justin Tomlinson: This is an incredibly important point to raise. Obviously under the legacy system of housing benefit, local authorities, because they were administering the housing benefit, had advance notice and then the various support mechanisms could be there. A challenge within UC is that, because of GPDR rules, we cannot automatically data share. It is fair to say if I meet with housing associations, social landlords and various different groups their No. 1 ask is, "If we only had access to identify people, we have additional support that we can do". I do not think anybody would disagree with that.

We need to get implicit consent. I would, as quickly as possible, like to put into place as part of the initial conversations with work coaches an offer to then put implicit consent in place. If a claimant does not want to that is perfectly their right, it is the whole point of the GPDR. However, I do think it is a real priority for us to do that so we can identify claimants—whether it is to do with the benefit cap or just anything, frankly, to do with UC—so support groups and partnership organisations can then offer their assistance, I cannot see any argument against that at all. In my wish list of things—I understand for the brains behind Universal Credit there are hundreds of requests of what should be the priority—my personal priority is working in that area. I was asked about this in oral questions on Monday and I said, "This is really, really important and it is a big ask of stakeholders".

Q216 **Steve McCabe:** Presumably "implicit consent" simply means someone has to tick a box or put their signature on something.

Justin Tomlinson: Yes.

Steve McCabe: With all these complicated things with Universal Credit that would be an easy thing, wouldn't it?

Justin Tomlinson: I would like to see that in the initial conversation and also, for example, in the specific point to the benefit cap. The claimant would be talked through the options in advance, talked through how they can access the health and work programme earlier and so on. Part of that should then be, "Can we then do that?" We all accept the principle that a work coach can help try to renegotiate your rental contract but for a lot of these people they will be with social landlords. They, by and large, have very good, very sympathetic and very supportive teams. I think this is really, really important, not just on the benefit cap but on the wider issues. It is a big, big priority.

Q217 **Steve McCabe:** Given everyone is asking for it—you say it seems pretty straightforward and you are for it—even allowing for the powers that be, how long do you think it would take to get something like that up and running?

Justin Tomlinson: I do not know. I would hope not very long. I had my first one-to-one with the new Secretary of State this Tuesday and I have three requests—

Steve McCabe: I think "not very long" is next week but what do you have in mind, Minister?

Justin Tomlinson: This is definitely a key one. We set out the principle with our changes, for example, for ex-offenders. It is well known that those who come out of prison have a disproportionately high chance of ending up back in prison. Part of the reason was they would fall between the cracks before formal support would come into place and, unsurprisingly, they would take a very different path. Therefore, common sense, we now have put 137 work coaches into prisons to prepare people. In three specific prisons, we are making sure the UC claim is ready to go from the moment they leave. It is an early part of that trial but, unsurprisingly, it is working very well and I expect that is a given. If we have accepted the principle for that vulnerable group then the point of data sharing, with consent, I think is an absolute no-brainer. Therefore it will be as quick as I can influence.

Q218 **Steve McCabe:** We will hold you to that, thank you. I want to ask one last question about how the actual benefit limits were set, the £23,000 for London and the £20,000. How were those figures arrived at?

Justin Tomlinson: We felt that to be at the equivalent of what four out of 10 families would be earning was a reasonable and fair level to be. Bearing in mind the cap, a family in work would have to earn more money to have that equivalent after tax.

Steve McCabe: Are you comfortable the outside of London figure genuinely reflects what is happening in the country? I will give you an example. We took evidence and were told about rental costs in Brighton, which you probably know are pretty high, Minister. If you were to contrast those, say with Newcastle, there is quite a big difference. Can you be confident you are treating people living in Brighton and in Newcastle the same way, or are you being penalised for living in Brighton because of the way the cap has been arrived at?

Justin Tomlinson: That is part of the evidence the local authority would give to then set their level of discretionary housing payment. It is not uniform across the country, different local authorities will get different amounts of discretionary housing payments. Where there is a particular pressure on housing then that would be reflected.

Q219 **Steve McCabe:** Does Brighton get substantially more discretionary housing payment?

Pete Searle: I do not know whether Brighton gets more. I live in Brighton, so I should find out.

Q220 **Steve McCabe:** You can tell me as well. However, it is a good point. The

Minister says that is how you are acknowledging it does not work out fairly but you compensate for it. Presumably Brighton gets an awful lot more than Newcastle in discretionary housing payment.

Pete Searle: Other things being equal, it would get more because the impact of the cap on households there would be greater and that would tend to increase the amount of DHPs they get. However, there are other factors as well.

Q221 **Steve McCabe:** Could you send us the figures for Brighton and Newcastle and then we can see it?

Heidi Allen: And South Cambridgeshire.

Steve McCabe: And South Cambridgeshire, then we can see it at a glance. I can see what you are trying to do but we want to know if it is working.

Justin Tomlinson: You can have the full figures for all of the local areas but remember there are four pots to make up the total figure. Therefore it could be that an area gets slightly more on the housing bit for the housing pressures, but then there will be other bits in other areas that may be higher that will take their total up. There are the four different factors.

Pete Searle: Of course there will be different sizes of population and so on, but we are very happy to share the figures.

Q222 **Chair:** Immigration is down and wages are rising now. Will we expect to see a revision in these levels soon? How often do you plan to go back to look at the appropriateness of the level that you set the cap?

Justin Tomlinson: There is not any work at the moment that I am aware of that is looking to change that cap.

Ruth George: But rents are going up all the time, at around 6.7% per year.

Pete Searle: The caps have to be reviewed by the Secretary of State at least once every Parliament. It has not been reviewed yet but it will be reviewed at some point during this Parliament.

Q223 **Heidi Allen:** Is it part of a spending review or is it an arbitrary review?

Pete Searle: There is no set point where it should be reviewed. It does not have to be the spending review, just at some point during the Parliament.

Chair: That is a move the new Secretary of State could make, isn’t it?

Heidi Allen: And the benefit freeze.

Chair: Yes, all right. Very good. Thank you very much for your time with us, we are grateful.