Debt Bulletin: Debt changes and news

Produced by the Active Inclusion Service, Newcastle City Council

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The lower benefit cap

The benefit cap is a limit on the maximum amount of out-of-work benefits that most working-age households can receive. In the Summer Budget 2015 the government announced that it would reduce the benefit cap that was introduced in April 2013 from £26,000 per year for couples and families to £20,000 (outside of London). The lower benefit cap was introduced on 7 November 2016 for households who at that date were affected by the original benefit cap and in Newcastle from 26 December 2016 for newly affected households. The lower levels of the benefit cap are:

- **£385 per week for couples** (with or without children living with them) and single parents whose children live with them
- **£258 per week for single adults who don't have children**, or whose children don't live with them

368 households in Newcastle were affected by the lower benefit cap at the end of February 2017, a large increase from the 57 households who were affected in November 2016. This number doesn't include residents claiming Universal Credit who are affected by the lower benefit cap, as the Department for Work and Pensions (DWP) aren't providing councils with information about Universal Credit claimants

To provide temporary financial support to help the affected households to transition to having reduced income from benefits, Newcastle City Council has granted **automatic Discretionary Housing Payment (DHP) awards for 70% of their shortfall for the period from 26 December 2016 to 31 March 2017** (excluding any rent-free weeks within that period).

Newcastle City Council and Your Homes Newcastle (YHN) are supporting residents who are affected with welfare rights, budgeting, debt, housing and employment information, advice and support.

To help us to provide coordinated support, in addition to the support that you'd routinely provide, **if you are working with any Newcastle households affected by the benefit cap**:

- **If they are a YHN tenant**, please phone the YHN Benefit Cap team on 0191 278 8754 or email benefitcap@yhn.org.uk
- **If they are a non-YHN tenant** (private rented or other Registered Social Landlord), please phone Money Matters on 0191 277 1050. Money Matters can offer specialist advice on budgeting and debt and can make an appropriate referral to housing, benefit and employment support

Lower benefit cap scenario

Ms H is single and has three children. She is unemployed and is in receipt of Income Support, Child Benefit, Child Tax Credits, Housing Benefit and Council Tax Support. She rents her home from a private landlord.

The lower benefit cap has reduced her Housing Benefit by £22.73 per week. However, the total shortfall in her rent is £44.97 because her Local Housing Allowance (LHA) is less than the cost of her full rent, as shown below.

Income Support	£73.10
Child Benefit	£48.10
Child Tax Credit	£171.08
Total benefits (excluding Housing Benefit) (A)	**£292.28**
Benefit cap (B)	£384.62
Maximum Housing Benefit (B less A)	(C) £92.34
Contractual weekly rent (D)	£137.31
LHA rate (E)	£115.07
Shortfall between LHA (E) and rent (D)	(F) £22.24
Shortfall between maximum Housing Benefit (C) and LHA (E)	(G) £22.73
Rent (F plus G)	**£44.97**

- Ms H has received an automatic DHP of £15.91 per week. She contacted Money Matters directly after receiving the DHP award letter, advising that she felt she would be able to manage financially as she had made several cuts since being affected by the benefit cap, such as selling her car. She is also going to start looking for a job in the summer when her mum can look after her baby. She said that she doesn't need any employment support to do this. She intends to return to university in September 2017

- She owes £200 to a catalogue but she feels she can afford to pay the minimum payment of £5 per week. She also has a £1,500 authorised overdraft that she has used to pay off other debt. She is concerned that she will struggle to pay off the overdraft as it costs her £20 per month and this doesn’t reduce the amount
- Money Matters advised her that she could open a new account with a bank that she doesn’t have a debt with and have her income paid into that account. She can then treat the overdraft as a separate debt and pay it back at a rate she can afford and the bank wouldn’t be able to touch her income
- She was keen not to do anything that might affect her credit rating and advised that she has no other debts and all her bills are up to date
- She doesn’t want to consider moving
- Money Matters emailed her information about the benefit cap and the options she has available. She said that she will get back in touch if she feels she needs further help

Horton v Henry

In Horton v Henry ([2016] EWCA Civ 989) the Court of Appeal held that **the trustee in bankruptcy cannot force a bankrupt to draw down on their pension** “*to which he from time to time becomes entitled*”, for the purposes of an Income Payments Order (IPO) under section 310 of the Insolvency Act 1986.

What is the background to this decision?

Mr Henry was adjudged bankrupt and Mr Horton was appointed his trustee. Mr Henry held four separate pension policies, one of which did not form part of Mr Henry’s bankruptcy.

The policies were uncrystallised and Mr Henry did not want to make any election in respect of his policies as he wanted to preserve their capital value so that he could pass them to his children on his death.

Mr Horton applied for an IPO under section 310 of the Insolvency Act 1986, which required Mr Henry to crystallise his policies and exercise his elections in the way desired by Mr Horton. The decision in *Raithatha v Williamson* ([2012] EWHC 909 (Ch), [2012] All ER (D) 57 (Apr)) effectively paved the way for trustees to pursue the 25% lump sum element of a bankrupt’s pension through the IPO regime where the bankrupt was entitled to draw down such lump sum, but had elected not to do so. However, in the first instance the court dismissed Mr Horton’s application for an IPO on these grounds, which led to Mr Horton appealing to the Court of Appeal (heard on 21 April 2016).

The implications of the decision

The decision may dissuade creditors from petitioning for a debtor’s bankruptcy where they know the debtor has valuable pension policies.

Debtors who chose to petition for bankruptcy can now be confident in planning for their retirement without the risk that their pension pot might be claimed by the trustee (except where they make excessive contributions, which are challengeable).

Cohabitees

Living together (or “cohabitation”) does not give a couple any legal status, no matter how long they have been together or whether they have children. There is no such thing as a common law spouse, and cohabitees enjoy none of the rights of a married couple on separation. This is particularly relevant on the death of one of them because if cohabitants do not make a will leaving their assets to one another, the intestacy rules may mean that the survivor is left with a problem.

The case of Joy Williams and Norman Martin highlights this issue. Mr Martin was separated from his wife and he and Ms Williams lived together for 18 years in a house that they owned together (as tenants in common). However, Mr Martin was never divorced from his wife and, crucially, never made a will. As a result, when he died of a heart attack in 2012, under the intestacy rules his £320,000 share in the home he shared with Ms Williams passed to his wife.

Facing the prospect of losing her home, Ms Williams made an Inheritance Act claim to recover Mr Martin’s share of their home. Though the claim was contested by Mrs Martin, the court ruled in favour of Ms Williams in February 2016. There have been similar court cases, which may signal a change in the court’s approach.

The Cohabitation Rights Bill 2016-17 is in its preliminary stages and had its first reading in the House of Lords in June 2016. If passed, it will offer basic protection for long-term cohabitees who live together as a couple. This protection applies to those couples who have children together or to those who have lived together for a continuous period of three years. Though it offers more security and certainty for unmarried cohabitants, it may be years before full legal protection is afforded.

Motormile Finance UK write off debts

More than 500,000 people have had their payday and car finance loans written off by the debt collection firm Motormile Finance (MMF). MMF have agreed to write off £414 million of debt after the Financial Conduct Authority (FCA) criticised the way it was pursuing customers for the sums it said they owed.

MMF specialises in buying old payday loans and, according to consumer website forums, the company bought payday loans from a number of lenders including Cash Genie, Peachy, Mr Lender, Lending Stream, Swift Sterling, WageDayAdvance and PoundsTillPayday.co.uk.

The FCA said that after buying debts the company failed to carry out the necessary due diligence to make sure the sums of money that were said to be owed were correct. The FCA also added that “*this in turn led to unfair and unsuitable customer contact for recovery of those sums*”.

Customers do not need to take any action, as MMF should have contacted those affected by February 2017. The company has set up a dedicated page on its website providing more information.

Prepayment price cap

From 1 April 2017 the amount of money energy suppliers can charge prepayment meter customers will be subject to a cap – the 'prepayment price cap'.

The price cap is temporary and is due to expire at the end of 2020 when the smart meter rollout is expected to be complete. It covers all domestic prepayment customers, except those with a fully interoperable smart meter, and suppliers are required to ensure that their charges to prepayment customers do not exceed the level of the cap.

At the beginning of every February and August Ofgem will publish the details of the cap for the forthcoming period. The cap is different depending on region and meter type so a prepayment meter might not always be the best deal and it is best to shop around.

More information can be found on Newcastle City Council's 'Find your best energy deal' web page.

Switching energy suppliers and smart meters

The introduction of smart meters can make paying your energy bills less problematic by sending automatic meter readings to your supplier, which means no more estimated bills and no need to give meter readings over the phone or online. Your smart meter also shows your usage in (near) real time, kilowatt-hours, pounds and pence. Every household in Britain is expected to have a smart meter by 2020.

However, suppliers don't always tell customers that if you switch energy supplier your smart meter may stop working. It will always work as a normal meter but it may lose some of the features it had before the change. It might no longer send automatic meter readings to your new supplier or show your usage in pounds and pence.

This isn't not ideal, but it shouldn't put you off switching if you are overpaying on an expensive tariff. It just means going back to giving meter readings to avoid estimated bills.

The benefits of a smart meter

- Accurate bills
- Easy to access information about your usage
- You can switch between payment methods without having to change the meter
- In the future, smart meters may have even more to offer, i.e. they could be connected to other 'smart' devices in your home and alert you if you have left your lights on etc.

Remember to always do a price comparison, whether or not you have a smart meter.

More information and help

Can be found on Newcastle City Council's debt and money advice web page.

This debt bulletin was written in **March 2017** by the Money Matters team at Newcastle City Council. It is provided quarterly and is as accurate as possible at the time of writing. The bulletin is part of the Active Inclusion Newcastle offer of support to professionals, which includes debt awareness and benefits **eLearning** and **face to face training**. For more details, see our web page for professionals and volunteers.

You may also be interested in the weekly **Active Inclusion Newcastle e-bulletin** which provides a brief update on financial inclusion and homelessness prevention issues. If you want to receive this, or for more details, email activeinclusion@newcastle.gov.uk

If you, or the Newcastle residents you support, need some debt advice phone our consultancy line on **0191 277 1050** (Monday, Tuesday, Thursday and Friday from 9.30am to 11.30am).