Title: Welfare Reform and Work Act: Impact Assessment for The Universal Credit (Benefit Cap Earnings Exception) Amendment Regulations 2017	# Impact Assessment (IA)
Lead department or agency: Department for Work and Pensions	**Date:** February 2017
Other departments or agencies:	**Stage:** Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: workingage.benefitsstrategy@dwp.gsi.gov.uk

Summary: Intervention and Options

RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, Two-Out?**	**Measure qualifies as**
	N/A	N/A	No	NA

What is the problem under consideration? Why is government intervention necessary?

The benefit cap operating under Housing Benefit (HB) has been shown to be successful with more households looking for and finding work. Currently, in Universal Credit (UC), claimants may qualify for the in-work exception to the benefit cap in a given assessment period if their earnings in that period exceed the earnings threshold of £430 per month. This amount was originally fixed at the level of earnings from 16 hours of work per week at the 2012 National Minimum Wage (NMW) for those aged 21 and over. The fixed benefit cap earnings threshold of £430 in UC means that, as the NMW rises and the National Living Wage (NLW) is introduced, it has become and will get progressively easier for claimants in UC to become exempt from the benefit cap, reducing work incentives.

What are the policy objectives and the intended effects?

The objectives of the amendment are to ensure that the strength of the work incentives are not eroded over time and that in-work progression and sustained employment is encouraged whilst ensuring the most vulnerable are supported. Without an amendment to the earnings exception it will become progressively easier for claimants to become exempt from the cap by working fewer hours. A new, progressively higher earnings exception threshold that better reflects growth in minimum wages, along with the work incentives of Universal Credit (UC), will encourage some claimants to work and earn more in order to become exempt from the cap.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

We considered 5 options: (1) Replace the fixed benefit cap earnings exception threshold in UC with a formula based on NLW for all claimants; (2) Replace the fixed benefit cap earnings exception threshold in UC with a formula based on the rate of the NLW or the NMW applicable to the claimant; (3) Align the benefit cap earnings exception threshold in UC with the existing exceptions rules in WTC; (4) Align the benefit cap earnings exception threshold in UC with other UC thresholds (5) Do nothing.

Option 1 was chosen because a single threshold is easier for claimants to understand; is consistent with the intention that UC will provide a simplified benefit system for claimants and administrators; ensures the work incentives of the benefit cap are maintained and is administratively simpler to implement.

Will the policy be reviewed? **If applicable, set review date:**					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** No	**< 20** No	**Small** No	**Medium** No	**Large** No
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** N/A	**Non-traded:** N/A	

1.I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Caroline Dinenage Date: 20/01/17

Summary: Analysis & Evidence

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 16/17	PV Base Year 16/17	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate:**

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate			£1m	

Description and scale of key monetised costs by 'main affected groups'

Households receiving the NLW are unlikely to be affected by the proposed amendment to the earnings exception threshold, since data suggests the vast majority of those in work are working at least 16 hours a week and those moving to UC from HB would already be required to work at least 16 hours to be exempt from the cap. . However, a small number of households earning below the NLW may fall in between the current (£430 per month) and proposed new threshold level of £520 per month in 2017/18 and therefore may no longer be exempt from the cap unless they increase their earnings. The overall numbers directly impacted are difficult to reliably quantify, but are expected to be very small – around 100 households affected in 2017/18, 500 in 2018/19, 1,100 in 2019/20 and 1,200 by 2020/21 as the UC caseload increases. The average reduction in benefit income for affected households is £19 per month in 2017/18, rising to £63 per month by 2020/21.

Other key non-monetised costs by 'main affected groups'

These costs do not include the operational cost of implementing the change or costs of any additional take-up of support from claimants affected by the change to the earnings exception, though these are expected to be small.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate			£1m	

Description and scale of key monetised benefits by 'main affected groups'

This measure is expected to make small fiscal savings as households who are currently earning above the existing threshold (£430) may now be brought within scope of the cap and those already affected by the cap who would have moved into work to meet the existing earnings exception threshold may now be encouraged to work an additional few hours per week to obtain the exception. Those earning the NMW for 21 to 24 year olds would need to work 18-19 hours per week under the proposed earnings exception threshold (2-3 additional hours per week compared to those on the NLW) and those earning the NMW for 18-20 year olds would need to work an additional 4-5 hours per week compared to the existing threshold. This would result in them remaining exempt from the cap and small savings would arise due to the decrease to the UC award from increased earnings. This is difficult to reliably quantify but it is estimated that savings to the exchequer will be negligible initially but increasing as UC rolls out, to around £1m per year in 2019/20

Other key non-monetised benefits by 'main affected groups'

This measure aims to maintain the benefit cap policy intent and the work incentives already in place leading to long term, positive, intergenerational, effects from work. These estimates assume those affected by the change increase their earnings to remain exempt from the cap; however some households may either not respond or they may be discouraged from moving into work altogether, in which case slightly higher savings would then arise from the cap being applied where it would not have been previously, though this is not the aim of the policy.

Key assumptions/sensitivities/risks	Discount rate	3.5%
Estimates are based on uncertain assumptions about the number of capped households who will fall between the current threshold and the proposed threshold, we assume that all individuals aged 25 and over will be working at least 16 hours, all individuals aged under 25 do not earn above NMW, and assume the behavioural response of affected households will be to increase their earnings to avoid the cap.		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	**Benefits:** N/A	**Net:** N/A	No	NA

Introduction

This Impact Assessment examines the replacement of the fixed benefit cap UC earnings exception threshold with a formula-based threshold of gross earnings equivalent to working 16 hours per week at the National Living Wage (NLW).

The current policy

From April 2013 the Government introduced a cap on the total amount of benefit that working-age people can receive. In Universal Credit (UC), claimants are exempt from the benefit cap when the individual, or a couple jointly, earns £430 or more per monthly assessment period, regardless of household type. This exception reflects the main aim of the policy, which is to increase the incentive to work. A fixed value was originally chosen because it was thought easier for claimants and staff to understand. The (monthly) £430 figure is based on gross earnings from 16 hours of work per week paid at the National Minimum Wage (NMW) for those aged 21 years of age or older (at the 2012 rate of £6.19 per hour).

There is a 'grace period' in existing regulations whereby the benefit cap will not be applied for those with a consistent work history whose employment has ended or earnings have dropped below the earnings exception threshold level. The grace period will apply for 9 months from the end of their employment or reduction in earnings. If applicable, the grace period will remain in place irrespective of any reportable change of circumstances made by the claimant for the remainder of its duration. This provides a fixed period of protection during which they can adapt to their position and look for alternative employment. For UC claimants, a consistent work history means that in each of the 12 months prior to the end of their employment or reduction in earnings, the claimant, or couple, if the claimant is part of a couple, was earning at or more than the earnings exception threshold.

To protect those who are unable to work, households in receipt of Disability Living Allowance, Personal Independence Payment, Attendance Allowance, the Limited Capability for Work Related Activity element of UC or the support component of an employment and support allowance, Industrial Injuries Benefits (and equivalent payments made as part of a War Disablement Pension or the Armed Forces Compensation Scheme) are exempt from the benefit cap. From November 2016, those entitled to Carer's Allowance, the Carer element of UC, or in receipt of Guardian's Allowance are also exempt.

What policy change we are making and why?

From 1st April 2017 the fixed benefit cap earnings exception threshold of £430 in UC will be replaced with a formula based on the National Living Wage (NLW) for all claimants (net earnings equivalent to working 16 hours per week at the NLW). The NLW is the minimum wage for individuals aged 25 years and over, while the National Minimum Wage (NMW) is for younger workers and has different rates for apprentices, under 18s, 18-20 year olds and 21-24 year olds. The NMW and NLW rates will change each April. After linking the benefit cap earnings exception threshold to the NLW, the threshold will change automatically upon any change to the NLW - based on OBR's Autumn Statement 2016 forecast of the NLW the earnings exception would be estimated to increase to around £520 in 2017/18, £548 in 2018/19, £575 in 2019/20 and £610 in 2020/21.[1] Changes to the benefit cap earnings exception threshold will not retrospectively affect any benefit cap grace period entitlement already accrued.

Why is the earnings exception threshold being changed?

A key policy aim for the benefit cap is to increase incentives to work. The fixed benefit cap earnings exception threshold of £430 in UC means that, as the NMW and the NLW rise, UC claimants become exempt from the benefit cap on the basis of fewer and fewer hours worked over time and therefore may choose to work fewer hours. A threshold based on a formula using the NLW ensures that it will maintain the current incentives on the amount of hours claimants work to exempt themselves from the cap and also ensures that the work incentive continues. Amending the earnings exception threshold to ensure it does not become easier for claimants to exempt themselves from the cap is also consistent with the benefit cap's aim to ensure fairness for taxpayers.

Additionally, the earnings exception policy is designed to encourage sustained employment. The new, higher earnings exception threshold, along with the work incentives of UC, will encourage some claimants to work and earn more. In particular, for those claimants who would lose large amounts of benefit by being capped and who also earn just below the earnings threshold, the policy provides a strong incentive to increase their hours in order to become or remain exempt from the cap.

Finally, the new threshold is based on net earnings at the NLW rather than on gross earnings at the NMW, which was the basis of the £430 threshold. Considering a claimant's net, rather than gross, earned income is consistent with the approach in UC more widely, and means the new threshold is fairer in principle than the £430 threshold was at the time it was introduced. However, in practice this isn't expected to have an impact as the proposed earnings threshold is expected to be below Tax and National Insurance thresholds.

Options for policy change that have been considered

We considered 4 alternative options for the benefit cap earnings exception threshold:
(1) Replacing the fixed benefit cap earnings exception threshold in UC with a formula based on the rate of the NLW or NMW applicable to the claimant would increase the threshold automatically upon the uprating of the NMW and NLW and place an equal earnings expectation on claimants aged under and over 25. However, under this option the rules (and incentive effects) in UC and the current benefits system will not be aligned and additionally, this option is operationally more complex than the proposed option. Under this option, there could be up to five different earnings exception thresholds: one based on the NLW for those aged 25 and over, and then a separate threshold for each of the four NMW categories (21-24, 18-20, under 18, apprentice). This would be harder to administer and more difficult for claimants to understand.

(2) Aligning the benefit cap earnings exception threshold in UC with the existing exceptions rules in Working Tax Credit (WTC) would ensure that rules (and incentive effects) for the benefit cap operating under UC and those under Housing Benefit are aligned. Under Housing Benefit claimants are exempt from the benefit cap if they qualify for Working Tax Credits – to qualify for these a claimant must work a certain number of hours (rather than earn a certain amount). The hours required under WTC are shown in the table below - this would be a lot more complex than the preferred option and inconsistent with UC which uses earnings rather than hours worked as a measure of employment.

Working Tax Credit eligibility	**Hours a week**

1 http://cdn.budgetresponsibility.org.uk/Supplementary_Economy_Tables-1.xlsx

Single adult aged below 60 [2]	At least 30 hours
Aged 60 or over	At least 16 hours
Disabled	At least 16 hours
Single with 1 or more children	At least 16 hours
Couple with 1 or more children	Usually, at least 24 hours between the couple (with 1 working at least 16 hours)

(3) Aligning the benefit cap earnings exception threshold in UC with other UC thresholds like the:

a) Administrative Earnings Threshold (AET)[3] which would set the earnings exception threshold at £338 for single people (lower than the current exception), and £541 for couples (higher than the current exemption), reducing work incentives for single claimants;
b) Conditionality Earnings Threshold (CET)[4] which is based on the number of hours a claimant is expected to work depending on the individual's circumstances. The discretionary aspects of personalising the claimant's CET could raise issues, and this option is more complex than options 1 and 2, and the proposed option. Additionally, CETs are set by work coaches; having work coaches also set the benefit cap earnings exception risks detracting from their primary focus of supporting claimants back into work.

(4) Doing nothing will mean the exception would not accord with the original policy intent, and the rules and work incentive effects of the benefit cap operating under UC and those under Housing Benefit will not be aligned; UC claimants will find it progressively easier to exempt themselves from the cap compared to Housing Benefit claimants.

Estimating costs and benefits of the policy change

The objective of the policy amendment is to ensure that the strength of the work incentive is not eroded over time and that in-work progression is encouraged whilst still ensuring the most vulnerable are supported.

The Department does not currently have data on the earnings or hours worked of capped claimants who might fall between the current and proposed threshold. In the absence of relevant data the impacts presented in this assessment are based on the assumption that capped households who do choose to work do so for at least 16 hours per week as data suggests only around 3% of in-work households work below 16 hours[5] and those moving to UC from Housing Benefit would already be required to work at least 16 hours to be exempt from the cap. For those earning below the NLW and therefore falling between the current and proposed threshold it is assumed that they will all choose to increase their earnings in order to remain exempt from the cap given the significant financial incentive faced for working a few additional hours per week. However, in practice, there may be some households earning over the current threshold who work less than 16 hours per week or who aren't able to increase their earnings (for example if their current employment doesn't allow them to). Sensitivity to these assumptions is presented in the savings section.

Behavioural change

Under Housing Benefit, households in work become exempt from the benefit cap through entitlement to Working Tax Credit (WTC). Evidence (as is the case for WTC in general) shows that households tend to work at the minimum level to be entitled to WTC (around 16 hours at NMW) and part of the reason may be because there is very little incentive to work additional hours.

2 Single adults under 25 without children are only eligible for Working Tax Credits in certain circumstances.
3 The Administrative Earnings Threshold (AET) ensures that only claimants below this threshold, with no income or on very low incomes, will receive intensive support to increase their hours of work and earnings.
4 The Conditionality Earnings Threshold (CET) ensures that claimants earning above this level are considered to be working enough and will not be asked to carry out work-related activity.
5 Family Resources Survey 2014/15 – based on working age households, for couples the hours worked have been combined.

It is assumed that all households who earn between the current threshold (£430 per month) and the new threshold level (£520 per month in 2017/18) would increase their earnings in response to the new threshold. Those earning the NLW aren't assumed to fall between the two thresholds as most are likely to be working at least 16 hours per week anyway, so would meet the new threshold level, whereas those under 25 on the NMW for 21-24 year olds would be required to work around 18-19 hours per week in order to become or remain exempt and those on the NMW for 18-20 year olds would be required to work 22-23 hours per week (an additional 4-5 hours compared to the existing threshold). For many of those affected there will be significant financial incentives to working the additional hours required in order to become exempt from the cap. However, some households may either not respond or they may be discouraged from moving into work altogether. Households that don't increase their earnings to remain exempt would then face a financial reduction in their UC award due to the cap being applied where it would not have been previously, though this is not the aim of the policy.

Details of methodology

The estimated benefit cap caseload under Housing Benefit is based on commissioned datasets for use in the benefit cap evaluation, with the methodology approved by the Institute for Fiscal Studies; this data, whilst derived using slightly different methodology, very closely mirrors published Official Statistics (for further detail refer to Chapter 2 in Benefit Cap: Analysis of outcomes of capped claimants, published by DWP in December 2014).[6] This is administrative data of total household benefit income sourced from DWP and HMRC systems including the Single Housing Benefit Extract. These estimates are used to estimate the characteristics of capped households.

The UC roll-out schedule has been used to estimate the potential number of UC benefit cap claims over the next 5 years. Due to limited outturn data in UC, there is a degree of uncertainty in the forecasts.

OBR's Autumn Statement 2016 forecasts of NLW and NMW are then used to estimate the change to the earnings exception threshold and the impact over time. Estimates assume that those that do choose to work do so for at least 16 hours per week and therefore only those earning below the NLW are affected. Estimates of those earning below the NLW are based on uncertain assumptions around the proportion of capped households who are under 25 years old and expected to be entitled to housing support in UC (some claimants aged 18-21 will no longer be automatically entitled to housing support) and the proportion of those expected to be in work. It is then assumed that all of those affected increase their hours to remain exempt from the cap causing a small reduction to their UC award through the earnings taper (the UC award will be decreased by 63p for every £1 earned above the work allowance).

Savings

This measure is expected to make small fiscal savings as households who would have moved into work at the minimum requirement may now be incentivised to work the additional 2-3 hours required for those on the NMW for 21-24 year olds compared to those on the NLW (4-5 additonal hours for those on the NMW for 18-20 year olds) to obtain the exception. This would result in them remaining exempt from the cap but small savings would arise due to the UC earnings taper which, from April 2017 onwards, will reduce the award by 63p for every additional £1 earned above the work allowance. The additional earnings have been taken to be the difference between working 16 hours at the NMW and 16 hours at the NLW (the proposed earnings exception threshold). The number of capped households this will affect is difficult to reliably quantify but it is estimated that savings will be negligible but increasing slightly as UC rolls out, to around £1m per year in 2020/21.

These savings assume that those with earnings are working at least 16 hours per week, however this may not be the case for all households, some of those over 25 may work fewer hours and earn between the current and proposed earnings exception which would lead to an increase in savings. Similarly some of those under 25 may already work more than the required hours per week or be earning above the NMW and not be affected by the change which would reduce savings. If the distribution of earnings of in-work capped households were instead assumed to be similar to the Dec-16 distribution of all in-work Universal

6 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/385970/benefit-cap-analysis-of-_outcomes-of-capped-claimants.pdf

Credit full service households, then estimated savings would be around £2m per year by 2020/21 rather than £1m.[7]

This measure aims to maintain the policy intent and the work incentives already in place leading to long term, positive, intergenerational effects from work. These estimates assume those affected by the change increase their earnings to remain exempt from the cap however, some households may either not respond or they may be discouraged from moving into work altogether in which case slightly higher savings would then arise from the cap being applied where it wouldn't have been previously, though this is not the aim of the policy. For example, if all those assumed to be affected by the change did not increase their earnings then savings would be around £4m per year by 2020/21 rather than £1m assuming the average cap amount of around £58 per week from 2017/18 applies to these cases.[8]

Caseload

For many households, the introduction of the NLW is likely to have meant their earnings continue to align with the proposed earning exception threshold and it is likely that claimants who move into work are likely to work 16 hours or more rather than fewer than 16 hours due to the design of labour market contracts. This means households on the NLW would be exempt from the benefit cap under both the current and new exception thresholds. However, those under 25 may receive the NMW rather than the NLW and therefore may fall in between the current (£430 per month) and new threshold levels even when working 16 hours per week. Some of these households may qualify for the 9 month grace period when the policy is first introduced as changes to the benefit cap earnings exception threshold will not retrospectively affect any benefit cap grace period entitlement already accrued.

The table below shows that under the current threshold the hours of work per week required to become exempt would reduce to 12 hours for those earning the NLW and 13 hours for those earning the NMW for 21-24 year olds by 2020/21. The proposed earnings threshold brings this requirement back up to 16 hours for those on the NLW, 18-19 hours for those on the NMW for 21-24 year olds and 22-23 hours for those on the NMW for 18-20 year olds.

Table 1: Hours of work required to meet the current and proposed earnings exception

		2017/18	2018/19	2019/21	2020/21
Current Earnings Exemption	Monthly Earnings threshold	£430	£430	£430	£430
	Hours per week at:				
	NLW	14	13	12	12
	NMW aged 21-24	15	14	14	13
	NMW aged 18-20	18	18	17	17
Proposed Earnings Exemption	Monthly Earnings threshold	£520	£548	£575	£610
	Hours per week at:				
	NLW	16	16	16	16
	NMW aged 21-24	18	18	18	19
	NMW aged 18-20	22	22	23	23

Notes:
1. Figures are rounded up to the nearest hour per week.
2. Forecasts of the proposed earnings threshold are based on the announced rates for 2017/18. From 2017/18 the NLW and NMW for 21-24 year olds are based on OBR Autumn Statement 2016 forecasts and the NMW for 18-20 year olds is assumed to be uprated by the Autumn Statement 2016 average earnings growth assumption.[9]

7 This is based on uprating the earnings of all in-work UC Claimants to 2020/21 by the Autumn Statement 2016 average earnings growth assumption to estimate the proportion of all UC in work households earning between the current and proposed threshold. This still assumes that 30% of capped claimants are in work.
8 The average cap is based on modelling of the lower cap described in the methodology and consistent with the lower cap Impact Assessment of the lower cap: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/548741/welfare-reform-and-work-act-impact-assessment-for-the-benefit-cap.pdf
9 http://cdn.budgetresponsibility.org.uk/Supplementary_Economy_Tables-1.xlsx

It is difficult to reliably predict the number of households that will have earnings between the two threshold levels; our estimates assume 6.5% of the UC capped caseload will be under 25 years old and expected to be entitled to housing support in UC (some claimants aged 18-21 will no longer be automatically entitled to housing support) and around 30% of these will be working 16 hours at the National Minimum Wage and therefore expected to be affected by the change. This is based on:

- Modelling that suggests around 6.5% of the capped caseload will be under 25 years old and expected to be entitled to housing support in UC so may be capped in UC and be on the NMW if they did work; and
- Evidence from the previous benefit cap suggests around 30% of all those capped since April 2013 have moved into work at 16 hours or more (measured by receipt of Working Tax Credits).[10]

This results in around 100 households affected in 2017/18, 500 in 2018/19, 1,100 in 2019/20 and 1,200 by 2020/21 as the UC caseload increases.

It is assumed that all those affected by the change will work a few additional hours to become exempt, meaning they will be financially better off than under the current policy as they will get to keep 37p of every additional £1 they earn under UC and will remain exempt from the benefit cap. It also implicitly assumes that they are able to increase their hours in their current employment, or that they are able to find alternative employment.

Impacts of the policy change

All impacts are shown for 2017/18 as the policy is introduced from April 2017. Impacts are subject to the same sensitivities as noted for the savings estimates.

This document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

The PSED requires the Minister to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act;

- advance equality of opportunity between people who share a protected characteristic and those who do not; and

- foster good relations between people who share a protected characteristic and those who do not.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and marriage and civil partnership.

Below is a full discussion of the expected impacts of the proposed amendment of the benefit cap earnings exception in UC on certain groups with protected characteristics. When you are making your decision as regards to this amendment, you are required by law to have regard to the PSED. In light of the impacts described below and their justifications, our view is that the proposed amendment does not result in, and/or support the elimination of, unlawful direct or indirect discrimination of groups of people who share a protected characteristic. The amendment is not expected to have any effect on groups with protected characteristics other than those identified below, nor does it engage any other aspects of the PSED.

Age

Modelling suggests that around 6.5% of capped households are expected to be under 25 years old and expected to be entitled to housing support in UC (some claimants aged 18-21 will no longer be

10 https://www.gov.uk/government/collections/benefit-cap-statistics automatically entitled to housing support). The main reason this proportion is low is because those under 25 generally receive less in benefit payments as benefit rates are lower than for those aged 25 and over and they are likely to have fewer children at this age.

The change to the earnings exception threshold, compared to the current £430 threshold, means those aged under 25 (and any claimants who are in the first year of an apprenticeship) earning the NMW have a greater minimum number of hours requirement to meet the new threshold. This is because the NLW applies only to those aged 25 and over (and apprentices who have completed their first year). However, age-based differences already exist in the current benefit cap policy under UC (those under 21 have different NMW rates) and under Housing Benefit, where claimants without children have to be aged 25 or over to be eligible for Working Tax Credits and, therefore, are not able to exempt themselves from the benefit cap via any earnings exception.

The difference in the minimum number of hours those aged under 25 must work compared to those aged 25 or over is relatively small, around an additional 2 hours per week in 2017/18 increasing to 3 hours by 2020/21 as the NLW is expected to be uprated by more than the NMW over time. This is based on OBR Autumn Statement 2016 estimates of NLW and NMW rates from 2018 onwards but the actual rates may differ and so the additional hours under-25s must work at minimum wage to reach the earnings exception threshold could change. The additional burden placed on those under 25 is not disproportionate, however. Claimants under the age of 25 without caring responsibilities or health conditions should be able to work these extra hours and exempt themselves from the cap. These claimants are also likely to be in the All Work Related Requirements conditionality group of UC and so receiving support through this group to increase their earnings to the Conditionality Earnings Threshold level, which is set on an individual basis but is usually 35 hours of work per week at the NMW. Additionally, early evidence from the Annual Survey of Hours and Earnings suggests that many employers might be paying younger workers the NLW even though they are not legally required to do so: around 10% of full-time 16- to 24-year-olds and 15% of part-time 16- to 24-year-olds appear to be getting paid at around the £7.20 NLW in April 2016.[11] In such cases, the work requirement to meet the earnings exception threshold would be the same for those under and over 25 years of age.

The numbers of claimants under 25 impacted by this change to the threshold are expected to be low - 6.5% of those affected by the lower cap are expected to be under 25 years old and entitled to housing support in UC and based on evidence from the previous cap around 30% of these may be in work. This means that around 100 under 25s may be impacted in 2017/18 increasing to around 1,200 by 2020/21.

Gender

Under the new benefit cap levels, around 66% of claimants who are likely to have their benefit reduced by the cap will be single females but only around 13% will be single men. Most of the single women affected are likely to be lone parents: this is because we expect the majority of households affected by the benefit cap to have children. Around 61% (54,000) of the caseload are estimated to be female lone parents.

Given that the new earnings exception threshold places a slightly higher burden on those aged under 25, it is acknowledged that female lone parents under the age of 25 may be adversely impacted by the amended earnings threshold – due to childcare responsibilities, these claimants may find it more difficult to work the additional hours at minimum wage in order to exempt themselves from the cap. However, the numbers of such claimants will be small: it is estimated that around 3.8% of the lower benefit cap caseload under UC will be under 25 years old and lone parents - the vast majority of these will be female. However, of these the new earnings exception threshold will only affect those in work but working less than 18 hours per week, estimated to be around 30% of this group based on the proportion of all households affected by the benefit cap since April 2013 who are in work.

11 https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/articles/analysisofthedistributionofearningsacrosstheukusingashedata/2016

Additional support may also be available, including employment support, childcare assistance and Discretionary Housing Payments, to assist them to increase their work hours. While lead carers of children under 3 years old have minimal work conditionality requirements, support to get into work is available to them on a voluntary basis. These households face the same decisions as working households do with statistics for April to June 2016 showing that 66.5% of lone parents were in employment in the UK[12] and 69.9% of females were in employment between September and November 2016.[13] The latest benefit cap statistics also show that since the benefit cap was introduced, 28% (12,600) of previously capped lone parents have moved into work compared to 30% of all capped households.[14]

The current Working Tax Credits exception rules require 16 hours of work each week for lone parents. This proposed amendment to the earnings exception in UC, subject to the points made above in respect of age, is in line with the position under Housing Benefit.

For couples, the earnings exception policy in UC is more favourable than the position under Housing Benefit. Around 22% of the lower cap caseload are estimated to be couples, who would require just 16 hours (shared between both partners) of work a week to be exempt from the cap (assuming they are both aged 25 or older) whereas the current Working Tax Credits exception rules (usually) require 24 hours of work each week for couples with children, of which one person from the couple must work at least 16 hours.

Disability

Vulnerable claimants under the age of 25 for whom work is not currently a viable option are protected and exempted from the cap. Households where someone (including a child or qualifying young person) is entitled to Disability Living Allowance (or its replacement, Personal Independence Payment), or where either member of a couple is entitled to Attendance Allowance, Industrial Injuries Benefit, the Limited Capability for Work Related Activity element of Universal Credit or the support component of an Employment and Support Allowance are exempt from the benefit cap.

Those with a health condition who do not receive any of the exempt benefits may be adversely impacted by the new earnings exception threshold in that, if they are under the age of 25, they may find it more difficult to work the additional hours at minimum wage in order to exempt themselves from the cap. However, numbers affected are likely to be very small and additional support may be available to them (including employment support and Discretionary Housing Payments).

Any household that includes a claimant entitled to the Carer element of UC will be exempt from the benefit cap. This fits in with the wider Government strategy to do more to support and invest in carers.

Ethnicity

We cannot precisely quantify the number of households affected by the change to the earnings exception where a member is from an ethnic minority as the recording of ethnicity in benefits administrative data is not sufficiently reliable to be used. A large proportion of those affected by the benefit cap are larger families. Those from cultural backgrounds with a high prevalence of large families and households from certain ethnic minorities that tend to have a higher proportion of large families are more likely to be affected. Around 22% of the caseload is also expected to be in London which, relative to the rest of the country, has a more ethnically diverse population. An indicative proportion can be taken from the Ipsos MORI survey of affected claimants (with the cap set at the previous level of £26,000) which found that 37% of households sampled in the cohort were from a black or minority ethnic background; however, the new cap will,

12http://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/workingandworklesshouseholdstablepemploymentratesofpeoplebyparentalstatus
13https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/jan2017
14 https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-august-2016

relatively, have a greater proportion of its caseload outside London, so this finding needs to be treated with some caution.

Sexual orientation

The Department does not hold information on its administrative systems on the sexual orientation of claimants. The Government does not envisage that the new earnings exception threshold will have any particular advantage or adverse impact on any group of claimants protected on these grounds.

Pregnancy and maternity

The Department only holds information on pregnancy and maternity on its administrative systems where it is the primary reason for incapacity. It cannot therefore be used to accurately assess the equality impacts. Pregnant women and new mothers, particularly single mothers, may find it harder to increase their work hours in order to meet the higher earnings exception threshold (although in some cases, these individuals may be exempt from the benefit cap due to application of the grace period). Additional support, including employment support and Discretionary Housing Payments, is available to them to help mitigate this.

Religion or belief

The Department does not hold information on its administrative systems on the religion or beliefs of claimants. There may be some religions with a high prevalence of large families that are more likely to be affected by the benefit cap. However, the Government does not envisage that the new earnings exception threshold will have any particular advantage or adverse impact on any group of claimants protected on these grounds.

Gender reassignment

The Department does not hold information on its administrative systems on gender reassignment. The Government does not envisage that the new earnings exception threshold will have any particular advantage or adverse impact on any group of claimants protected on these grounds.

Marriage and civil partnership

The Department does not hold information on its administrative systems on the marital or civil partnership status of claimants. While the equality impact cannot be accurately assessed, there is a potential advantage for married couples or civil partners under the benefit cap earnings exception in UC, as they may share the hours between them to meet the earnings threshold, and so are more likely than a single claimant to exempt themselves from the cap. This also means they are more likely to be able to meet the new earnings threshold than single households and for those that do earn below the NLW the additional hours of work required per week can be shared between them. The Government does not envisage that the new earnings exception threshold will have any particular adverse impact on any group of claimants protected on these grounds.

What are we doing in mitigation?

DWP has a number of measures in place to ease the transition for families affected by the amendment to the earnings exception threshold. Our strategy is based on the principle of providing mainstream services that are flexible enough at the point of delivery to deal with the needs of individual customers. Most of the obstacles to labour market participation faced by our customers are very similar, whatever their background. Barriers that may exist – such as lack of confidence, poor educational achievement, low skill levels, childcare or disabilities – are universal. Where impediments are specific to a person's ethnic origins, such as lack of fluency in English, these can be addressed within the mainstream programmes. Additional childcare provided will better support households with children to make the decision to move into work.

Employment support

There is a wide range of help and employment support currently offered by and available through Jobcentre Plus and its partners, such as the Work Programme and Work Choice, and through Local Authorities. The Department has liaised extensively with Local Authorities to develop support offers which cover: employment support to consider and find work; budgeting support; housing support and advice, including applications for Discretionary Housing Payments.

Childcare costs

The Government currently provides 15 hours of free childcare during term time for all three and four year olds and for the most disadvantaged two year olds. From September 2017 onwards, this free entitlement will be doubled to 30 hours a week for working parents of three and four year olds, worth around £5,000 a year per child. The Government have implemented this extension of free hours early in some local areas from September 2016. Additionally, since April 2016, families receiving UC can recover 85% of eligible childcare costs, up to a limit of £646.35 per month for one child and £1,108.04 per month for two or more children, where lone parents or where both parents are in work, regardless of the number of hours they work.

Discretionary Housing Payments (DHPs)

DHPs make an important contribution to managing the transition for various customers whilst they make the necessary changes to adapt to the application of the benefit cap.[15] Resources are available to provide short-term, temporary relief to families who may face a variety of challenges. DHPs can also help families manage their move into more appropriate accommodation. Each case is considered on its own merits rather than on predefined criteria. In 2013/14 £65 million was allocated to support those impacted by the benefit cap, with £45 million in 2014/15, £25 million in 2015/16 and £40m in 2016/17.

A total of £870m in Discretionary Housing Payments is being provided over the next 5 years (from 2016/17) which are available to vulnerable people who need extra support.

In 2015/16, benefit cap DHP expenditure was around £14m, 71% of the allocation to the 319 Local Authorities that returned data on benefit cap expenditure.[16]

Decision making

In respect of the new, higher benefit cap UC earnings exception threshold, we consider that any potentially indirectly discriminatory impacts on certain protected groups are proportionate and/or justified, as:

- many of the impacts will be mitigated (as described above); and
- the new earnings exception threshold strengthens work incentives and achieves fairness for taxpayers while also ensuring there is a reasonable safety net of support for the most vulnerable.

Monitoring and evaluation

15 DHPs provide claimants with further financial assistance, in addition to any welfare benefits, when an LA considers that help with housing costs is required.
16 https://www.gov.uk/government/statistics/use-of-discretionary-housing-payments-financial-year-201516

We are committed to monitoring the impacts of our policies and to establishing the extent to which they have met their objectives and are therefore developing plans to evaluate the impact of the new, lower, tiered benefit cap. The evaluation will aim to better understand claimants' behaviours and attitudes to looking for work; how local services have been affected by the change in the cap and how organisations such as local authorities are working with capped claimants. Findings from this evaluation for UC claimants will be based on this new earnings exception level introduced in April 2017.