



**Advice NI Briefing Paper  
Benefit Cap mitigation  
#Cliffedge25 &  
Strengthening support for the  
most vulnerable**

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## Advice NI Social Policy Briefing Paper

### Benefit Cap mitigation #Cliffedge25 & Strengthening support for the most vulnerable

#### Background

The issue of welfare reform almost brought the NI Assembly to the brink in 2015 due to concerns about its impact on vulnerable people. A consensus was reached in 2015 with the Fresh Start Agreement to mitigate some of the harshest impacts of welfare reform over four years. Professor Eileen Evason was tasked with identifying the mitigations, which she developed with the Welfare Reform Mitigations Working Group.

As Professor Evason stated in the foreword to the report outlining the mitigation package:

*“We have looked at developments elsewhere and are confident that the measures we propose will place Northern Ireland clearly ahead of the rest of the United Kingdom in its efforts to protect vulnerable children and adults - in work and not employed - from hardship.”*

The NI Assembly was dissolved on 26 January 2017 and remained so until January 2020. The new Minister for Communities<sup>1</sup> gave an assurance that in line with what was agreed under the New Decade, New Approach deal there should be an extension to the existing mitigations beyond March 2020. This extension was initially via contingency arrangements with legislation eventually passed in 2022 to extend these crucial protections on a statutory footing.

However, whilst the mitigation legislation in respect of bedroom tax contained no end date, other mitigations legislation<sup>2</sup> including Benefit Cap mitigation had the end date of 31<sup>st</sup> March 2020 replaced with an end date of 31<sup>st</sup> March 2025.

In respect of Benefit Cap mitigation, latest annualised figures show that 2,160 individuals received a mitigation payment, amounting to £2,412,680.

We are calling on the Minister for Communities, with NI Executive colleagues, to act immediately to avert what is a looming cliffedge in terms of the Benefit Cap. We are calling on Extension Regulations to be brought forward without delay.

We are calling on the welfare mitigation overpayment recovery process to be reviewed and legislation amended to enable fairness and ‘due process’ for all claimants. We are calling on the cuts introduced in 2023 due to budgetary constraints to both Discretionary Support and the Discretionary Housing Payment scheme to be reversed. We believe there is a broad consensus that where the welfare mitigation schemes can be strengthened for example by increasing the crisis support available via Discretionary Support and expanding welfare mitigation to encompass the 2 child cap, then this should be considered a key priority.

Finally we are calling for recognition of and sustainable support for the independent advice network.

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<sup>1</sup> [Hargey discusses welfare mitigations with key stakeholders | Department for Communities \(communities-ni.gov.uk\)](https://www.communities-ni.gov.uk)

<sup>2</sup> [The Welfare Supplementary Payment \(Extension\) Regulations \(Northern Ireland\) 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## Benefit Cap Background

The Benefit Cap was introduced in May 2016 in Northern Ireland and the levels were originally set at £26,000 for couples and lone parents and £18,200 for single people. The levels were lowered from November 2016 to £20,000 per annum for couples and lone parents, and £13,400 per annum for single people without children. The Benefit Cap (Annual Limit) (Amendment) Regulations (Northern Ireland) 2023 (S.R. 2023 No. 42) increased these limits as of 1st April 2023. The threshold increased to £22,020 per annum and £14,753 per annum respectively.<sup>3</sup>

## Welfare Reform Mitigations Working Group (2016)

Benefit Cap mitigations via Welfare Supplementary Payments was recommended by the Welfare Reform Mitigations Working Group as set out in the 'Evason' Report (2016)<sup>4</sup>. It is worth noting Professor Evason's reflections, captured on 'View from Stormont' Episode 104<sup>5</sup> on 5<sup>th</sup> June 2019 from 33.40, on the Benefit Cap policy and the essential need for it's continuance:

*"It is very important to stress that times are tough but we're really concerned that they are going to get tougher still ... Benefit Cap is the situation where Government say to families we know you need so much to live on but we're not going to give you that. So what we have been doing is plugging the gap. Clearly if those families lose the support we have been providing, that equals hardship."*

## Mitigations on a Cliff Edge Report (2018)

Advice NI, Housing Rights and the Law Centre (NI) in 2018 launched a joint report<sup>6</sup> which highlighted the approaching 2020 'cliff edge' when funding for the mitigation package agreed as part of the Fresh Start Agreement in 2015 was due to expire. The report included an assessment of the impact if the protections were to cease.

*"The impact of discontinuing the mitigations scheme post-2020 in relation to the benefit cap will cause particular hardship for families with children."*

*"It is becoming increasingly clear that the removal of the mitigations will cause hardship and misery. We know from research conducted by the NIHE that in respect of tenants who lost their bedroom tax mitigation, average arrears per household increased from £46 to £174. We also know from statistics released by the Department that the benefit cap impacts specifically on families with children (84% lone parents & 16% couples) with an average reduction of £48 per week."*

## Commons Select Committee 'Welfare Policy in NI' Inquiry (2019)

The Northern Ireland Affairs and Work and Pensions Committees held a joint inquiry into welfare policy in Northern Ireland<sup>7</sup>. The inquiry followed the passage of the Northern Ireland Budget Act

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<sup>3</sup> [dfc-the-benefit-cap-annual-limit-amendment-2-regs-ni-2023-screening.pdf \(communities-ni.gov.uk\)](#)

<sup>4</sup> [Welfare Reform Mitigations Working Group Report | The Executive Office \(executiveoffice-ni.gov.uk\)](#)

<sup>5</sup> [View From Stormont-Episode 104 | UTV programmes \(itv.com\)](#)

<sup>6</sup> [Mitigations on a 'Cliff Edge' | Advice NI](#)

<sup>7</sup> [Welfare policy in Northern Ireland inquiry - Committees - UK Parliament](#)

which set out funding for NI departments, and the potential ending in 2020 of the social security ‘mitigation’ package put in place by the NI Executive.

In relation to the Benefit Cap, the Inquiry recorded the following:

*“Ending benefit cap mitigation*

*“Although the number of households receiving mitigation payments for the benefit cap is small, the effect of them ending could be very significant for those households currently receiving them. Kevin Higgins, Head of Policy at Advice NI, told us:*

*“They are all families with children; 85% are lone parent families [ ... ] If that mitigation falls it is not the same number of people as the bedroom tax but, in terms of impact, that is going to mean a real crisis for those people.*

*“The Cliff Edge NI Coalition added that:*

*“8% of capped households were capped by more than £100 per week. These figures make clear the detrimental impact the end of the mitigation package would have on families currently shielded from losses from the benefit cap.*

*Multiple witnesses emphasised to us that it was important for SSSC and benefit cap mitigations to remain in place. Professor Evason emphasised: “What we would be particularly concerned about is that we need to continue with supplementary payments relating to the bedroom tax, and also I think the benefit cap.”*

The Inquiry concluded and recommended as follows:

*“The ending of the mitigation payments in March 2020—in particular, the ending of Social Sector Size Criteria and benefit cap mitigations—would mean that tens of thousands of households in Northern Ireland would see their incomes suddenly fall, some by hundreds of pounds per month. The impact on households would be exacerbated by the fact that many people simply would not be expecting the payments to end. Support organisations in Northern Ireland have rightly described this prospect as a “cliff edge”. None of the special circumstances that justified the mitigation package have changed in the last four years. We recommend that the mitigation package is extended after March 2020, for a further four years. This should include the SSSC (“bedroom tax”) and benefit cap mitigations.”*

*When the Work and Pensions Committee looked into the benefit cap earlier this year, it found that the cap was “plunging families into hardship”:*

*“The Department [DWP] decides whether people are entitled to benefits, and how much it thinks they need to live on. It is therefore inevitable that the benefit cap, which takes some of that money away, leaves many families without enough money to meet even their basic needs. Parents are left making impossible choices: whether to pay their rent, feed their children or heat their homes. Many experience stress and anxiety because of mounting debt and insecurity; we even heard cases of relationships breaking down and in some cases families losing their homes. Bluntly, the Government’s policy is plunging families into hardship.”*

## **Benefit Cap Extension Regulations (2022)**

The Extension Regulations<sup>8</sup> amend existing regulations under Article 137 of the Welfare Reform (Northern Ireland) Order 2015 which provided for welfare supplementary payment to be paid to individuals where certain entitlements to social security benefits had been terminated or reduced. The original regulations provided for a welfare supplementary payment not to be payable for times after 31st March 2020. These Extension Regulations replace the 31st March 2020 cut-off date with the new end date of 31st March 2025.

## **Welfare Mitigation Review (2022)**

The Minister for Communities appointed an Independent Advisory Panel on 16 November 2021 to complete a Welfare Mitigation Review, led by Les Allamby, to complete a comprehensive review of existing welfare mitigation measures and to identify the need for a future welfare mitigation package. The Independent Advisory Panel Report<sup>9</sup> was published in October 2022. With reference to the Benefit Cap mitigation the Panel found:

*“The Executive’s first Welfare Mitigations Package, by offsetting the impact of the bedroom tax and the benefit cap, has played a vital role in alleviating those impacts [social security changes which have had a major impact on the living standards and quality of life of many of our fellow citizens].”*

*“The case remained compelling for retaining existing mitigations including not implementing the social sector size criteria/ bedroom tax and benefit cap for families.”*

*“We recommend extending the mitigation of the benefit cap for beyond the next three years.”*

*“We think it is important that individuals supported in this proposed mitigations package and through the original mitigations are fully aware that this support comes from the NI Executive and NI Assembly. One of the findings of the NI Audit Office review of welfare reform in 2019 was that few claimants were aware that the social sector size criteria/bedroom tax and benefit cap had not been implemented due to the actions of the NI Executive. We think that credit should be given, where it is due.”*

The point about lack of awareness is an important one. Few of the families with children affected by the benefit cap are aware that they are (i) affected by the Benefit Cap; and (ii) supported via mitigations payments. Given that the cap is in the main implemented via Housing Benefit, there is no doubt that in addition to financial hardship, there will be little prospect that these families will be able to put strategies in place to cope with this loss of support and therefore there will follow immediate impacts in terms of arrears, evictions and homelessness.

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<sup>8</sup> [The Welfare Supplementary Payment \(Extension\) Regulations \(Northern Ireland\) 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukui/2022/0001/2022-03-31)

<sup>9</sup> [Welfare Mitigations Review - Independent Advisory Panel Report | Department for Communities \(communities-ni.gov.uk\)](https://www.communities-ni.gov.uk/welfare-mitigations-review-independent-advisory-panel-report)

## The Benefit Cap: An unhappy anniversary (2023)

In July 2023, Child Poverty Action Group published its report ‘The Benefit Cap: An unhappy anniversary’<sup>10</sup> into the impact of the Cap in England & Wales (where Benefit Cap is not mitigated):

*“The cap serves to limit social security entitlement to some of the poorest households across the country, and pushes children and families into deep poverty.*

*“The government claims that the benefit cap is needed as a work incentive. However, the government’s own evaluation of the policy found that the vast majority of capped households do not move into work.*

*“Capped households are much more likely to be families with children, in particular larger families, and live in areas with high housing costs. Their benefit entitlement is higher than the cap because the costs associated with raising children and covering housing are high. It is illogical to acknowledge that families with higher costs in high rent areas deserve more financial support to help meet these costs, and then issue a flat rate cap limiting this entitlement.*

*“The rationale for the benefit cap is flawed. The government’s own analysis shows it does not work as a work incentive. Instead, it just takes income away from some of the poorest households across the country and drives children and families into deep poverty. It also flies in the face of a long established principle of the social security system, which is to link entitlement to need.*

## Benefit Cap statistics in Northern Ireland (2023)

In Northern Ireland at August 2023<sup>11</sup>:

- 810 households had their benefits capped, a decrease of 27.4% from 1,120 at August 2022.
- 610 households had their Universal Credit award capped, and 200 households had their Housing Benefit award capped.
- The average amount capped was £49 per week.
- Amount capped in bandings per week
  - 130 households = Up to £10
  - 120 households = £10 to £20
  - 100 households = £20 to £30
  - 120 households = £30 to £40
  - 60 households = £40 to £50
  - 50 households = £50 to £60
  - 30 households = £60 to £70
  - 40 households = £70 to £80
  - 30 households = £80 to £90
  - 20 households = £90 to £100
  - 30 households = £100 - £110
  - 30 households = £110 to £120
  - 60 households = Over £120

<sup>10</sup> [The benefit cap: an unhappy anniversary | CPAG](#)

<sup>11</sup> [Benefit Cap statistics | Department for Communities \(communities-ni.gov.uk\)](#)

- Number of children in capped households
  - 60 households = 0 – 2 children
  - 460 households = 3 children
  - 170 households = 4 children
  - 80 households = 5 children
  - 30 households = 6 children
  - ..10 households = 7 children or above
- Family Type
  - 680 households = Single with children
  - 130 households = Couple with children
  - 0 households = Single / Couple (No children)

### **Welfare Supplementary Payments Annual Report (Benefit Cap)**

The Northern Ireland Welfare Supplementary Payments Discretionary Support Standards of Advice and Assistance Sanctions Annual Report 2022 / 2023<sup>12</sup> sets out that:

*“Depending on their circumstances, people may have been eligible for more than one Welfare Supplementary Payment. People were not required to apply for Welfare Supplementary Payments, as the Department for Communities (the Department) identified all eligible people and made payments to them.”*

*“The Department was allocated a total of £4.3 million to mitigate the impact of the Benefit Cap on families in the period 2022/23.”*

Expenditure 2022/23 (Benefit Cap Scheme):

- Number of People who received a payment (Housing Benefit) = 390
- Amount Paid (Housing Benefit) = £774,580
- Number of People who received a payment (Universal Credit) = 1,770
- Amount Paid (Universal Credit) = £1,638,100
- Total Benefit Cap Expenditure (22/23) = £2,412,680

### **WSP Overpayment Recovery Process**

Advice NI is also aware of a particular issue regarding welfare mitigation overpayment recovery which is particularly unfair to claimants and which needs to be addressed.

The situation is as follows: where the WSP is paid direct to the landlord and there is an overpayment, the WSP team in DfC flag the overpayment with the housing provider, the housing provider simply transfers the overpaid amount back to DfC within one month, the rent account goes into arrears and then the provider engages with the tenant on addressing the arrears issue.

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<sup>12</sup> [dfc-annual-report-welfare-supplementary-payments-discretionary-support-standards-of-advice-assistance-and-sanctions-annual-report-2022-23.pdf](https://www.communities-ni.gov.uk/dfc-annual-report-welfare-supplementary-payments-discretionary-support-standards-of-advice-assistance-and-sanctions-annual-report-2022-23.pdf) ([communities-ni.gov.uk](https://www.communities-ni.gov.uk))

This process differs from the process where the WSP is paid direct to the claimant. In this case where an overpayment arises, the case is transferred to DfC Debt Management to pursue recovery. The claimant has the opportunity to challenge recovery depending on the circumstances of the case.

We are calling on the Minister to address this inherent unfairness in the welfare mitigation overpayment recovery process. We strongly believe that the claimant must be able to expect fairness and ‘due process’ regardless of whether mitigation payments are made direct to the landlord or direct to the claimant.

### **Cuts to Discretionary Support and the Discretionary Housing Payment scheme**

Due to an inadequate budget allocation, creating a Departmental budget shortfall of £111.2m, the Department for Communities, as part of a range of measures, scaled back funding for the Discretionary Support scheme which provides emergency grants and loans for people on a low income who are in an extreme, exceptional or crisis situation. Compared to a Discretionary Support final grant spend of £40.3m in 2022-23, the Department has allocated £20m for 2023-24, and as a result has decided to restrict grant awards to only those items deemed absolutely essential and to extend the exclusion period in which an item can be re-awarded to a period of 24 months except in the event of a disaster or a ‘setting up’ home situation.

Advice NI submitted a response to these cuts<sup>13</sup>, calling for an increased budget allocation to ensure our most vulnerable people are protected.

Due to an increase in awareness of and demand for the Discretionary Housing Payment scheme, in 2023 it was predicted that on current spend, the 2023-24 Discretionary Housing Payment scheme budget baseline of £6.49m would be depleted before the end of the 2023-24 financial year. Therefore, to protect the scheme in 2023-24, the Housing Executive deemed it necessary to apply limits to the financial assistance that was available through the scheme.

Advice NI responded to these cuts<sup>14</sup> by stating:

“It is unacceptable that the Housing Executive has found itself in the position of having to balance the books by cutting support to those vulnerable people most in need. In fact, this scheme needs to be bolstered to provide the support needed at this time, otherwise there is no doubt that there is an increased risk of arrears, evictions and homelessness.”

### **Independent Review of Discretionary Support (2022)**

The Minister for Communities appointed an independent panel chaired by Professor Grainne McKeever to complete a comprehensive review of the Discretionary Support scheme - which provides emergency financial support to people on low incomes - and to make recommendations for improvements. The report was published in March 2022<sup>15</sup>.

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<sup>13</sup> [Advice NI Consultation Response: Cuts to the Discretionary Support Scheme Draft Equality Impact Assessment | Advice NI](#)

<sup>14</sup> [Increased Demand Drives Restrictions to Cash-Limited Rent Support Fund | Advice NI](#)

<sup>15</sup> [dfc-independent-review-of-discretionary-support-22.pdf \(communities-ni.gov.uk\)](#)



Amongst the panel's recommendations was the priority of grants over loans and the adjustment of income thresholds to reflect household composition.

### **Independent Advice Services**

Latest annualised statistics for 2022/23 highlight that the independent advice network dealt with over 260,000 queries, 76% of which were social security related and within this the Top 3 queries were in relation to Universal Credit, Personal Independence Payment and Employment & Support Allowance.

Our advisers and managers tell us that they feel exhausted and burnt out, particularly on foot of exertions during the pandemic and currently dealing with clients in crisis struggling to cope with the cost of living crisis. This is on top of the ongoing 'business as usual' work of assisting clients with benefit applications and challenging decisions to appeal and beyond; debt and financial capability support and all the other advice queries presented on a daily basis. The impact of the work is truly remarkable, for example:

- 91% of debt clients had improved mental well-being once they received advice
- 97% of debt clients felt supported by the debt adviser through their debt journey
- 94% of debt clients felt that seeking advice had improved their situation

We are calling on the Minister to recognise and support the independent advice network on a long term, sustainable basis in recognition of the efforts made day-in, day-out to support the most vulnerable across our community.

### **Conclusion**

On foot of all the information, evidence and analysis contained in this Briefing Paper, we are calling on the Minister for Communities, with NI Executive colleagues, to act immediately to avert what is a looming cliffedge in terms of the welfare mitigation schemes due to end on 31<sup>st</sup> March 2025, in particular Benefit Cap mitigation. We are calling on Extension Regulations to be brought forward without delay, failure to do so will plunge families with children into destitution and despair.

We are calling on the welfare mitigation overpayment recovery process to be reviewed and legislation amended to enable fairness and 'due process' for all claimants. We are also calling on cuts to Discretionary Support and the Discretionary Housing Payment scheme to be reversed.

We believe there is a broad consensus that where the welfare mitigation schemes can be strengthened for example by increasing the crisis support available via Discretionary Support and expanding welfare mitigation to encompass the 2 child cap, then this should be considered a key priority.

Finally we are calling for recognition of and sustainable support for the independent advice network.

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