doughty street chambers

DOUGHTY STREET CHAMBERS HOUSING, SOCIAL WELFARE AND PROPERTY TEAM

Welfare Benefits: Recent judgments and their implications in practice; policy and legislative proposals or changes; and potential future challenges on behalf of claimants

Wednesday 10th May 2023

ABOUT OUR HOUSING, SOCIAL WELFARE AND PROPERTY TEAM

The Housing and Social Welfare Team offers a comprehensive service on all housing related issues including homelessness, allocations, possession actions, anti-social behaviour, disrepair, unlawful eviction and housing benefit. More widely, all members of the Team advise in the linked areas of community care, Children Act cases, eligibility, disability, discrimination and mental health. The Team is closely associated with Doughty Street's other specialist teams, notably the Immigration, Mental Health and Court of Protection teams, and the Community Care and Health Team.

The Team also covers residential property law, appearing regularly in the Leasehold Valuation Tribunal and covering a breadth of work including service charge disputes, leasehold enfranchisement, undue influence cases and TOLATA cases. The Team acts in group actions in housing, environment and planning cases, doing so on behalf of tenants and residents, including squatters and residential tenancy groups. The Team includes trained mediators and team members can assist in housing and social welfare law mediations.

Doughty Street Chambers is a leader in the human rights field and underlying all our work is a commitment to human rights, equality and diversity.

WHAT TO EXPECT FROM THE SEMINAR

The session will cover recent significant Upper Tribunal and higher court cases, on universal credit, including about waiver of overpayments, deductions, sanctions, migration of benefits, increases to the amount of UC or asylum support, bereavement support, LCW assessments, discrimination, and the application of EU Law to benefits.

Speakers

ADAM STRAW KC (Silk: 2021 Call: 2004)

Barrister, Doughty Street Chambers

Adam Straw KC has a broad public law practice, which includes immigration, welfare benefits, housing and community care. He represented the BBC journalist claimants in their successful challenge to ARAP refusals (CX1), and represents a group of Afghan migrants in a challenge to decisions to move their bridging accommodation from London to Manchester. He has successfully represented a number of other Afghan claimants in challenges to ARAP, leave, and other decisions. Other recent cases include representing Shamima Begum in her challenge to the deprivation of her citizenship, and representing the UNSRT in the Rwanda challenge. He is the author of the LAG text book *Discrimination in Public Law*.

CARLA CLARKE

Legal Director (Interim), Public Law Project

Carla currently heads up PLP's casework and research teams on a maternity cover basis (March-Oct 2023). Carla qualified as a solicitor in government, jacked it all in to live and work for several years in the rural Philippines then returned to working as a government lawyer in order to fund a part-time MA in human rights, with a particular focus on economic and social rights.

She spent several years combining government work with international human rights work at Minority Rights Group International before moving to Child Poverty Action Group to work on economic rights and non-discrimination issues domestically. She joins PLP from CPAG, via a short period at Central England Law Centre heading up their strategic social justice clinic work at Warwick University.

TOM ROYSTON (Call: 2012)

Barrister, Garden Court North Chambers

Tom Royston specialises in immigration, housing, mental capacity and social security law. He won a *Legal Aid Lawyer of the Year* award in 2017, was shortlisted as the *Legal 500* Regional Junior of the Year in 2019, was a *Times* Lawyer of the Week in 2020, and has been listed for some years in both *Chambers and Partners* and the *Legal 500*.

He has appeared seven times in the UK Supreme Court, and has experience of international litigation in the CJEU and ECSR. Most of his work is in tribunals, the county court and the Administrative Court. Tom is often instructed in test cases about systemic problems with how the state treats individuals.

Notes

UPDATE ON WELFARE BENEFITS LAW AND POLICY

Adam Straw KC

1. These are notes for an update on welfare benefits law and policy, on 10 May 2023, which I am co-presenting with Tom Royston, and which is chaired by Carla Clarke. My talk covers a relatively random selection of recent developments involving welfare benefits and asylum support.

Overpayments and waiver

2. *R (K) v Secretary of State for Work and Pensions* [2023] EWHC 233 (Admin) was a challenge to a refusal by the Defendant to waive an overpayment of UC that was caused by DWP error, and also to the Defendant's policy about waiver. That policy is partly contained in the Benefit Overpayment Recovery Guide (BORG).

3. 'K' is a single mother with two disabled sons. She received an overpayment of the 'child and disabled child' element of UC in respect of one of her sons, after he began an apprenticeship. K disclosed her son's circumstances to the DWP, but was repeatedly told she was entitled to continue to claim UC for him. This turned out to be an error by the DWP. 'K' sought a waiver of the overpayment, but it was refused by the DWP. She brought this claim to challenge that refusal.

4. The High Court allowed the claim, holding:
    a. The DWP unlawfully failed to publish the Decision Maker's Guide to Waiver ('DMGW'), an important policy on waiver of overpayments.

    b. The refusal to waive was unlawful for two reasons. First, the refusal breached K's legitimate expectation that she was entitled to the child and disabled child element that she had been overpaid. The DWP made a clear and unambiguous representation that she was entitled to it, after K had repeatedly asked the DWP whether she was entitled to it. It was not fair to breach that expectation, by requiring the claimant to pay

the money back, primarily because she relied on the representation to her detriment. She did so both by spending the money on the understanding she was entitled to it (giving rise to the common law defence of change of position[1]); and also by foregoing the opportunity to organise her affairs differently (such as by finding an alternative course for her son which did not remove her entitlement to the CDC element).

c. Secondly, the DWP failed to have regard to relevant considerations. In accordance with the court's interpretation of the DWP's policy, it should have taken into account (i) the DWP repeatedly miscalculated K's entitlement over a long period, (ii) K acted in good faith; (iii) she timeously provided all the information required to the defendant; and (iv) she took all reasonable steps both to clarify her entitlement and to prevent any overpayment by actively querying her entitlement. The DWP addressed these factors only to a very limited extent in her final decision. Had the relevant factors been taken into account, it is impossible to see how K's case could have been distinguished from one of the case studies in the DMGW (in which waiver was granted). In addition, the DWP failed to have regard to the fact that the claimant relied on the overpayment to her detriment.

d. The Court's interpretation of the DWP's policy is helpful, for example at §111 and 133-134. The Court clarified that 'public interest' is a discrete ground for waiver, which may justify waiver even if waiver is not merited on grounds on financial hardship or impact on health or welfare. For example, the combination of the cause of the overpayment, and claimant good faith, may be sufficient to merit waiver; as may the fact that the claimant relied on the overpayment to her detriment.

5. In reformulating her policy in the Benefits Overpayment Recovery Guide ('BORG'), the defendant breached the public sector equality duty in s.149 Equality Act 2010. The defendant had a duty to make reasonable enquiries into the impact of a proposed policy, because there

[1] This originated as a defence to an unjust enrichment claim. If the defendant, in good faith, spent the money they received, then there is a defence if it is "inequitable" to require them to repay it: *Lipkin Gorman v Karpnale Ltd* [1991] 2 AC 548.

were grounds to suspect that the waiver policy might have an adverse effect on disabled people. There was some evidence that the proportion of UC claimants having recoverable overpayments deducted who are disabled claimants is higher than those who are not disabled, and that the policy may have a more severe impact on those with disabilities. The defendant failed to meet the duty, in amending the waiver policy, as she failed to assess the risk and extent of any adverse impact and the ways in which such risk might be eliminated. A general equality analysis that the defendant had carried out about her deduction of overpayments policy was insufficient.

6. As a result of the claim, the DWP amended the BORG on several occasions. The current version is here[2].

7. The BORG remains problematic in some respects. For example, there is no evidence that the breach of the PSED has yet been remedied. More specifically, §8.22-8.24 indicate that the debtor is responsible for providing all of the necessary information and evidence, and if that is not provided by the debtor then the DWP will make the waiver decision based on the available evidence. Placing the burden on the claimant in this way is likely to put a considerable number of claimants at a substantial disadvantage who, due to a disability, are unable to produce that information or evidence. It is arguable that reasonable adjustments should be made. For example, where the DWP records indicate the claimant falls into that category, it will take reasonable steps to obtain information or evidence relevant to waiver.

8. (An equivalent point can be made about a number of other aspects of the benefits system, which place the burden on the claimant to produce any relevant information).

9. *K* may be contrasted to *MW v Secretary of State for Work and Pensions* [2023] UKUT 50 (AAC). The claimant's adult daughter moved in with him. The daughter's change of address was notified to the local authority and DWP for the purpose of her benefits claims; but the claimant

[2] www.gov.uk/government/publications/benefit-overpayment-recovery-staff-guide/benefit-overpayment-recovery-guide

did not directly notify the DWP about this for the purpose of his ESA claim. The UT held he should have done so (following *Hinchy v SSWP* [2005] UKHL 16), so it rejected his appeal against the decision that he had received an overpayment. (The UT upheld an appeal against a civil penalty: the evidence did not demonstrate that the claimant had no reasonable excuse).

10. Interestingly, the UT said:

> "37. It is plainly time that the factual circumstances underpinning the decision in *Hinchy* are considered afresh in order to reflect the reasonably expected standards of 21st century benefits administration. In that context in the appropriate case it will have to be determined, on the appropriate facts, whether and to what extent a social entitlement claimant in 2023 is, or is not, entitled to make any assumptions about the internal administrative arrangements of the Department and in particular whether (a) a claimant is, or is not, entitled to assume the existence of efficacious (if not infallible) channels of communication between one office and another and (b) a claimant is, or is not, entitled to assume that when a decision is received in relation to one benefit, the Department's modern computerised systems will not just have communicated that decision to the individual claimant, but also to any other branches of the departmental administration where that decision has an impact."

11. It considered that was not the appropriate case to do so, and that may have been due to lack of evidence about the extent to which DWP computer systems are interconnected, and therefore whether data sharing means notification to one body administering benefits should amount to notification to other parts of the DWP. If you are facing this situation in future, it would be worth exploring whether you can obtain evidence to that effect.

Delay in UC for someone granted leave under DV Concession

12. In *R (BK) v Secretary of State for Work and Pensions* [2023] EWHC 378 (KB) the Claimant was granted leave to remain under the Destitute Domestic Violence Concession. She was not granted a National Insurance Number until some time after the grant of leave, at which point she began receiving UC. She claimed she was discriminated against as compared to two other groups: skilled workers and refugees, both of whom received their NIN at the same time as

being granted leave, which meant they could claim UC immediately. The court decided this was compatible with article 14 ECHR. The main reasons were:

a. The process for the allocation of NINs did not fall within the ambit of Article 1 Protocol 1, or Article 8.
b. The Claimant was not in an analogous position either to skilled workers or refugees.
c. The difference in treatment was limited, and was justified.

Asylum seekers

13. *R (DK) v Commissioners for HMRC* [2022] 4 WLR 23 (CA) held that person who had been granted asylum, who was in a full service universal credit area, could back-claim child tax credit from the date they made their asylum claim.

14. In *Secretary of State for the Home Department v JB (Ghana)* [2022] EWCA Civ 1392 a person who was an asylum seeker and a potential victim of modern slavery was given temporary accommodation at a hotel on a full board basis. The Modern Slavery Act 2015: Statutory Guidance provided that a potential victim who was also an asylum seeker would be paid £35 on top of asylum support under s.95 of the Immigration and Asylum Act 1999, making a total of £65 per week. This was anomalous, as a potential victim who was not an asylum seeker, who was in full board accommodation, would receive £35 per week. However, the Court of Appeal decided that the guidance was in clear terms, there was no obvious drafting error, so those terms should be followed.

15. In *R (MD) v Secretary of State for the Home Department* [2022] PTSR 1182 "dependant child trafficking support" was available in respect of the child of a victim of trafficking who was not receiving asylum support, but was not available if the victim was receiving asylum support. However, in the latter category, an equivalent payment was made ("asylum-seeker dependent child support"). The Secretary of State admitted this was a difference in treatment, and was discriminatory contrary to article 14 ECHR. The Court of Appeal would not necessarily have come to that conclusion itself. It said the fact that an equivalent payment was made: "might be thought to mean that the claimants' claim should have failed on liability: discrimination

requires a difference in treatment which is real rather than purely nominal". The Court of Appeal held that there was no financial loss, so no damages were necessary.

16. *R (CB) v Secretary of State for the Home Department* [2023] 26 CCL Rep 43. The Secretary of State acted unlawfully in setting the level of asylum support. Section 95 of the Immigration and Asylum Act 1999 was interpreted to impose a duty on the Secretary of State to pay benefit at a level which would cover the essential living needs of asylum seekers about to become destitute. There are a number of categories of essential living needs that must be provided for. The Secretary of State was under an ongoing duty to take carefully investigate what amount of money is necessary to meet those various categories of essential living needs, and to make an informed decision on that basis. The Secretary of State failed to make any decision in 2022, despite there being evidence of changes which should have prompted an increase (such as inflation at 10.1%). This was unlawful as being an abdication of function and a failure to take into account relevant matters.

17. *R (BCD) v Birmingham Children's Trust* [2023] EWHC 137 (Admin) held that paying a person who is on a visitor visa with a NRPF condition, and who is the carer of a British child, the same amount of support under s.17 of the Children Act 1989, as would be paid to an equivalently-composed asylum seeking family, was unlawful discrimination contrary to article 14 ECHR.

18. For a period during the covid pandemic, universal credit was increased by £20 per week. The Secretary of State decided not to make a corresponding increase to the personal allowance element of legacy benefits. *R (T) v Secretary of State for Work and Pensions* [2023] EWCA Civ 24 held that this was indirect discrimination against disabled people, engaging article 14 ECHR, but was justified and proportionate. That was primarily because the purpose of the £20 increase was to protect those who had lost employment as a result of the pandemic, whereas those in the claimant's contingent were disabled people who had not recently lost employment.

Inflation

19. UC and a number of other benefits were increased in line with inflation by 10.1% from 10 April 2023[3]. However, there are some anomalies, where certain benefits are excluded, arguably without proper justification. For example, it appears that the severe disability premium transitional element will only be uprated for new claims (see Spring Budget 2023).

'Cost of living' payments

20. The Social Security (Additional Payments) Act 2023 requires £900 to be paid to those who in a qualifying month received at least £0.01 of a benefit specified in s.1(2 and 3), which include UC, JSA, ESA, and child tax credit. It also requires a payment of £150 to be paid to the disability benefits specified in s.5(2), which include DLA and PIPs.

21. The fact that the benefit is limited to those who actually received some benefit in the qualifying month, may be unfair, for example if:
    a. There is a good reason why they have not been paid the benefit in the qualifying month, such as fluctuating income, or their first payment of the benefit is delayed.
    b. They receive no UC in the qualifying month due to a sanction. If so, denial of the additional payments under the 2023 Act would punish the individual twice.
    c. There is a good reason why they have not claimed the relevant benefit.

22. These disadvantages may be unlawful. For example, at least the first category may be incompatible with article 14 ECHR. The Work and Pensions Committee is undertaking an inquiry into cost of living support payments[4], and PLP (among others) is preparing evidence for it.

[3] https://www.gov.uk/government/publications/benefit-and-pension-rates-2023-to-2024/benefit-and-pension-rates-2023-to-2024
[4] https://committees.parliament.uk/committee/164/work-and-pensions-committee/news/194615/new-inquiry-are-cost-of-living-support-payments-reaching-everyone-in-need-of-help/

Migration to UC

23. *R (TP) v Secretary of State for Work and Pensions* [2022] PTSR 1092 is the latest case finding the provisions governing migration to UC were unlawful. It decided that the Transitional Regulations[5] unlawfully discriminated against certain severely disabled claimants and breached article 14 ECHR. This was because severely disabled claimants who naturally migrated did not receive any transitional payment to compensate for the loss of the enhanced disability premium, whereas those whose migration was managed did. Like the other cases in this series, it is an interesting example of how article 14 operates. For example, the court held:

    a. A severely disabled person who naturally migrates to UC is a protected status for the purpose of article 14.

    b. While a low intensity of review was appropriate in this context, the Secretary of State had failed to demonstrate that the measure was justified. The court dismissed a number of justifications relied on by the Defendant. It held some of them were incorrect and others irrelevant.

    c. The Secretary of State had not shown that transitional payments would be administratively unfeasible. That was partly due to submissions by the claimant and partly due to paucity of evidence supplied by the Secretary of State to prove that it would be administratively unfeasible.

    d. The risk that other claimants not within this protected group would use the judgment to argue they should receive an uplift (the floodgates argument) was not a proper justification. The cost of the additional payments (said to be £150million) was also not a sufficiently justification, when the Secretary of State had not provided sufficient evidence to show what other expenditure would be at risk, and why it should be prioritised.

[5] Universal Credit (Transitional Provisions) Regulations 2014 Sch.2 (as preserved by the Universal Credit (Transitional Provisions) (Claimants previously entitled to a severe disability premium) Amendment Regulations 2021 reg.3

24. To recap, the courts have found the following to be unlawful discrimination, in this context:

    a. A severely disabled legacy claimant who moved across a local authority boundary (and therefore had to migrate to UC), was discriminated against as compared to an equivalent claimant who did not move across a boundary: *R (TP) v SSWP* [2020] PTSR 1785.

    b. A disabled claimant who migrated to UC from legacy benefits, due to a mistake, was discriminated against as compared to an equivalent claimant for whom no such mistake was made (who therefore continued to claim legacy benefits): *R (TD) v SSWP* [2020] EWCA Civ 618.

25. The DWP aims to migrate most legacy claimants to UC over the next few years. There remain some inequities in the system.

Place of residence

26. In *Harrington v SSWP* [2023] EWCA Civ 433 the Court of Appeal held that a child who was resident in the UK was entitled in her own right to receive the care component of DLA, even though her father was resident in Belgium. The court rejected the Secretary of State's argument that the child was entitled only to benefits under the Belgian scheme. The decision largely turned on the interpretation of Regulation (EC) No 883/2004 on the coordination of social security systems, and is a useful authority in any dispute over whether a person can claim benefits in the UK when they have a relevant family member who lives in another EU member state.

The application of article 2 or article 3 ECHR

27. *Dove v HM Assistant Coroner for Teeside and Hartlepool* [2023] EWCA Civ 289 was an application for a fresh inquest under coroners Act 1988 s13. It concerned the death of Jodey Whiting, who died from an overdose, and it was alleged that the decision of the Department for

Work and Pensions (DWP) to stop paying employment and support allowance (ESA) contributed to her distress and death.

28. The application was granted, but the part of the judgment I would like to look at here is the part of the claim which was unsuccessful. The claimant argued that the procedural duty in article 2 ECHR to bring about an effective investigation was triggered in this case. The court rejected that argument, on the ground that no article 2 operational duty arose in this context. The Court of Appeal came to this conclusion by applying the *Rabone* criteria (see *Rabone v Pennine Care NHS Trust* [2012] 2 AC 72, §21-24). This was because (i) at the material time, the DWP neither knew nor ought to have known that the deceased was at real and immediate risk of death; and (ii) the DWP did not assume responsibility for the deceased, or indeed for any vulnerable person who is in receipt of benefits.

29. This conclusion is arguably at odds with the law regarding article 3 ECHR. The state is under a substantive duty, in article 3, to provide certain support where there is an imminent risk that the claimant will become destitute and thereby suffer inhuman and degrading treatment (see *R (W) v Secretary of State for the Home Department* [2020] EWHC 1299 (Admin); [2020] 1 WLR 4420; and *R (Limbuela) v Secretary of State for the Home Department and other appeals* [2005] UKHL 66; [2006] 1 AC 396). It is difficult to see why a failure to provide support breaches the ECHR if it leads to destitution, but does not if it leads to death. The Court of Appeal did not address this issue. A credible allegation of a breach of that *Limbuela* duty would arguably trigger the article 3 investigative duty, although the scope of that duty may be limited.

30. One reason why this may be of interest, is that the investigations into serious incidents (such as suicide attempts) as a result of DWP failures, are very poor. The DWP has recently agreed (after much delay) to publish some of the recommendations for its internal process reviews[6]. They suggest repeated and systemic failures are leading to serious incidents. Ordinarily, in this type of case, nothing else is published, and the victim or their family have no opportunity to

6 www.whatdotheyknow.com/request/965160/response/2299314/attach/html/3/2023%2024124%20Annex%20A%20redacted.pdf.html

participate in the process. The adequacy of the investigation is unclear due to the failure to publish the reports. It is arguable that this, in some cases, breaches the article 3 procedural obligation.

Adam Straw KC

Doughty Street Chambers

3 May 2023

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HUMAN-SIZED DECISION MAKING AND SOCIAL WELFARE LAW LITIGATION

Tom Royston
10 May 2023

Introduction

Albert Einstein: 'Make everything as simple as possible – but not simpler'[1]

1. Simplification of social security legislation and adjudication is in general a good thing, and governments always promise they are doing it. But a desire for bureaucratic simplicity can ride roughshod over the individual variety of human lives.

2. This talk is about public law challenges where a claimant complains that an aspect of the social security system is unlawfully simplistic.

3. I will discuss:

    a. challenges to legislation, using the example of *Secretary of State for Work and Pensions v AT* [2022] UKUT 330 (AAC) (12 December 2022);[2]

    b. challenges to policy, using the example of *R (Timson) v Secretary of State for Work and Pensions* [2022] EWHC 2392 (Admin), [2023] PTSR 85;[3]

    c. challenges to future proposals, using the example of recent public announcements about the increased use of discretionary conditionality.

[1] This attributed quotation is an oversimplification. He actually said 'It can scarcely be denied that the supreme goal of all theory is to make the irreducible basic elements as simple and as few as possible without having to surrender the adequate representation of a single datum of experience': *On the Method of Theoretical Physics*, lecture at Oxford, 10 June 1933.

[2] I will also mention *Secretary of State for Work and Pensions v Johnson* [2020] EWCA Civ 778, [2020] PTSR 1872 and *Secretary of State for Work and Pensions v Pantellerisco* [2021] EWCA Civ 1454, [2021] PTSR 1922, cases about how earned income is calculated for various purposes within the Universal Credit Regulations 2013.

[3] I will also mention *R (Blundell) v Secretary of State for Work and Pensions* [2021] EWHC 608 (Admin), [2021] PTSR 1342, about deductions from benefit for court fines.

(a) *AT* – a challenge to simplistic legislation

4. *AT* is about the treatment by the benefits system of people with pre-settled status ('PSS'), the post-Brexit status given to EU nationals who have been in the UK for less than 5 years.

5. When PSS was introduced, it conferred full access to the benefits system, but after a short time, regulations were hurriedly made preventing PSS from counting as one of the 'rights of residence' necessary to obtain most means tested benefit in the UK: the Social Security (Income-Related Benefits) (Updating and Amendment) (EU Exit) Regulations 2019 ('the 2019 Regulations').

6. People escaping domestic violence, especially if they are caring for children, are particularly likely to lack an alternative right of residence, and also particularly likely to need to make urgent use of social security.

7. Non-EU nationals whose immigration status excludes recourse to public funds can apply to have that exclusion lifted to get access to benefit in cases of exceptional need. But there is no correlate process for EU nationals with PSS, so they are stuck.

8. A three-judge panel of the Upper Tribunal decided that people with PSS have a right under the Charter of Fundamental Rights to be treated with dignity; that this dignity right was infringed by AT's inability to access universal credit ('UC'); and that the 2019 Regulations must therefore be disapplied, so as to entitle her to benefit. Other people in the same position as AT will be able to make the same argument.

9. SSWP's appeal was heard by the Court of Appeal in March 2023 and judgment is awaited.

10. Points to discuss:

    a. how far can central government assert that fundamental rights are protected in the social security system by reference to theoretical alternative sources of support such as social services?

b. how difficult do a person's living conditions have to be before their fundamental rights are breached?

(b) *Timson* – a challenge to simplistic policy

11. *Timson* is a challenge to the way decisions are made about whether to deduct money from claimants' benefit to pay their utility bills, using powers under the Social Security Claims and Payments Regulations 1987 ('the 1987 Regulations'). The law requires that deductions be in a claimant's 'interests'. However, the way in which SSWP makes decisions seems to involve not much more than rubber-stamping a utility company's request; the claimant is very unlikely to have the opportunity even to make representations about it to SSWP. The High Court found SSWP's policy procedurally unfair, and also *Tameside* unlawful, and declared that SSWP needed to give claimants an opportunity to make representations before making deductions for utility bills under the 1987 Regulations.

12. SSWP's appeal was heard by the Court of Appeal in April 2023 and judgment is awaited.

13. Points to discuss:

    a. to what extent does a discretion have to be exercised on an individual basis in a large bureaucracy such as DWP?

    b. when is it in a claimant's interests to pay non-priority debts directly from benefit income?

(c) *Increased conditionality* – a complex idea, likely to receive simplistic implementation

14. The Spring 2023 Budget Statement trailed an increased use of conditionality in means tested benefit, principally by extending the numbers of working UC claimants who would be required to look for additional or higher paid work on pain of losing benefit.

15. It also publicised an intention to 'remove' the work capability assessment ('WCA'). Note that 'removal' is a very misleading term. The WCA is how the

government currently decides who is ill or disabled enough to be eligible for means tested benefit without needing to look for work. There is no plan to introduce a universal basic income, or anything like it, so there will continue to be limits on the eligibility for means tested benefit of people who are not looking for work. What seems to be envisaged is that in future eligibility will be assessed in a much more informal manner.

16. Points to discuss:

    a. will the equality impact of those proposals (perhaps in particular on women and disabled people) be properly assessed?

    b. will policy documents intended to give effect to those proposals comply with obligations under the Equality Act 2010?

    c. will individuals will be able to make private law discrimination claims where their individual needs are not met?

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10 May 2023

WELFARE BENEFITS AND TAX CREDITS HANDBOOK

Written by our team of over 20 experts, CPAG's Welfare Benefits and Tax Credits Handbook is the must-have guide to the social security system. It is essential for welfare rights advisers, lawyers, local authority and housing association staff, social workers, union officials and benefit claimants.

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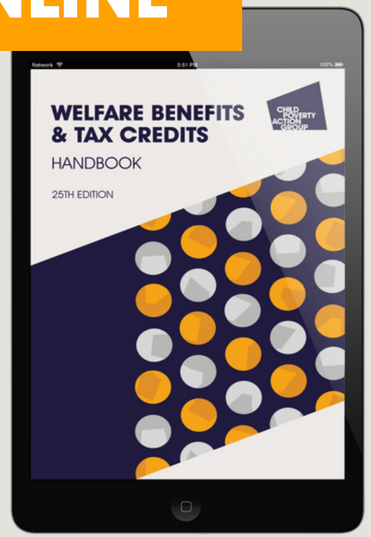

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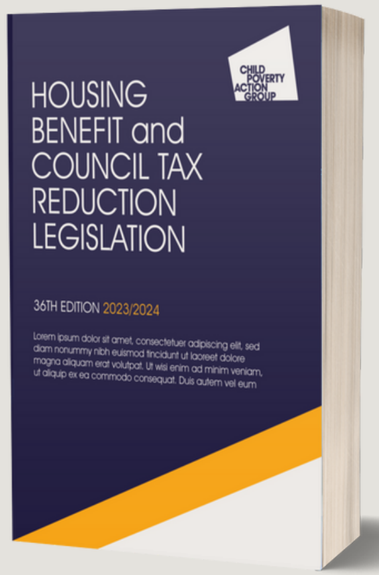

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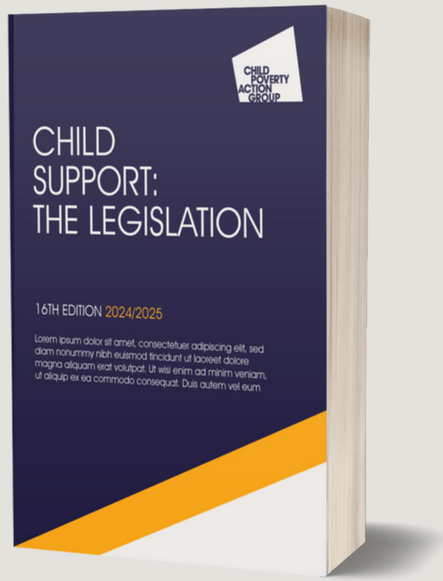

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