

Written evidence submitted by Just Fair

Our Submission

1. Just Fair is a UK charity that is working to realise a fairer and more just society by monitoring and advocating for economic and social rights in the UK. We ensure that law, policy, and practice comply with the UK's international human rights obligations. We are committed to increasing public awareness of international human rights law and the capability to use it.
2. This submission is written by Just Fair and is a response to the UK Parliament House of Commons Treasury Committee call for evidence in its Tax after Coronavirus Inquiry on the areas of the tax system most in need of reform.
3. This submission looks at the economic and social rights implications of tax reform in response to the COVID-19 pandemic and in particular the relationship between taxation and the social security system. We make recommendations based on human rights for measures we think should be taken by the UK Government going forward to ensure our tax system works for all of us.

Executive Summary

4. Reductions in social security budgets over the last decade are causing widespread poverty and hardship across the UK. The UK Government's tax system, and previous reforms to the same, does not fully taken into account the human rights of all of the population, and particularly the rights of those who are the most disadvantaged and/or marginalised.
5. People across the UK have been experiencing a number of violations of their socio-economic rights including their rights to food, housing, education, work, and social security, which pre-date the COVID-19 pandemic.¹ These existing socio-economic inequalities are being exacerbated by the COVID-19 pandemic.
6. Inequalities and discrimination based on gender, race, disability, age (and other protected characteristics) and/or socio-economic status are leading to people being disproportionately impacted by COVID-19. Reduced income and/or the resulting economic downturn is affecting people already on low incomes or with less accumulated wealth.²
7. Human rights are an essential part of the COVID-19 recovery, and upholding and enforcement of the same should extend to future tax reform.³ Socio-economic rights are afforded to all without discrimination and are included in a number of international human rights standards that successive UK Governments voluntarily ratified and with which the UK Government is obliged to comply. In particular, the UK has ratified seven legally binding international human rights treaties which relate to economic and social rights, and protect all people.

¹ Just Fair, 'Visit by the UN Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, to the UK from 5 to 16 November 2018 Written submission' (2018) http://justfair.org.uk/wp-content/uploads/2018/09/Just_Fair_15_Alston_Submission-FINAL.pdf.

² Office for National Statistics, 'Deaths involving COVID-19 by local area and socioeconomic deprivation: deaths occurring between 1 March and 17 April 2020' (1 May 2020) <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsinvolvingcovid19bylocalareasanddeprivation/deathsoccurringbetween1marchand17april>

³ World Health Organization, 'Addressing Human Rights as Key to the COVID-19 Response' (2020) <https://www.who.int/publications-detail/addressing-human-rights-as-key-to-the-covid-19-response>

8. Reform to the tax system needs to have human rights at its core in order to adequately respond to the needs of the population and ensure that all people including those with protected characteristics are not discriminated against.
9. Measures taken in response to the COVID-19 pandemic must however not be used to undermine anyone's dignity, freedom, or human rights.
10. Given the limited scope of this submission, six areas of social protection in the social security system are identified as those in need of reform. Human rights obligations of the UK Government inform the recommendations in this submission.

Social Security System and Poverty

11. Significant changes to the UK's social security system were introduced through the Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016. The changes included the introduction of Universal Credit (UC), replacing the Disability Living Allowance (DLA) with Personal Independence Payments (PIP), a benefit cap, benefit sanctions in case of breach of the claimant conditionality, a freeze on benefits, and the limitation of the Child Tax Credit (CTC) and UC awards to households with two children.
12. Our research has found that tax reforms and restrictions to social security undertaken over the past decade have had a regressive effect on social protection especially for those who are the most marginalised.⁴
13. Poverty is a particular concern for many groups with protected characteristics. According to the following statistical evidence, those most affected by poverty are people who are disabled, Black Asian and Minority Ethnic (BAME), female, and/or on the lowest incomes.⁵
14. According to Joseph Rowntree Foundation's recent research, four million disabled people in the UK are living in poverty – nearly half of everyone in poverty – and seven million people in poverty are either a disabled person or live with a disabled person.⁶ Around 4.4 million disabled people lived in families receiving income-related benefits in 2017/18; over half the population living in poverty. Research shows that of the people who are not in employment due to disability, or are retired: over twice as many BAME women and men reported that they had recently lost support from the UK Government (42.5% and 48.3%) than white women and men (12.7% and 20.6%).⁷ Office for National

⁴ Just Fair, 'Welfare Safety Net Inquiry Written submission to the HC Work and Pensions Committee' (2018) <http://justfair.org.uk/wp-content/uploads/2019/01/JFothers-submission-WPC-Dec2018-FINAL.pdf>

⁵ Institute for Fiscal Studies, 'Sector Shutdowns During Coronavirus Crisis: Which Workers are most exposed' (IFS Briefing Note BN278, 2020) <https://www.ifs.org.uk/uploads/BN278-Sector-shutdowns-during-the-coronavirus-crisis.pdf>

⁶ Joseph Rowntree Foundation, 'UK Poverty 2019/20' (2020) <https://www.jrf.org.uk/report/uk-poverty-2019-20>

⁷ Womens' Budget Group, Fawcett Society, London School of Economics, Queen Mary University London, 'BAME women and Covid-19' (8 June 2020) <https://wbg.org.uk/analysis/bame-women-and-covid-19/>

Statistics (ONS) data shows that disabled people made up two-thirds of COVID-19 deaths between 2 March to 15 May.⁸ Statistical evidence shows that working-age disabled women are 11 times more likely to die from coronavirus than their peers, and for disabled men, the death rate was 6.5 times higher than non-disabled men.⁹ The high levels of disabled people living in poverty are due to a combination of factors, including inadequate welfare support.

15. The ONS found that women were more likely to struggle financially as well as to earn less,¹⁰ and women are the majority of those living in poverty in the UK.¹¹ It is well documented that austerity has disproportionately affected women, and in particular BAME women. Recent research shows that around a quarter of BAME mothers report that they are struggling to feed their children (23.7%), and 42.9% BAME women say they believe they will be in more debt, compared to 37.1% of white women, and 34.2% of white men.¹² 42.9% of BAME women, said they would struggle to make ends meet over the next three months.¹³
16. The Runnymede Trust and ICM produced the following evidence showing that Black and Minority Ethnic (BME) people are disproportionately affected by COVID-19:¹⁴

⁸ Disability News Service, 'Coronavirus: Call for inquiry and urgent action after 'shocking' disability death stats' (25 June 2020) <https://www.disabilitynewsservice.com/coronavirus-call-for-inquiry-and-urgent-action-after-shocking-disability-death-stats/>

⁹ ONS, 'Coronavirus (COVID-19) related mortality by religion, ethnicity and disability: England and Wales, 2 March 2020 to 15 May 2020' (2020) <https://www.ons.gov.uk/releases/coronaviruscovid19relatedmortalitybyreligionethnicityanddisabilityenglandandwales2march2020to15may2020>

¹⁰ ONS, 'Early indicator estimates from the Wealth and Assets Survey: April 2018 to September 2019' (2020) <https://www.ons.gov.uk/releases/earlyindicatorestimatesfromthewealthandassetsurveyapril2018tomarch2019>

¹¹ Women's Budget Group, 'Women, employment and earnings' (2020) <https://wbg.org.uk/wpcontent/uploads/2020/02/final-employment-2020.pdf>

¹² Womens' Budget Group, Fawcett Society, London School of Economics, Queen Mary University London, 'BAME women and Covid-19' (8 June 2020) <https://wbg.org.uk/analysis/bame-women-and-covid-19/>

¹³ Womens' Budget Group, Fawcett Society, London School of Economics, Queen Mary University London, 'BAME women and Covid-19' (8 June 2020) <https://wbg.org.uk/analysis/bame-women-and-covid-19/>

¹⁴ Runnymede Trust and ICM, 'Under-Protected The Devastating Impact of COVID-19 on Black and Minority Ethnic Communities in Great Britain' (2020) <https://www.runnymedetrust.org/uploads/Runnymede%20Covid19%20Survey%20report%20v2.pdf>

17. “BME people are “more likely than white people to have had to start using savings for day-to-day spending (14% BME vs 8% white British); to have found it harder than usual to pay for essentials and meet basic needs (12% BME vs 8% white groups); to have found it harder than usual to pay bills or rent (15% BME vs 8% white groups); to have had to start borrowing money from friends and family (6% BME vs 3% white); and to have had to start skipping meals, or doing so more often than usual, due to financial difficulties (7% BME groups vs 2% white British group).”
18. “Fewer than half of BME people were aware of the measure to allow those out of work due to the crisis to claim Universal Credit (44%, vs 62% of white people). Only around a third of BME people had heard of the measure making Statutory Sick Pay (SSP) available from the first day of self-isolating (34%, vs 52% of white people).”

Human Rights Framework

19. The UK Government's human rights obligations should inform its response to tax reform after COVID-19. Under international human rights law,¹⁵ the UK Government is under a legally binding duty to respect, protect, and fulfil the enjoyment of economic and social rights.¹⁶
20. Non-discrimination:
21. The UK Government is obliged to respect, protect, and fulfil social and economic rights without discrimination.¹⁷
22. The Equality Act 2010 ('the Equality Act') protects people from discrimination on the basis of nine protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). The UK Government's tax reform will be more effective and sustainable if it considers how to mitigate the disproportionate impact of COVID-19 on groups who share different protected characteristics.
23. The grounds of discrimination prohibited under international human rights law are broader than under the Equality Act, for example socio-economic status¹⁸ and nationality are included.¹⁹ Furthermore, the UK Government must take specific, positive

¹⁵ International Convention on the Elimination of All Forms of Racial Discrimination (CERD), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD)

¹⁶ ICESCR

¹⁷ The UK has voluntarily agreed to the legal obligation to prohibit or condemn direct and indirect forms of discrimination. These obligations are in the following international human rights agreements: the Convention on the Elimination of All Forms of Discrimination against Women (Article 1), the International Covenant on Economic, Social and Cultural Rights (Article 2(2)), the Convention on the Rights of Persons with Disabilities (Article 2) and the International Covenant on Civil and Political Rights (Article 4(1)). The principle of non-discrimination is also in regional human rights law such as the European Convention on Human Rights (Article 14), and domestic human rights law such as the Equality Act 2010.

¹⁸ Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination, 2 July 2009; Human Rights Committee, General Comment No. 36: Right to Life, 3 September 2019

¹⁹ Nationality encompasses migrants, refugees, asylum-seekers, stateless persons: see Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination, 2 July 2009

measures to ensure the protection and equal enjoyment of rights for groups particularly affected by the current crisis,²⁰ such as disabled people.²¹

24. The Equality Act also contains the Public Sector Equality Duty (PSED), which requires all public authorities carrying out public functions to take active steps to consider equality when exercising their functions.²²
25. Section 1 of the Equality Act is a useful tool for public authorities to have due regard to the desirability of reducing the inequalities of outcome resulting from socio-economic disadvantage when taking strategic decisions on exercising their functions ('the socio-economic duty').
26. Non-retrogression:
27. The UK Government cannot take unlawful regressive measures that prevent or reduce the enjoyment of economic and social rights, for example rights to education, health, work, social security, and an adequate standard of living.²³
28. Domestic and international human rights law recognises that certain rights may be restricted for public health reasons, only where such restrictions are lawful.²⁴ Tax reform as a response to COVID-19 should not be to the detriment of human rights. In the context of economic crises, regressive measures that restrict rights must be lawful, necessary, temporary, proportionate, non-discriminatory, and meet a core minimum level of protection of the right(s) in question.²⁵
29. Human rights are interdependent and have equal status.²⁶ This means that the UK Government must take a holistic view of all rights when responding to COVID-19. Unless tax reform is fully informed by equality considerations, inequalities will worsen in the long-term.

²⁰ Human Rights Committee, General Comment No. 18: Non-discrimination

²¹ Article 11 CRPD

²² Section 149 of the Equality Act 2010

²³ Committee on Economic, Social and Cultural Rights, General comment No. 3: The nature of States parties' obligations, 1990

²⁴ Human Rights Committee, General Comment No. 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004; and Human Rights Committee, General Comment No. 27: Article 12 (Freedom of Movement), 2 November 1999

²⁵ Pillay, A. (Chairperson, Committee on Economic, Social and Cultural Rights), Personal communication by letter 16 May 2012

²⁶ Universal Declaration of Human Rights, 1948

Human Rights and Reform of Social Security

30. Given the limited scope of this submission, six areas of social security issues have been identified as those that require urgent reform in order for the UK Government to meet its human rights obligations.
31. **Universal Credit (UC)** ²⁷
32. Between 16 March 2020, when the UK's COVID-19 lockdown came into effect, and 16 June 2020, the DWP received 3.2 million new applications for UC.²⁸ There were 4.2 million households on UC in May 2020, an increase of 1.7 million since February 2020.²⁹ Given the increase in UC applicants and claimants, it is even more urgent that the UK Government resolves the following economic and social rights issues resulting from UC.
33. 5 week waiting period: The UK Parliament House of Lords Economic Affairs Committee findings show that the five-week waiting period for the first payment, a consequence of the monthly assessment period, is the main cause of pushing people into "rent arrears, reliance on foodbanks and debt".³⁰ The monthly assessment period, together with the variability and uncertainty of the means-tested single award, makes it difficult for people to budget.³¹
34. Inadequacy of payment levels: Social security payment levels do not provide adequate security to people; basic living costs are not covered, especially for those who had

²⁷ Universal Credit replaces the following benefits: Child Tax Credit, Housing Benefit, Income Support, income-based Jobseeker's Allowance (JSA), income-related Employment and Support Allowance (ESA), Working Tax Credit

²⁸ DWP, 'Universal Credit Statistics: 29 April 2013 to 9 July 2020' (2020)

<https://www.gov.uk/government/publications/universal-credit-statistics-29-april-2013-to-9-july-2020/universal-credit-statistics-29-april-2013-to-9-july-2020>

²⁹ DWP, 'Universal Credit Statistics: 29 April 2013 to 9 July 2020' (2020)

<https://www.gov.uk/government/publications/universal-credit-statistics-29-april-2013-to-9-july-2020/universal-credit-statistics-29-april-2013-to-9-july-2020>

³⁰ Economic Affairs Committee, 'Universal Credit isn't working: proposals for reform, 2nd Report of Session 2019-21' (31 July 2020)

<https://publications.parliament.uk/pa/ld5801/ldselect/ldconaf/105/105.pdf>

³¹ Economic Affairs Committee, 'Universal Credit isn't working: proposals for reform, 2nd Report of Session 2019-21' (31 July 2020)

<https://publications.parliament.uk/pa/ld5801/ldselect/ldconaf/105/105.pdf>

previously been working and those on legacy benefits who missed out on the increase in UC.³²

35. Lack of social protection is disproportionately affecting certain groups:
36. JRF and Save the Children recently polled 3,000 families and found that approximately “7 in 10 families with children claiming UC or Child Tax Credits are having to cut back on back on food”.³³ Evidence shows that UC covers 85% of childcare costs but is capped at £175 a week while the average full-time nursery fees are £240 a week.³⁴
37. There are barriers for claimants who seek advice or support on claiming benefits; evidence shows that the digital nature of UC requires most claimants to have access to, and be able to use, technology.³⁵ This exclusion, which is exacerbated by COVID-19, discriminates against certain groups.³⁶ There are an estimated 15.2 million people in the UK who either have no, or limited use of the internet.¹⁶ Our research finds that elderly adults, asylum seekers, disabled people, those on low incomes and those experiencing homelessness are amongst those at risk of digital exclusion.²¹ The Good Things Foundation’s data, shows that 64.4% of non-users are aged 65 or over; 47.7% of non-users are disabled or have a long standing health issue; 49.5% of non-users are in DE social class; and 44.5% of non-users have an annual household income less than £11,500.²²

³² Child Poverty Action Group and the Church of England, ‘Poverty in the Pandemic: The impact of coronavirus on low-income families and children’ (August 2020)

<https://cpag.org.uk/sites/default/files/files/policypost/Poverty-in-the-pandemic.pdf>

³³ JRF and Save the Children, ‘A lifeline for our children: Strengthening the social security system for families with children during this pandemic’ (June 2020)

<https://www.savethechildren.org.uk/content/dam/coronahub/stc-jrf-joint-briefing-lifeline-for-children.pdf>

³⁴ Tracey Warren, ‘The problems faced by low income women in the labour market. Briefing Paper for the Women’s Budget Group’s ‘Commission on a Gender-Equal Economy’ (2019)

<https://wbg.org.uk/wp-content/uploads/2019/08/Problems-faced-by-low-income-women-in-the-labour-market.pdf>; Hirsh, ‘A Minimum Income Standard for the United Kingdom in 2019’ (2019)

<https://www.jrf.org.uk/report/minimumincome-standard-uk-2019>

³⁵ Economic Affairs Committee, ‘Universal Credit isn’t working: proposals for reform’ (2nd Report of Session 2019-21, 31 July 2020)

<https://publications.parliament.uk/pa/ld5801/ldselect/ldconaf/105/105.pdf>

³⁶ ONS, ‘Internet users’ (2019)

<https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2019>

38. UK Government data shows that there are more women claiming UC than men, meaning that this protected group will be disproportionately impacted by the above UC challenges faced.³⁷

39. **Claimant Conditionality and Benefit Sanctions**

40. Financial sanctions to benefit payments for non-compliance of claimant conditionality are punitive. The most recent available data shows that the failure to attend a mandatory interview was the reason given for 95% of benefit sanctions.³⁸ While job centres are reopening, the recent reinstatement of the demanding claimant conditionality does not account for the barriers faced given the current COVID-19 pandemic, or the personal circumstances of the claimant.³⁹

41. **Personal Independence Payments (PIP)**

42. In 2019, the Department for Work and Pensions figures (DWP) revealed that over 3.6 million applications for PIP were made between April 2013 and 30th April 2018. 73,800 disabled people who lodged a claim for PIP died within 6 months of their claim being registered, 17,070 claimants died after registering but prior to the DWP making a decision on their claim, and 4,760 claimants died between their case being referred to, and returned from, an assessment provider.⁴⁰

43. PIP is not fit for purpose; 70% of claimants appealing a PIP decision have the initial decision overturned by a tribunal.⁴¹

³⁷ DWP, 'Universal Credit Statistics: 29 April 2013 to 9 July 2020' (2020)

<https://www.gov.uk/government/publications/universal-credit-statistics-29-april-2013-to-9-july-2020/universal-credit-statistics-29-april-2013-to-9-july-2020#households-on-uc-header>

³⁸ DWP, 'Benefit sanctions statistics to January 2020' (2020)

<https://www.gov.uk/government/publications/benefit-sanctions-statistics-to-january-2020-experimental/benefit-sanctions-statistics-to-january-2020>

³⁹ Dr Coffey, (House of Commons: Hansard, Covid-19) Meeting Increased Demand for Services (29 June 2020) <https://hansard.parliament.uk/commons/2020-06-29/debates/96E905A4-7108-4F01-9654-9173AD957BDB/Covid-19MeetingIncreasedDemandForServices>

⁴⁰ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-12-19/203812/>

⁴¹ DWP, 'Personal Independence Payment Claimant Research – Final Report' (September 2018) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/738926/personal-independence-payment-claimant-research-final-report.pdf

44. Claimants who might be eligible for an increase in PIP still await the UK Government review of PIP, which is currently on hold due to COVID-19.
45. **Limitation of the CTC and UC Awards to Two Children**
46. As of April 2020, there were 846,000 households who had three or more children who claimed either CTC or UC. Out of this total there were 243,000 households who had children who were born after 2017 and were therefore impacted by the two-child limit meaning they were not receiving the child element for at least one of their children.⁴² Child Poverty Action Group and the Church of England have estimated that an additional 60,000 families will likely be affected due to COVID-19.⁴³
47. The UK Parliament House of Commons Work and Pensions Committee reported after their inquiry into the policy that they “have seen no evidence that the two-child limit is working in the way the Government hoped for [...] it is having serious unintended consequences”.⁴⁴
48. Research has found that children who were in families affected by the two child limit were missing out on basic essentials such as food or clothes, and that many families have been pushed into financial hardship and debt due to this policy.⁴⁵ This financial strain impacts families’ mental health and wellbeing.⁴⁶

⁴² HM Revenue and Customs and HM Department for Work and Pensions, ‘Child Tax Credit 3 and Universal Credit claimants’ (2020) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900788/](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900788/Two_children_and_exceptions_in_tax_credits_and_Universal_Credit_April_2020.pdf)

[Two_children_and_exceptions_in_tax_credits_and_Universal_Credit_April_2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/900788/Two_children_and_exceptions_in_tax_credits_and_Universal_Credit_April_2020.pdf)

⁴³ Child Poverty Action Group and The Church of England, ‘“No One Knows What The Future 4 Can Hold” The impact of the two-child limit after three years’ (2020) <https://cpag.org.uk/sites/default/files/files/policypost/No-one-knows-what-the-future-can-hold-FINAL.pdf>

⁴⁴ House of Commons Work and Pensions Committee, ‘The two-child limit’ (2019) <https://publications.parliament.uk/pa/cm201919/cmselect/cmworpen/51/51.pdf>

⁴⁵ Child Poverty Action Group and The Church of England, ‘“No One Knows What The Future 4 Can Hold” The impact of the two-child limit after three years’ (2020) <https://cpag.org.uk/sites/default/files/files/policypost/No-one-knows-what-the-future-can-hold-FINAL.pdf>

⁴⁶ Child Poverty Action Group and The Church of England, ‘“No One Knows What The Future 4 Can Hold” The impact of the two-child limit after three years’ (2020) <https://cpag.org.uk/sites/default/files/files/policypost/No-one-knows-what-the-future-can-hold-FINAL.pdf>

49. Our research has found that this policy is contrary to the UK Government’s international human rights obligations,⁴⁷ and that the UK is an outlier when the policy is compared with other Council of Europe states.

⁴⁷ Just Fair, ‘Why is the two-child limit contrary to the UK’s human rights obligations?’ (July 2020) http://justfair.org.uk/wp-content/uploads/2020/07/Two_Child_Limit_Human_Rights-copy.pdf

50. Benefit Cap

51. The benefit cap does not meet its aims to incentivise work, increase fairness in the system, or improve benefit savings.⁴⁸ In March 2019, the UK Parliament Work and Pensions Committee found that the vast majority (82%) of households affected by the cap, assessed by DWP itself, as not being required to look for work.⁴⁹ In the context of the COVID-19 pandemic, the number of households that had their benefits capped increased by 93% in May 2020 from February 2020 to 154,000 households; the biggest increase in the number of capped households since April 2013.⁵⁰ People who had been furloughed at less than their full pay, may be unable to escape the cap as they move below the income threshold.⁵¹
52. The following evidence shows that the benefit cap is disproportionately impacting the rights of certain groups, such as disabled people, women, and single parent families.
53. As of May 2020, 150,000 households had their benefits capped in the UK; 30,000 had Housing Benefit (HB) capped and 120,000 had UC capped. Research by Shelter shows that people in receipt of disability benefits are three times more likely to also receive HB.⁵² Data provided by the DWP suggested that 60% of adults on HB are female, and 95% of single parents receiving HB are female.⁵³
54. Child Benefit and Child Tax Credits are both in scope for the HB cap, so households in receipt of these benefits are more likely to exceed the cap limit and be capped. As of

⁴⁸ DWP, 'The benefit cap: a review of the first year' (December 2014)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/386911/benefit-cap-review-of-the-first-year.pdf

⁴⁹ Work and Pensions Committee, 'The benefit cap' (12 March 2019)

<https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1477/full-report.html>

⁵⁰ DWP, 'Benefit cap: number of households capped to May 2020' (6 August 2020)

<https://www.gov.uk/government/publications/benefit-cap-number-of-households-capped-to-may-2020/benefit-cap-number-of-households-capped-to-may-2020>

⁵¹ CPAG and Church of England, 'POVERTY IN THE PANDEMIC: The impact of coronavirus on low-income families and children' (August 2020)

<https://cpag.org.uk/sites/default/files/files/policypost/Poverty-in-the-pandemic.pdf>

⁵² Shelter, 'Briefing: Stop DSS Discrimination' (2018)

https://england.shelter.org.uk/_data/assets/pdf_file/0009/1581687/Stop_DSS_Discrimination_-_Ending_prejudice_against_renters_on_housing_benefit.pdf

⁵³ UK Government, 'Housing Benefit caseload statistics' (2015)

<https://www.gov.uk/government/statistics/housing-benefit-caseload-statistics#history>

May 2020, of HB capped households 90% (27,000) were claiming Child Tax Credits and 57% (17,000) were claiming Income Support, “a benefit mainly for single parents with young children”.⁵⁴ 86% (130,000) of currently capped households include children. Overall, 62% (96,000) of households that had their benefits capped are single-parent families; 54% (52,000) of single-parent capped households have at least one child aged under 5 years.⁵⁵

55. As of May 2020, 12% (3,500) people claiming Employment and Support Allowance (ESA) had their benefits capped, these people would have been assessed as having limited capability to work due to illness or disability.⁵⁶

56. The UK Parliament Work and Pensions Committee reported that two thirds (65%) of claimants reported facing major barriers to work, including the availability and/or cost of childcare (43%) and poor health (15%). There are barriers for those moving into employment; around 18% of low-paid workers say they would like to work more hours but can't find them, compared with 8% for all workers who are not low paid.⁵⁷

⁵⁴ DWP, ‘Benefit cap: number of households capped to May 2020’ (6 August 2020) <https://www.gov.uk/government/publications/benefit-cap-number-of-households-capped-to-may-2020/benefit-cap-number-of-households-capped-to-may-2020>; Work and Pensions Committee, ‘The benefit cap’ (12 March 2019)

<https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1477/full-report.html>

⁵⁵ DWP, ‘Benefit cap: number of households capped to May 2020’ (6 August 2020) <https://www.gov.uk/government/publications/benefit-cap-number-of-households-capped-to-may-2020/benefit-cap-number-of-households-capped-to-may-2020>

⁵⁶ Work and Pensions Committee, ‘The benefit cap’ (12 March 2019)

<https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1477/full-report.html>; DWP, ‘Benefit cap quarterly statistics: GB households capped to November 2018’ (February 2019)

⁵⁷ Joseph Rowntree Foundation, ‘UK Poverty 2019/20’ (2020) <https://www.jrf.org.uk/report/uk-poverty-2019-20>

57. No Recourse to Public Funds

58. A person with no Recourse to Public Funds (NRPF)⁵⁸ cannot access most welfare benefits⁵⁹ or statutory housing support. NRPF also prevents access to local authority support such as homelessness assistance, and housing allocation. People with NRPF can access publicly funded services that are not listed as ‘public funds’ for immigration purposes.⁶⁰
59. The UK Government’s budgetary decision-making and tax reform should not exclude certain groups of people from accessing social security.
60. While there are no official statistics on the number of people with NRPF in the UK, recent research estimate that there are 674,000 undocumented migrants,⁶¹ 1,002,091 adults with leave to remain,⁶² and over 175,000 children, likely to be living with NRPF on their visa.⁶³ Research shows approximately 3.6 million EEA nationals are living with NRPF.⁶³

⁵⁸ NRPF is a condition in the Immigration Rules, and Section 115 of the Immigration and Asylum Act 1999

⁵⁹ The rule excludes people ‘subject to immigration control’ from a range of state benefits, including: income-based jobseeker’s allowance; income support; child tax credit; universal credit; working tax credit; a social fund payment; child benefit; housing benefit; council tax reduction; domestic rate relief (Northern Ireland); state pension credit; attendance allowance; severe disablement allowance; personal independence payment; carer’s allowance; and disability living allowance.

⁶⁰ UK Visas and Immigration, ‘Guidance: Public Funds’ (2014)

<https://www.gov.uk/government/publications/public-funds--2/public-funds>

⁶¹ Eve Dickson, Andy Jolly, Benjamin Morgan, and Fizza Qureshi, Research report: Local Authority Responses to people with NRPF during the pandemic (August 2020)

https://www.researchgate.net/publication/343774922_Research_report_Local_Authority_Responses_to_people_with_NRPF_during_the_pandemic

⁶² Eve Dickson, Andy Jolly, Benjamin Morgan, and Fizza Qureshi, Research report: Local Authority Responses to people with NRPF during the pandemic (August 2020)

https://www.researchgate.net/publication/343774922_Research_report_Local_Authority_Responses_to_people_with_NRPF_during_the_pandemic

⁶³ Vargas-Silva & Fernandez-Reino (2019) in Eve Dickson, Andy Jolly, Benjamin Morgan, and Fizza Qureshi, Research report: Local Authority Responses to people with NRPF during the pandemic (August 2020)

https://www.researchgate.net/publication/343774922_Research_report_Local_Authority_Responses_to_people_with_NRPF_during_the_pandemic

61. Research has found that women, disabled people, pregnant women, and BME children are disproportionately impacted by the NRPF condition.⁶⁴ The same report shows that the number of people with NRPF who are unable to meet their basic needs has increased, and people with NRPF are at a risk of developing health issues or death if they contract COVID-19.⁶⁵
62. People with NRPF struggled to access food, shelter, and subsistence support during the pandemic. Recent research shows that the most commonly reported impact of COVID-19 is a rise in food poverty. Without the safety net of social security, many families with NRPF end up living in destitution and are at high risk of homelessness, exploitation and abuse.⁶⁶ Recent research shows the most commonly reported difficulty for people with NRPF is the refusal of support from the local authority.⁶⁷

⁶⁴ Woolley, 'Access Denied: The cost of the "no recourse to public funds" policy. London: The Unity Project' (2019)

<https://static1.squarespace.com/static/590060b0893fc01f949b1c8a/t/5d0bb6100099f70001faad9c/1561048725178/Access+Denied+->

[+the+cost+of+the+No+Recourse+to+Public+Funds+policy.+The+Unity+Project.+June+2019.pdf](#)

⁶⁵ Eve Dickson, Andy Jolly, Benjamin Morgan, and Fizza Qureshi, Research report: Local Authority Responses to people with NRPF during the pandemic (August 2020)

https://www.researchgate.net/publication/343774922_Research_report_Local_Authority_Responses_to_people_with_NRPF_during_the_pandemic

⁶⁶ Sustain, Project 17, CAWR (2019) "Sometimes my belly will just hurt": No Recourse to Public Funds and the Right to Food

https://www.sustainweb.org/publications/right_to_food_no_recourse_to_public_funds/?section=

⁶⁷ Eve Dickson, Andy Jolly, Benjamin Morgan, and Fizza Qureshi, Research report: Local Authority Responses to people with NRPF during the pandemic (August 2020)

https://www.researchgate.net/publication/343774922_Research_report_Local_Authority_Responses_to_people_with_NRPF_during_the_pandemic

Recommendations

The UK Government should comply with human rights obligations when making tax-related or budgetary decisions, especially as related to the social security system, this includes:

- Reform Universal Credit so that no person with a protected characteristic(s) is disadvantaged or disproportionately impacted
- Remove the two child limit in Child Tax Credit and Universal Credit
- Abolish the benefit cap, or at least suspended for the duration of the COVID-19 pandemic
- End benefit sanctions so as to bring social security in line with international human rights obligations
- End NRPF to respect and fulfil economic and social rights of all people
- Make information about social security accessible to all people, including but not limited to, Easy Read formats, braille, British Sign Language, and in hard copy to address digital exclusion
- Make available sufficient funding for local authorities to provide for social protection for all people
- Develop a framework to allow people with lived experience of issues as well as their advocates to feed into decisions on tax reform, in accordance with UN guidance and international human rights obligations
- Conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced since 2010 on people with protected characteristics

- Ensure all public authorities involved in decision-making on tax reform comply with the PSED in developing and implementing responses to COVID-19, ensuring they are informed by evidence and engagement with representative groups
- Develop a process to monitor and evaluate economic and social rights implications of tax reform
- Develop a process to incorporate economic, social and cultural rights into UK domestic legislation so as to continue to improve protections for all people
- Implement Section 1 of the Equality Act 2010 in England and Northern Ireland to minimise socio-economic disadvantage. The same duty was introduced in Scotland in 2018 under the name 'Fairer Scotland Duty' and is scheduled to be introduced in Wales

September 2020