

2022/4

REVUE DE DROIT COMPARÉ DU TRAVAIL ET DE LA SÉCURITÉ SOCIALE

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**INTERNATIONAL
LEGAL NEWS**



JO CARBY-HALL

UNIVERSITY OF HULL

POVERTY IN THE UNITED KINGDOM

Despite of the numerous social benefits which exist in the United Kingdom there are millions of people who are experiencing the hardships tied to poverty because their resources are well below their minimum needs. Poverty is defined variously. « Poverty is defined as relative to standards of living in a society at a specific time. People live in poverty when they are denied an income sufficient for their material needs and when their circumstances exclude them from taking part in activities which are an accepted part of daily life in that society »¹. The Joseph Rowntree Foundation defines poverty as « not being able to heat their house, pay the rent or buy essentials for their children. It means waking up every day facing insecurity, uncertainty and impossible decisions about money. It means facing marginalisation - and even discrimination - because of your financial circumstances. The constant stress it causes can lead to problems that deprive people of the chance to play a full part in society »².

The causes of poverty in the UK are numerous and varied and include³ *unemployment* and *low paid jobs* which lack prospects and security or *no job vacancies*. Low pay and unemployment lead to inadequate savings or pensions. People with *low levels of skills and education* seeking work find it difficult to obtain a decent and secure job. Another cause of poverty is an *ineffective and complex benefits system*. The Rowntree Foundation posited⁴ « The level of welfare benefits for some people - either in work, seeking work or unable to work because of health and safety issues - is not enough to avoid poverty when combined with other resources and high costs. The benefit system is often confusing and hard to engage with, causing errors and delays. The system can also make it risky and difficult for some to move into jobs or increase their working hours. Low take up of some benefits often increases poverty ». The *high cost* of essential and basic foods, housing and goods and services such as electricity, gas, water, obtaining credit from banks, telephones, computers, mortgages, council tax, all create poverty.

1 BBC Scotland, « Wealth and Health Inequalities », 16 October 2014, *Scottish Poverty Information Unit*. See too therein the definitions given by the *World Bank Organisation* et le *House of Commons Scottish Affairs Committee*: https://www.bbc.co.uk/scotland/education/ms/wealth/def_of_poverty/definitions.shtml'-text

2 *Joseph Rowntree Foundation*, « What is poverty? »: <https://www.jrf.org.uk/our-work/what-is-poverty>

3 *Ibid.*, p. 3.

4 *Ibid.*, p. 4.

Discrimination against people because of their class, ethnicity, gender, religion, sexual orientation, disability, age, religion, parental status (and poverty itself) can prevent people from « escaping poverty through good qualifications or jobs and can restrict access to services ». *Chaotic or problematic lives, or chaotic use of drugs and alcohol* can deepen and/or prolong poverty. *Neglect or abuse of a child or trauma in adult life* can cause poverty « as the impact on mental health can lead to unemployment, low earnings and links to homelessness and substance misuse ». Serving a *prison sentence* and having a *criminal record* contributes to poverty in that it is more difficult for an ex-prisoner to obtain a job. *Weak relationships* can lead to poverty in that a child who has not received parental warmth, guidance and care can be at a higher risk of poverty in later life « because of the impact on their development, education, social and emotional skills ». A *breakdown in family relationships* can also lead to poverty.

The Joseph Rountree Foundation gives some of these consequences⁵. They include family and relationship problems, drug and alcohol problems, problems relating to health, housing, homelessness, being a victim or perpetrator of crime, poverty itself in childhood which increases the risks of unemployment and low pay in adulthood and lower savings in later life, lower achievement in education, teenage parenthood as well as biological effects, in that poverty in childhood may have harmful effects on their brain development.

I - SOCIAL SECURITY MEASURES IN PLACE TO COMBAT POVERTY

The twenty eight social security benefits in the UK are both complex and constantly changing by successive governments to fulfil their policies. The aim of the social security laws is to give financial and practical assistance to people who are ill or those with a disability or on low wages or the unemployed and seeking work, or those who are carers for old or ill people, those bringing up children or the retired. Considerations of space do not allow for a discussion of all the available social benefits. This article is therefore restricted to discussing the more common benefits.

*Universal Credit*⁶ is a monthly (or twice monthly in Scotland) payment to help people make ends meet. It is available to people on low income or those who need help with their living costs. This benefit is available to people out of work, to people who cannot work or to people in work whether they be employed on a part-time or fulltime basis or be self-employed. The claimant of this benefit needs to be living in the UK, be over 18 years of age but under State Pension age and have £16,000 or less in savings. Universal Credit replaces six previous benefits, namely Child Tax Credit, Housing Benefit, Income support, Income-based Job Seeker's Allowance (JSA), Income-related Employment and Support Allowance (ESA) and Working Tax Credit. These are now known as « Legacy Payments ». Recipients of those payments continue to receive them unless they have a change of circumstances which they need to report, or the Department of Work and Pensions contacts them with a view to moving them to Universal Credit.

⁵ *Ibid.*, p. 5.

⁶ <https://www.gov.uk/universal-credit>

To be eligible for « *New Style* » *Job Seeker's Allowance* (JSA)⁷ a person must have worked as an employee and paid Class 1 National Insurance contributions, usually in the last 2 to 3 years. A self-employed person or a person who only paid Class 2 national insurance contributions is not entitled to this benefit unless he is a share fisherman or a volunteer development worker. Furthermore the person must be over 18⁸ and under State Pension age, not in full employment, be available and looking for full time work and not be currently working or in education and not claiming income support. JSA is available for a person working less than 16 hours a week on average, not have an illness or disability which stops her/him from working and live in England, Scotland or Wales. While receiving JSA a person must take reasonable steps to look for work. A person can receive « *new style* » JSA for up to 162 days. Thereafter the person will need to talk to her/his coach at the Job Centre about options. A person is advised to check also if she/he is available for Universal Credit at the same time or instead of « *new style* » JSA. *New Style* JSA is not means tested so one's savings and those of a partner do not affect the claim. There are in addition two old types of JSA which some claimants are still getting; they are « *income based* » or « *contribution based* » JSAs. A claimant can only apply for income based JSA if she/he is getting contribution based JSA.

Another available benefit if a person is under State Pension Age and has a disability or health condition which affects how much she/her can work is the « *"New Style" Employment and Support Allowance* » (ESA)⁹. The claimant for this benefit must have worked as an employee or as a self-employed person and paid National Insurance contributions usually for 2 or 3 years. A person might be able to obtain Universal Credit at the same time or instead of « *New Style* » ESA. If a person claims « *New Style* » JSA or Statutory Sick Pay she/he is barred from getting « *New Style* » ESA. If a person receives Universal Credit she/he can get « *New Style* » ESA but the Universal Credit is reduced by the amount received for « *New Style* » ESA. If the person's Statutory Sick Pay (SSP) is due to end within 3 months a person may apply for « *New Style* » ESA which will be paid as soon as SSP ends. One can apply for « *New Style* » ESA whether or not she/he is employed but there are conditions to working while claiming ESA. Where persons are affected by Covid-19, they can apply for « *New Style* » ESA subject to a long list of complicated conditions. On the « *Support Allowance* » front, a person with a disability or health condition which affects how much she/he can work can apply for ESA. The *support allowance* is also available where a person is unable to work while self-isolating because of the coronavirus. ESA grants financial aid to help in living costs while a person is unable to work or to support a person to return to work when able to do so. One can apply if one is employed, unemployed or self-employed.

*Child Benefit*¹⁰ may be claimed if a person is responsible for a child under 16 years of age or 20 years of age if she/he is in approved education or training. Only one person may claim this benefit for a child and there is no limit on how many children a parent may claim for. This benefit is paid every four weeks. By claiming child benefit a parent receives National Insurance credits which count towards the state pension and

7 <https://www.gov.uk/jobseekers-allowance/eligibility>

8 There are some exceptions if a person is 16 or 17 years old.

9 <https://www.gov.uk/employment-support-allowance/eligibility>

10 <https://www.gov.uk/child-benefit>

the child will obtain automatically a national insurance number when the age of 16 is reached. A parent who earns over £50,000 may have to pay some of the child benefit back in tax. Each parent is entitled to earn up to that sum before tax is paid.

Disability Living Allowance (DLA) is being replaced by *Personal Independence Payment (PIP)*¹¹. A person may apply for PIP if she/he is aged over 16 and has not reached the State Pension age. *Attendance Allowance* may be claimed by a person who has reached State Pension age and older and does not receive DLA. If a person already obtains DLA that claim may end and such person may apply for PIP.

Housing Benefit can help a person pay the rent if she/he is unemployed, on low wages or claiming benefits. This benefit is being replaced by Universal Credit. A new claim for this benefit may only be made by a person who has reached state pension age or is in supported, sheltered or temporary housing or has an existing claim as from 15th May 2019.

Carer's Allowance is available for someone who cares for that person at least for 35 hours a week and they get certain benefits. A carer does not need to be related to, or live with, the person cared for. A carer's allowance may affect other benefits which the carer and the person cared for receives. There are two types of carer namely the professional and the unpaid carer or relative.

A new claim for *Income Support* is no longer available. A person on low income who needs help to cover living expenses is enabled to apply for Universal Credit instead.

II - THE REALITY IN 2022 AS EXPRESSED BY CONSUMERS AND OTHERS

It would have been thought that with the above barrage of social security benefits available, these would be sufficient to take into account every contingency of poverty and cure that evil in society. Unfortunately, it is not the case! The energy regulator announced that millions of households will pay an additional £693 per annum in their energy bills from April 2022.

Inflation is at its highest rate for thirty years at 8.5% and steadily increasing. People on low incomes cannot afford the rise in the cost of living especially since wages have not increased. Staff shortages are a particular problem in the UK because of Brexit and the pandemic. There have been considerable increases in prices in almost every area of the market. Petrol and diesel are at prices never heard of before, train fares are up by 3.8%, borrowing and mortgages have increased, television and broadband and telephone prices have gone up. National Insurance Contributions have gone up in April 2022. Energy prices (gas, electricity central heating oil) have reached unaffordable heights. Furniture, skin products, food and almost all other products has gone up to levels never seen before.

The BBC has interviewed citizens on these price rises. Some of the comments include the following: « I am overwhelmed with stress and anxiety »; « I used to buy lots for £20 but now it is £40 »; « One family's heating bill increased from £900 per

11 <https://www.gov.uk/dla-disability-living-allowance-benefit>

annum to £1,600 and they soared again in April 2022 »; « I feel I'm sleeping outside »; « You sit there and worry how I'm going to pay the bill »; « I am acutely aware of what the extra electric is costing me. I'm being frugal, I don't have a bath (...) and I won't put the heating on, I'll put on layers and blankets ».

Charities and not the State is supporting the poverty. One charity said « our advisers are supporting families facing desperate choices: parents skipping meals to feed their kids and people with a chronic illness living in one room because they can't afford to heat the house ». « If I did not have the support of a charity (soup kitchen), I wouldn't be able to eat ». Food banks are frequently seen in building societies, shops, supermarkets, banks, and many other public places. Unfortunately, donations to those food banks are decreasing in number because of the cost of food. Even richer people have to tighten their belts¹².

To add insult to injury the Universal Credit rules have been tightened considerably by the British government. The unemployed are forced to take up a job in any employment or face financial sanctions if they refuse a job. Claimants currently have four weeks, - rather than as previously three months -, to find a job within their preferred sector. If they fail to make « reasonable efforts » to secure a job or turn down any job offer, after the four week period, they will have part of their Universal Credit payment withdrawn¹³.

The CEO of the charity « Resolution Foundation » summed the situation admirably when she said¹⁴: « The overall picture is likely to be one of prices surging and pay packets stagnating ». In one sentence, « the situation is a cost of living catastrophe ».

Concluding Remarks

Poverty at this rate is untenable!

Food banks constitute short term support to families in crises, charities are not a replacement for long term solutions to poverty. It is up to governments to devise a long term solution to this pressing problem. Being the fifth richest country in the world, the British government has a responsibility to see that the most vulnerable in its society receive their essential and basic entitlements, namely shelter, food, water and security. Charities should not be doing what the welfare state is meant to achieve. Nor should there be social benefit caps, such as that described above relating to the Universal Credit *at times of crises*.

The British welfare state system is very complicated, difficult to understand and is prone at times to creating unfairness in its application. It needs to clear itself of the disadvantages which it currently has, namely, *inter alia* the automated benefits system which fails people in need such as the Universal Credit logarithm pushing people into poverty or the social security system encouraging high unemployment

12 The Reader is recommended to read the article published in the Guardian of 10th February 2022 entitled « The Worker in Winter. The Food Hub Manager - I Eat, Sleep and Breath This », by S. Kale, p. 4, which develops this topic further.

13 The aim of this policy is to fill 1.2 million vacancies nationally.

14 « UK cost of living squeeze in 2022 says think tank », *BBC News*, 29 December 2021.

and low productivity or the discouragement of citizens getting married or having a social partnership as the financial benefits support single parents¹⁵.

As for the state pension which is one of the lowest in Europe and which is misnamed as a state benefit when, in fact citizens have contributed towards it. This misclassified benefit is also subject to tax at 22% to 40% depending on income. It should be stressed that a person does not automatically receive the state pension. A citizen needs to apply for it. So as to qualify, a person has to have at least ten years' National Insurance Contributions (NIC) or Credits. One needs to have paid or been credited with thirty- five years of NIC to receive the full state pension amount which in the financial year 2021/2022 is a meagre £9,339.20.

15 For an informative and clear presentation of the advantages and disadvantages of the British welfare state, see *Cash Float*, 13 December 2021. See too B. Hall, « Benefits UK: What are the Pros and Cons of having a Welfare State? »: <https://www.cashfloat.co.uk/blog/money-saving/benefits-uk/>

REVUE

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Manuscripts submitted for publication in the **Comparative Law Review of Labour and Social Security** [Revue de Droit Comparé du Travail et de la Sécurité Sociale] should be sent by e-mail or by post before **February, the 1st** of each year (for the Studies, the Comparative Social Jurisprudence and the International Social Jurisprudence) and before **June, the 1st** of each year for the Thematic Chapter. About the contributions to the International Legal News, they must be sent before **February, the 1st** (for the first issue) and before **September, the 1st** (for the third issue).

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CONTACT

COMPTRASEC - UMR 5114

Mme Marie-Cécile CLÉMENT

Université de Bordeaux

16, avenue Léon Duguit - CS 50057 - 33608 PESSAC cedex FRANCE

Tél : 33(0)5 56 84 54 74

marie-cecile.clement@u-bordeaux.fr

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ABBREVIATIONS LIST

(PUBLISHERS, JOURNALS, BOOKS)

AuR = Arbeit und Recht (Germany)
AJLL = Australian Journal of Labour Law (Australia)
AJP/PJA = Aktuelle juristische Praxis - Pratique juridique Actuelle (Suisse)
BCLR = Bulletin of Comparative Labour Relations (Belgium)
CLELJ = Canadian Labour & Employment Law Journal (Canada)
CLLPJ = Comparative Labor Law & Policy Journal (United States)
DRL = Derecho de las Relaciones Laborales (Spain)
DLM = Diritti Lavori Mercati (Italy)
E&E = Employees & Employers: Labour Law & Social Security Review (Slovenia)
EuZA = Europäische Zeitschrift für Arbeitsrecht (Germany)
ELLJ = European Labour Law Journal (Belgium)
DLRI = Giornale di Diritto del Lavoro e delle Relazioni Industriali (Italy)
ILJ = Industrial Law Journal (UK)
IJCLLIR = Giornale di Diritto del Lavoro e delle Relazioni Industriali (Italy)
ILR = International Labour Review (ILO)
JLR = Japan Labor Review (Japan)
JCP = Juris-Classeur Périodique (France)
LD = Lavoro e Diritto (Italy)
OIT = Revue internationale de travail
PMJK = Pécsi Munkajogi Közlemények (Pecs Labour Law Journal) (Hungary)
RL = Relaciones Laborales (Spain)
RDS = Revista de Derecho Social (Spain)
RDCTSS = Revue de Droit Comparé du Travail et de la Sécurité Sociale (France)
RDT = Revue de Droit du Travail (France)
RGL = Rivista Giuridica del Lavoro e della Previdenza Sociale (Italy)
TL = Temas Laborales (Spain)
ZIAS = Zeitschrift für ausländisches und Internationales Arbeits und Sozialrecht (Germany)

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Mme Marie-Cécile Clément
UNIVERSITÉ DE BORDEAUX
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Tél. 33(0)5 56 84 54 74
Fax 33(0)5 56 84 85 12
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For any correspondence or contribution proposal write to:

Marie-Cécile CLÉMENT

COMPTRASEC - UMR CNRS 5114 - University of Bordeaux
16, avenue Léon Duguit - CS 50057 - 33608 PESSAC cedex - France

E-mail : marie-cécile.clement@u-bordeaux.fr

Phone: +33 (0)5 56 84 54 74 - Fax: +33 (0)5 56 84 85 12

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