



Department
for Work &
Pensions

Exceptions to the limiting of the individual Child Element of Child Tax Credit and the Child Element of Universal Credit to a maximum of two children

Public consultation

Publication date (October 2016)

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Chapter 1 – Introduction

- 1) The Welfare Reform and Work Act 2016 restricts the number of children or qualifying young persons in respect of whom the Child Element in Universal Credit and the Child Element in Child Tax Credit is payable to a maximum of two. At the Summer Budget 2015 when the Chancellor announced the policy and during the passage of the legislation through Parliament four exceptions to this policy were announced (<https://www.gov.uk/government/topical-events/budget-july-2015>).
- 2) This consultation seeks further evidence and views to inform the detailed design of the exceptions and their implementation.

About this consultation

Who this consultation is aimed at

- 3) The Government is keen to hear views from all parties with relevant knowledge or experience, including charities and support groups, medical, health, social work and education professionals and affected individuals.

Purpose of the consultation

- 4) The consultation seeks views and evidence in relation to the detailed design and implementation of the **exceptions** to the policy to limit the Individual Child Element of Child Tax Credit and the Child Element of Universal Credit to a maximum of two children. It is not a consultation on the policy itself.

Scope of consultation

- 5) The exceptions being consulted upon in this document apply to both Child Tax Credit and Universal Credit. Universal Credit extends across Great Britain and Child Tax Credit across the United Kingdom.

Duration of the consultation

- 6) The consultation period begins on 21st October 2016 and runs until 27th November 2016.

How to respond to this consultation

7) Please send your consultation responses to:

DWP Universal Credit Policy Team
Department for Work and Pensions
3rd Floor
Caxton House
London
SW1H 9NA

Email: CAXTONHOUSE.CHILDELEMENTCONSULTATION@DWP.GSI.GOV.UK

Government response

- 8) We will publish the government response to the consultation on the GOV.UK website. The consultation principles encourage Departments to publish a response within 12 weeks or provide an explanation why this isn't possible. Where the consultation is linked to a statutory instrument, responses should be published before or at the same time as the instrument is laid.
- 9) The report will summarise the responses.

Chapter 2 – Background

- 10) At the Summer Budget 2015, the Government announced that the individual Child Element of Child Tax Credit and the Child Element of Universal Credit will no longer be awarded for third and subsequent children or qualifying young persons in a household who are born on or after 6th April 2017. The limit will also apply to all third or subsequent children or qualifying young persons for first time Universal Credit claims after 6th April 2017.
- 11) The Government is delivering a new deal for working families, which includes incentives to ensure that those who are in work are rewarded fairly with the National Living Wage and the raising of the income tax personal allowance. By limiting support to a maximum of two children or qualifying young persons in Child Tax Credit and Universal Credit, the Government is ensuring that the system is fair to those taxpayers who fund it and support themselves solely through work, as well as those who benefit from it.
- 12) Currently, benefit entitlement adjusts automatically to family size, whilst families supporting themselves solely through work do not see their incomes rise in the same way when they have more children. Households will need to think carefully about whether they are financially prepared to support a new child without relying on the tax credits or means-tested benefit systems. However, Child Benefit will continue to be paid regardless of family size, as the basis of the Government's contribution towards the cost of bringing up a child.
- 13) The Government has also announced that there will not be cash losers as a result of this policy. Payments families currently receive in respect of their child or qualifying young person will continue to be received, as long as they remain entitled to benefit and responsible for the child or qualifying young person. This policy change has been legislated for in the Welfare Reform and Work Act 2016, and is not the subject of this consultation.
- 14) The Government recognises, however, that some parents or carers for children are not in the same position to make choices about the number of children in their family as others are. In acknowledgement of this, the Government announced the following exceptions to the policy in respect of a **third or subsequent child** who is:
- part of a multiple birth where there were previously fewer than two children in the household (Chapter 3);

- living long term with family or friends because they are unable to live with their parents and could otherwise be at risk of entering the care system (Chapter 4);
- born as a result of rape (Chapter 5); or
- part of a sibling group adoption where there were previously fewer than two children in the household. However, as part of the Children and Social Work Bill, the Government has given further consideration to the position of children who are being adopted from Local Authority care and will be extending the announced exception to all third and subsequent children in these circumstances. This change will support families that care for our most vulnerable children and will be provided for, along with the other exceptions, in regulations.

Chapter 3 – Multiple Births

15)The Government announced at Summer Budget 2015 that children born in a multiple birth would be exempt from the policy in both Child Tax Credit and Universal Credit if there were previously fewer than two children or qualifying young people in the household. This is on the basis that families will not be able to plan for a multiple birth when considering whether they can afford to look after an additional child. The exception would not apply if there were already two or more children or qualifying young people in the household prior to the multiple birth.

16)**Q1. Do you have any views on the proposed model for multiple births?**

Chapter 4 – Children living long-term with family or friends

- 17) Sometimes children or qualifying young people are cared for by family or close friends in what are informally referred to as "kinship care arrangements". Carers in these situations may be entitled to receive Child Tax Credit or the Child Element of Universal Credit in respect of those children or qualifying young people and might therefore be affected by the policy change.
- 18) Claimants with children or qualifying young persons looked after by the local authority are not eligible for the Child Tax Credit or Universal Credit Child Element if they receive an allowance from the local authority in respect of the child or young person's accommodation or maintenance. This is to avoid making dual provision for the same child. Thus, children looked after by the local authority will not be affected by the policy change.
- 19) The Government recognises that family and friends carers are not in the same position to make choices about the number of children in their family as other parents are, and that the children or qualifying young people are often better off living with family and friends than in the formal care of the local authority. For this reason the Government announced an exception for any child or qualifying young person who is unable to be cared for by their own parents and is instead cared for long term by family or friends (other than a step-parent), who is for them a third or subsequent child or qualifying young person in the household, and would otherwise be at risk of entering the care system.

Formal caring arrangements

- 20) Families taking long term responsibility for their relatives' or friends' children as an alternative to the children being taken into care or remaining in care may use a Special Guardianship Order or a Child Arrangement Order (formerly called a Residence Order), in order to do so. Special Guardianship Orders grant parental responsibility to guardians of children who cannot live with their birth parents and who would benefit from a legally secure placement. Child Arrangement Orders are generally used in family breakdown scenarios to ascertain residence but can be used by carers to share parental responsibility. Furthermore, a carer may also be entitled to Guardian's Allowance in respect of children for whom they are responsible because they have been, or have effectively been, orphaned.

21) We propose that an exception should apply in respect of third or subsequent children where the carer:

- a) has a Child Arrangement Order conferring residence or Special Guardianship Order (or their equivalents in Scotland and Northern Ireland and predecessor arrangements) in place; **or**
- b) is entitled to Guardian's Allowance; **and**
- c) is neither the parent nor step-parent of the child.

22) **Q2. Are there any other formal arrangements for caring for the children of friends and family which have not been considered above?**

Informal caring arrangements

23) We recognise that not all of the kinship care arrangements of children which the Government would like to exempt will be governed by any formal orders. However, we do have to ensure that the children are living in such arrangements because it is in their best interests and that they would otherwise be at risk of entering the care system.

24) We therefore propose that where a child is living with friends or family because they are unable to live with their parents, the friend or family carer will need to provide evidence from a social worker which supports this. This is in order to establish eligibility for the exception and ensure that the exception is provided to those for whom it is intended.

25) **Q3. Do you agree that evidence from a social worker is the best approach to providing the necessary evidence of the need for an informal family and friends care arrangement?**

26) **Q4. Are there circumstances where a professional other than a social worker may be able to provide such evidence?** We would be grateful for information as to what these circumstances might be and which professionals may be suitable.

Children under 16 who become the parents of a child

- 27) If a claimant receives Universal Credit or Child Tax Credit in respect of a child under the age of 16, who then also has a child while still living with them, this grandchild/new child is added to the claimant's Universal Credit or Child Tax Credit claim. The grandchild/new child is therefore added to the existing number of dependent children and qualifying young people in the household and may be affected by the policy change.
- 28) Once the young parent turns 16, they may be entitled to claim Universal Credit or Child Tax Credit in their own right. Until then, and while the original claimant is the *de facto* "friends and family carers" of the grandchild/new child, we intend to temporarily exempt the grandchild/new child from the policy change. This will continue until the young parent can make a separate benefit claim.
- 29) The teenage pregnancy rate is at its lowest for over 40 years and rates have declined by 29 per cent since 2010. Continuing to reduce the rate of conceptions in the under 18 age group is one of the ambitions set out in the Government's policy on sexual and reproductive health¹. Where a child does become a parent it is generally in his/her best interests to continue to live with his/her parents or carers. It is for this reason that the Government believes it is right to support claimants in these circumstances and to make an exception for the grandchild/new child where s/he is the third or subsequent child in the claimant's household.
- 30) **Q5. Are there any further considerations we should make in relation to this group of children?**

¹ 15 March 2013. Framework for Sexual Health Improvement in England
<https://www.gov.uk/government/publications/a-framework-for-sexual-health-improvement-in-england>

Chapter 5 – Children likely to have been conceived as a result of rape

31) At the Summer Budget 2015, it was announced that an exception to the policy would apply where third or subsequent children were conceived as a result of rape. The Minister of State for Welfare Reform set out further details, recognising that this exception deals with an extremely sensitive issue and it is important that we design and implement the policy sensitively while providing the right assurance to Government that the additional support is going to those for whom it is intended. He set out that the Government is exploring a third party evidence model.²

Determining whether a child is likely to have been conceived as a result of rape

32) A third party evidence model is already used in Universal Credit for the temporary relaxation of mandatory work-related requirements for recent victims of domestic violence. We are developing a similar model where a woman requests the exception and engages with a professional third party. Evidence from this professional third party, that the circumstances are consistent with those of a person who has had intercourse without consenting to it (at a time when the conception of her third or subsequent child might have resulted), will normally be used to determine eligibility for the exception. Thus women are not placed in the position of having to give details about the rape to DWP and HMRC officials and eligibility will not be based on there being a conviction or any judicial finding. The Government will handle this extremely sensitive information discreetly and confidentially, in line with its strict data protection rules. Any documentation sent to claimants will not include the reason for additional payment of the Child Element.

33) Q6. Do you have views on using a third party evidence model?

² January 27th 2016. <http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/160127-0001.htm>

Who is recognised as a professional third party

34) **Q7.** As part of exploring a third party evidence model approach, we have been considering the list of possible third parties and **would be grateful for advice as to whether this is the right list, or whether there are other professionals and bodies that should be added:**

- Health care professional (including GPs, other doctors and nurses, midwives and health visitors)
- Police officers
- Registered social worker
- Registered counsellors
- Independent Sexual Violence Advisers
- Other organisations such as specialist rape charities approved by the Secretary of State (in the case of Universal Credit) or by the Treasury (in the case of Child Tax Credit)

35) We appreciate and respect the fact that many women need time to come to terms with what has happened to them before they disclose that they have been raped to anyone. **Q8. We are interested in hearing from third parties (such as those listed in paragraph 34) about any considerations we should take account of as part of the process of providing evidence for the exception. In particular, if there are any issues which might make it more difficult for a third party to assess a claim for exception, including non-recent cases.**

Requirement to not be living with the alleged perpetrator

36) We recognise the difficulty some women have in leaving an abusive relationship, where they have been subject to sexual abuse. However existing legislation such as work related requirements easements for victims of domestic abuse in benefits legislation and Criminal Injuries Compensation Scheme requires that the victim leaves the relationship prior to being able to make use of such provisions. It is in the best interests and safety of the claimant and her children to no longer be living with the alleged perpetrator of the rape. Furthermore we want to ensure that the alleged perpetrator does not stand to benefit from the exception and we want to reduce any risk of collusion or exploitation. Thus we propose making it a requirement for eligibility for the exception that the claimant confirms that she is not living with the alleged perpetrator. Beyond the need to confirm this, there will be no requirement to identify the alleged perpetrator.

37)Q9. Are there other considerations we should take into account in respect of the requirement to not be living with the alleged perpetrator?

Where there has been a conviction or compensation award for rape

38)Alternatively to the third party evidence model, where there is a successful conviction or award of compensation from the Criminal Injuries Compensation Authority for rape occurring (at a time when the child's conception might have resulted), the exception will apply.

39)Q10. Do you agree with this approach?

Chapter 6 – Summary of the consultation questions

Multiple births

Q1. Do you have any views on the proposed model (set out in chapter 3) for implementing the multiple birth exception?

Children living long term with family or friends

Q2. Are there any other **formal** arrangements not covered in chapter 4 for caring for the children of friends and family?

Q3. Where a formal order does not exist, do you agree that evidence from a social worker is the best approach to providing the necessary evidence of the need for an **informal** family and friends care arrangement?

Q4. Are there circumstances where a professional, other than a social worker, may be able to provide such evidence?

Q5. Are there any further considerations we should make in relation to exempting grandchildren/new children (where the parent is under 16 and the grandchild/new child is on the claimant's/grandparent's Child Tax Credit or Universal Credit claim)?

Children likely to have been conceived as a result of rape

Q6. Do you have views on using a third party evidence model?

Q7. Do you have any views on whether the list of professional third parties mentioned in paragraph 34 is the right list, or whether there are other professionals and bodies that should be added?

Q8. Do you have any views about any considerations we should take account of as part of the process of providing evidence for the exception. In particular, if there are any issues which might make it more difficult for a third party to assess a claim for exception, including non-recent cases.

Q9. Are there other considerations we should take into account in respect of the requirement to not be living with the alleged perpetrator?

Q10. Do you agree that where there is a successful conviction or award of compensation from the Criminal Injuries Compensation Authority for rape occurring at or around the time of the child's conception, the exception will apply?

How we consult

Consultation principles

This consultation is being conducted in line with the revised [Cabinet Office consultation principles](#) published in January 2016. These principles give clear guidance to government departments on conducting consultations.

Feedback on the consultation process

We value your feedback on how well we consult. If you have any comments about the consultation process (as opposed to comments about the issues which are the subject of the consultation), including if you feel that the consultation does not adhere to the values expressed in the consultation principles or that the process could be improved, please address them to:

DWP Consultation Coordinator
Caxton House
Tothill Street
London
SW1H 9NA

Email: caxtonhouse.legislation@dwp.gsi.gov.uk

Freedom of information

The information you send us may need to be passed to colleagues within the Department for Work and Pensions, HM Revenue and Customs and HM Treasury, published in a summary of responses received and referred to in the published consultation report.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation

exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.

To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact the Central Freedom of Information Team:

Email: freedom-of-information-request@dwp.gsi.gov.uk

The Central FoI team cannot advise on specific consultation exercises, only on Freedom of Information issues. Read more information about the [Freedom of Information Act](#).