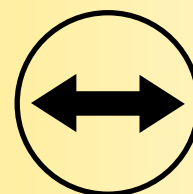


Approved Childcare in the Family Home

Consultation
Document



Childcare

Date of Issue: **July 2006**

Action Required: **Responses by 6 October 2006**

PLANT A PHOBL IFANC - GWEITHREDU'R HAWLIAU
CHILDREN AND YOUNG PEOPLE - RIGHTS TO ACTION

Yr Adran Addysg, Dysgu Gydol Oes a Sgiliau
Department for Education, Lifelong Learning and Skills



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

- Title of document:** Approved Childcare in the Family Home.
- Audience:** Parent Organisations; Nanny agencies; Voluntary Sector Partners; Children's Information Service; Confederation of British Industry; Federation of Small Businesses; Equal Opportunities Commission; Disability Rights Commission; County Librarians; HMRC; Children and Young People's Framework Partnerships; Local Authorities; Children's Partnerships; Young People's Partnerships; Early Years Advisers; Genesis Wales contacts; CSIW; CCW; Children's Commissioner for Wales; DELLS Committee; Assembly Members.
- Overview:** This document and related regulations (Tax Credits (Approval of Child Care Providers)(Wales) Scheme 2007) set out the actions which the Welsh Assembly Government intends to take in order to introduce a voluntary scheme for the approval of childcare within the family home, thus enabling parents who use such provision to receive related tax benefits.
- Action required:** Responses to this consultation should be sent to:
Andrew Carter,
Children's Strategy Division, DELLS,
Welsh Assembly Government,
Cathays Park, Cardiff, CF10 3NQ
The closing date for responses is 6th October 2006
- Further information:** Enquiries about this consultation document should be directed to:
Andrew Carter,
Children's Strategy Division, DELLS,
Welsh Assembly Government.
Cathays Park, Cardiff, CF10 3NQ
Tel: 029 2082 5894
- Additional copies:** Additional copies may be requested from:
Nigel Woodward,
Children's Strategy Division, DELLS,
Welsh Assembly Government.
Cathays Park, Cardiff, CF10 3NQ
Tel: 029 2082 6802
This document can also be accessed from the Welsh Assembly Government website www.learning.wales.gov.uk
- Related documents:** The Childcare Strategy for Wales - Childcare is for Children
Tax Credits (Approval of Child Care Providers)(Wales) Scheme 2007 (Draft)
Tax Credits Act 2002
- Plans for making the results public:** Results of the consultation will be made available on the National Assembly for Wales website: www.wales.gov.uk

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Childcare: Approved Childcare in the Family Home

Foreword

The Assembly Government's Childcare Strategy for Wales is a key part of supporting families with children. By providing quality, accessible and affordable childcare that is available to parents when and where they need it we are creating the conditions for children to develop, parents to work, train or receive basic education, and for families and communities to escape poverty.



The UK Government has already made significant progress towards making childcare more affordable to many working families through the childcare element of Working Tax Credit, (now worth up to £175 a week for one child or £300 a week for two) and through measures to extend the tax and NICs exemptions for employer-supported childcare. In November 2005, we announced in the Childcare Strategy for Wales our intention of ensuring that parents who use approved childcare workers who are not registered by the Care Standards Inspectorate for Wales, within their own home would also be able to access the childcare tax credit, or to benefit from the income tax and national insurance benefits of using employer-provided childcare vouchers for this purpose.

We are now proposing a voluntary scheme for the approval of third-party carers who care for children of any age in the child's own home (other than those related to the child), including both individual "nannies" employed by the parents and those employed by an agency.

The new scheme does not attempt to intervene in or override a parent's judgement when they choose who cares for their child, nor to influence what sort of care is provided. It is intended to provide parents, for the first time, with basic reliable information to help inform their choice.

I hope that you can help us to develop these ideas, as part of our commitment to supporting all families with children in Wales.

A handwritten signature in cursive script that reads "Jane Davidson".

Jane Davidson

Minister for Education, Lifelong Learning and Skills

1 Introduction

1.1 One of the Wales Assembly Government's key ambitions is to provide accessible, affordable, quality childcare for all parents.

1.2 Care in the child's own home is currently specifically exempt from regulation or approval. This means that parents using such childcare are unable to benefit from tax credits support. In addition, parents are not able to obtain information about potential carers from the Criminal Records Bureau. This can only be done by bodies such as nanny agencies.

1.3 We now want to do more to support families by:

- extending government support through the tax credits system and other tax benefits associated with employer-related childcare voucher schemes, to make quality childcare affordable to a wider range of parents;
- encouraging employers to help with the cost of registered and approved childcare;
- putting in place checks on the suitability of a person to work with children that are not currently a requirement where care is unregulated;
- providing a means whereby parents can get information about the suitability of individuals to work with children and specifically about the level of their qualification;
- broadening the approval of childcare where individual providers meet acceptable standards;
- ensuring that approval processes are as straightforward as possible;

1.4 This consultation document lays out how we propose to do this and seeks views on this approach.

2. Background

2.1 The Assembly Government's Childcare Strategy for Wales (Nov 2005) announced the intention of enabling parents who use childcare workers within their own homes and that are approved by the appropriate body, to have access to the childcare element of the working tax credit, and to other associated tax and NICs benefits. This intention is in line with arrangements introduced by the UK Government whereby tax benefits are available to parents who make use of childcare in their own home, provided that the person providing the care goes through a voluntary approval scheme.

2.2 In December 2003, following consultation, changes to the tax and national insurance exemptions for employer supported childcare were introduced, giving employers a greater incentive to help their staff with the costs of childcare provision. These changes have had a significant impact on many parents in addition to those receiving the childcare element of Working Tax Credit. Since April 2005 employers have been able to help their staff with the cost of childcare by either contracting directly with a registered or approved childcarer or providing childcare vouchers to use to pay a registered or approved childcarer. The benefit-in-kind of the provision of up to £55 a week has been exempt from tax and National Insurance Contributions (NICs). The changes have also meant, however, that the existing NICs exemption on employer-provided childcare vouchers is only available on childcare vouchers where the childcare used is registered or approved. Families who benefited from NICs exemptions for employer-provided vouchers where the care was not registered or approved, lost those benefits unless they changed to registered care.

2.3 This led us to consider the advantages of introducing an initially voluntary certification scheme which would not only allow parents to access tax credits but also enable us to assess the impact on the sector. Although it was originally envisaged in the Childcare Strategy that such a scheme would be administered by the Care Council for Wales, after detailed discussion, this is not now considered appropriate at this time.

2.4 We are instead proposing to create a single, light touch approval scheme for carers in this category. Carers that are approved under the new scheme will be able to provide qualifying care for the childcare element of Working Tax Credit and for the tax and NICs exemptions for employer-supported childcare.

2.5 The new scheme is designed to be non-intrusive and to leave responsibility firmly with parents for determining the nature and quality of care whilst at the same time offering parents some minimum assurances on child protection, safety and quality when using an 'approved carer' in this context. Through this consultation we are seeking your views on the principles that should underpin the scheme. We are not at this stage considering the introduction of compulsory regulation, and indeed to do so would require primary legislation.

2.6 The approval scheme will need to operate on what is essentially a cost recovery basis, with some scope for pump-priming and underwriting of the scheme, by charging carers that apply for approval, so it is important that it builds on existing

infrastructure and involves minimal bureaucracy in order to keep costs and charges down.

2.7 Following this consultation, we expect to lay regulations early in 2007, and for the scheme to be in place for the tax year 2007. This ties in with the tax and NICs exemptions for employer supported childcare that were introduced in April 2005. Regulations relating to Housing Benefit will also be changed to reflect this new category of eligible childcare.

2.8 We intend to enter into a contract with an external delivery partner or agency that would provide the various elements of the approval process, but in a way that ensures it is seamless for applicants – reflecting the fact that it is a light touch approval scheme. The agency would charge all applicants at the point of seeking approval such that the costs of running the service can be recovered. In the rest of this document, this agency is referred to as the “approval body”.

3 The Proposals

3.1 Approving unregulated childcare on domestic premises: the Proposals

3.1.1. Registered childminders are already eligible carers for Tax Credits and related purposes and have no need to seek approval under this new scheme as they will continue to be registered by the Care Standards Inspectorate for Wales. The proposed criteria set out below are intended to apply only in circumstances in which registration is not already required.

3.1.2 The majority of nannies working in Wales are recruited directly by parents through local contacts rather than through an employment agency. The law does not allow for parents as individuals to seek or receive police record disclosure information from the Criminal Records Bureau on nannies or other carers whom they may employ in their own home. Only childcare organisations or employment agencies can currently get access to such information.

3.1.3 The approval process that we are proposing puts suitability at the forefront. It will provide parents for the first time with information regarding the suitability of individual carers. By doing this we aim to assist parents in making employment decisions while minimising the level of intrusion into private family arrangements.

3.2 Criteria for the approval of an individual carer

3.2.1. We propose that, to be an approved childcarer under the new scheme, individuals would have to meet **three** basic criteria:

- They have to show that there is nothing in their background that makes them unsuitable to care for children. In the vast majority of cases this would be achieved through obtaining an enhanced disclosure from the Criminal Records Bureau (CRB).
- They have to show that they have attained at least a minimum level of appropriate qualification. Many carers will already have childcare qualifications but as a minimum we would expect approved carers to have an existing qualification on the national framework of accredited qualifications for Early years education, childcare and playwork (formerly the ACCAC framework) at level 2 or higher.
- At the time of application for approval they must have a valid first aid certificate relevant to the care of children. This would help to ensure that an approved carer would be well prepared to deal with any accidents that might arise.

3.3 Responsibility for the quality of the environment

3.3.1. We consider that childcare in parents' homes should be left to parents' discretion and it would be inappropriate for the Assembly Government to

dictate standards for the home environment – the responsibility for the quality of the environment must lie with the parents where childcare is being provided in their own homes. We do not therefore propose to include premises checks within the approval scheme.

3.4 Renewal of approval

3.4.1 Renewal of approval must involve repeating checks and confirming continuing suitability. It is important to balance the cost of re-checking against the potential for convictions to be recorded against an individual at any time after the original Disclosure has been issued by the CRB.

3.4.2. Designated childcare organisations come under the compulsory provisions of the Protection of Children Act (POCA). These require a new check to be carried out whenever someone employed by a childcare organisation changes employer.

3.4.3. Childcare employment agencies are also covered by the provisions of POCA but have an ‘easement’ that allows for carers to work with a variety of families for up to twelve months before being rechecked.

3.4.4 Approved carers operate outside the regulated sector and are not covered by the compulsory provisions of POCA. However, in order to ensure effective child protection we propose that the approval should be valid for a period of 12 months only. That means that approved carers would be able to change families or to work for more than one family within a twelve-month period but that in all cases approval would have to be renewed on an annual basis.

3.4.5. We would therefore expect the approval body to put in place a system for renewal of approvals that would involve a fresh CRB/POCA check, although these arrangements may be subject to review in the light of the provisions of the SVG Bill.

3.5 Cancellation of Approval

3.5.1. Designated childcare organisations that terminate the employment of a carer because of an act against a child have a duty in law to report this individual to the POCA list. This means that the case will be investigated and may lead to the individual being barred from working with children in future. Other childcare organisations may refer individuals to the POCA list but are not required to do so. It is an offence knowingly to employ in a childcare position anyone who is disqualified by reason of the nature of an offence or listed on POCA/List 99.

3.5.2 POCA cannot accept referrals other than from childcare organisations or regulators. Where the approved carer employed by a family is suspected of committing an offence against a child, this would be a matter for the appropriate child protection agency to investigate (Police, NSPCC or Social Services Department). Parents would be advised to notify the approval body

if such an investigation had been initiated. Approval would be cancelled should the approval body be informed that a full investigation is underway. Should the investigation exonerate the carer, the approval could rapidly be reinstated.

3.5.3 The approval body would not have a statutory role in child protection and would have no authority to investigate complaints about the quality of care. It would only be able to act on evidence presented that a person was in breach of their approval criteria. i.e. that they had committed, or were under investigation for, an offence that would otherwise prevent them from being approved. Guidance for parents will advise them to notify the approval body if they become aware of information that might question the carer's approval.

3.5.4 While any one incident may not be enough to warrant withdrawal of approval, the fact that a carer has had complaints made against him/her may be important information in the event of an investigation (or may suggest that an investigation is necessary). As a condition of being approved an individual homecarer or parent will need to give his/her consent to the approval body keeping details of any complaints made against them and passing these on to official, designated bodies where appropriate.

3.5.5. The letter notifying the carer of the approval will make clear the duration of the approval and will make clear that anyone considering employing or using the carer should check with the approval body that the approval is still valid.

3.6 Right of Appeal

3.6.1. In cases where the accusations were deemed to be unfounded, the carer would have a right to appeal against cancellation and to have their approval renewed. Those refused approval or refused renewal of approval should also have a right to appeal.

3.6.2. We propose to provide access to the Care Standards Tribunal as the appeal body, who would be both an external and independent arbiter of approval decisions.

4 Obtaining financial support on the basis of using approved childcare

4.1 Parents who employ an approved childcarer in their own home will be able to quote the approval reference in their claim for Working Tax Credits or Childcare Vouchers.¹

4.2 It would not be appropriate for Government to get involved in approving childcare arrangements between members of a family where the care takes place in the child's own home. For this reason, where the approved carer is caring for children to whom they are related in the child's own home, this would not be eligible for tax credits or other support.

4.3. However, eligible care provided by a relative outside the child's home would enable access to tax credits or other support as this would be assumed to be in the context of a wider business arrangement (e.g. where a relative was running a breakfast club).

¹ For more details on these schemes, see the Inland Revenue website (www.inlandrevenue.gov.uk)

5 Regulatory Impact Assessment

5.1 Attached to this consultation document is a Regulatory Impact Assessment (RIA) that presents the basis for the decision to implement a voluntary scheme, rather than maintain the status quo or impose regulation on these sectors of childcare.

Regulatory Impact Assessment (RIA) for the Approval of Childcare in the Family Home

1. Purpose and intended effect of measure

The proposal extends the approval of unregulated childcare to include care provided in the family home (other than that provided by a relative). This will enable more parents in Wales to access the childcare element of the Working Tax Credit (WTC) and similar financial support, including tax/NICs exemption for employer support/vouchers for registered or approved childcare.

2. Background

The Tax Credit Act 2002 gives the Wales Assembly Government the power to extend access to working tax credits and other tax and NICs benefits associated with employer-related voucher schemes, to parents who pay for childcare in their own home, provided the carer has been through an approval system. Specifically, they are able to claim Working Tax Credits (WTC), and to receive Income Tax and NI advantages if using employer-provided childcare vouchers. The aim of the policy is to make childcare more affordable and, as a result, stimulate growth in supply. This in turn helps parents, particularly lone parents, those working atypical hours and those with disabled children, to get work. Similar arrangements are already in place in England, whilst Northern Ireland is in the process of implementation. In Scotland the tax and NIC benefits are available to parents that use carers employed by a registered nanny agency. This approach would require a change to primary legislation to replicate it in Wales.

In Wales, eligibility for these same tax benefits is currently restricted to the following categories of childcare provider:

- Any provision registered through the Care Standards Inspectorate for Wales (CSIW)
- Childcare provided by a school
- Certain childcare that has gained accreditation under a quality assurance framework, such as “Aiming High” for out of schools clubs

Care provided in the family home does not currently attract tax benefits unless the care is provided by a registered childminder (ie it does not include nannies).

The Assembly Government’s Childcare Strategy for Wales includes a commitment to extending eligibility for these tax benefits to those using registered childcare providers in their own home. Ministers have now agreed to the preparation of regulations under the Tax Credits Act 2002, which will create a voluntary approval scheme for these carers.

3. Risk assessment

The main purpose of these proposals is to ensure that more parents are able to access the childcare element of the WTC or to receive Income Tax and NI advantages if using employer-provided childcare vouchers.

A secondary purpose is to extend a measure of child protection to children being cared for in the family home by putting in place checks that do not exist at the moment. In particular, and under the terms of the proposed scheme, parents will have access to information regarding suitability of individuals (specifically through the proposals with regard to enhanced CRB checks and minimum levels of qualification). Although it is difficult to quantify, the introduction of these checks should lessen the risk to children by deterring those with previous offences who might otherwise seek access to children in this sector, as well as screen out those who are unsuitable.

4. Options

We have identified three options:

1. Do nothing
2. Introduce a regulatory model requiring primary legislation
3. Introduce a voluntary, light touch scheme based on Criminal Records Bureau (CRB) clearance and a minimum level of qualification.

The three options are discussed in more detail below, with a preliminary assessment of benefits and costs for each of the options:

Option 1: Do Nothing

In contrast to the position elsewhere in the UK, parents who employ an appropriately qualified nanny in the family home in Wales would not gain access to the childcare element of the Working Tax Credit, or to the benefits associated with employer provided childcare vouchers. This conflicts with the Assembly Government's commitment to ensuring that such provision will become eligible for tax benefits, as set-out in its Childcare Strategy for Wales.

Option 1: Costs

There are no additional costs to the Assembly associated with this option.

Option 1: Benefits

This option requires no action, whereas the introduction of a scheme would be a fairly substantial undertaking reaching a relatively small number of beneficiaries.

Option 2: The Introduction of a regulatory model requiring primary legislation

This option would make it mandatory for those providing care in a child's own home to register with the Care Standards Inspectorate in Wales (CSIW).

Option 2: Costs

Mandatory approval would be likely to incur substantial costs which were much the same as those for registering a childminder (i.e approx £825 per registration). If the provider/employer were required to meet the cost themselves, issues of equity might be raised in the light of the provisions of the Abolition of Fees Regulations, which came into force on 1st April 2006 and which removed the requirement for other, similar, providers (eg childminders) to meet their costs of registration. If, as an alternative, it was decided to subsidise these costs to bring them into line with those currently charged in England, each approval would be subsidised by approximately £726, adding a potential additional cost to this option of £37k in year 1 of the scheme rising to £131k in year 3.²

Option 2: Benefits

One of the main benefits of this option would be the greater public protection afforded by mandatory regulation and inspection. This would need to be balanced against the political difficulties which might be associated with the need, embedded in legislation, for CSIW inspectors to have access to the family home.

Another clear benefit would be that afforded to parents through access to working tax credits and other tax and NICs benefits associated with employer-related childcare voucher schemes

Evidence from HMRC suggests that the tax benefit for using registered or approved childcare averages approximately £45 per week. Assuming a 45 week year, and subtracting a £825 charge, the annual net benefit per carer would be $45 \times 45 - £825 = £1,200$. Applying this to the estimated throughput³, the economic benefit to parents in Wales accessing tax benefits under this scheme might be in the region of £61k in year 1 rising to £216k the third year

However, the experience to date of introducing registration for care workers in Wales suggests that it is important to have a period where awareness of the value of approval/registration is raised, as part of an overall strategy of professionalism and raising quality in the workforce. Whether or not a mandatory element were to be

² Figures are not currently collected by the Assembly Government nor by HMRC on numbers of nannies in employment in Wales. Instead, we have taken the Wales share of the actual take-up figures in England, for the first year of their scheme. The Wales share has then been halved, due to the higher level of qualification proposed in Wales coupled with the reduced numbers of top-end earners who would be in a position to pay for their nanny to gain approval in Wales. This generates an estimated 51 applicants in year 1, rising to a possible 78 new applicants in year 3 plus renewals of about 102. The figure for year 1 is based on a Wales share of projected approvals under the terms of the England scheme. The figure for the third year has been calculated by applying actual to projected take-up figures for year 1. The percentage difference was then applied to projections for year 3.

³ See footnote 2 above for basis on which projected approval numbers have been calculated.

introduced to the approval of this group at some point in the future, a more 'staged' approach would be both desirable and advisable.

Option 3: Introduction of a voluntary, light touch scheme based on Criminal Records Bureau (CRB) clearance and a minimum level of qualification.

This option introduces a voluntary approval scheme which requires evidence of identity for the purposes of enhanced CRB checks, as well as a minimum level of qualification.

The scheme would be similar to that already in place in England, though the proposed minimum level of qualification is higher than its English equivalent (specifically an existing qualification on the National Framework of Accredited Qualifications for early years, childcare and playwork at Level 2 or higher, as opposed to a short induction course).

It is envisaged that an external delivery partner would be procured to deliver the scheme.

Option 3: Costs

The original intention was that the scheme would be broadly self-financing from fees charged to applicants. The approval cost in England is currently set at £99 and it is proposed that Wales should adopt the same level of charge. However, it is acknowledged that we may be required to provide some additional core funding in order to aid start-up as well as to underwrite the scheme – particularly in view of the level of estimated applicants in Wales and the requirement for the scheme to be bilingual. Levels of additional funding required (if any) will become clearer once we have received tenders in respect of the proposed contract, as potential contractors will be considering various financial models for delivering the scheme within this funding framework. It is not envisaged that such additional funding would exceed £92k over 4 years.

It is envisaged that the £99 fee will be payable either by a nanny agency (which would pass the costs on to the parent) or directly by the employing parent, as it would give them access to the childcare element of the WTC, under which they can claim up to 70% of their childcare costs. Not all parents will qualify for WTC, particularly if they are high earners, but they may benefit where their employers offer childcare vouchers which are exempt from tax and NICs.

Option 3: Benefits

This proposal would widen access to the childcare element of WTC and the tax and NICs exemptions on employer-contracted childcare and childcare vouchers. This could have particular benefits for shift-workers and parents of children with disabilities who are more likely to be reliant on home-based care, as well as parents of older children.

The tax benefit under this option has been calculated as in option 2 above, but using a charge figure of £99 instead of the CSIW cost of £825. On this basis, the

economic benefit to parents in Wales accessing tax benefits under this scheme might be in the region of £98k rising to £347k in the third year.

This model has the advantages of lightness of touch. There would be minimum interference in domestic arrangements/ invasion of privacy, whilst at the same time giving parents more information and choice, and children some better level of protection.

The minimal legislative changes needed may be achieved through new regulations under the Tax Credit Act.

5. Competition Assessment

Competition Filter

The proposals are intended to improve the affordability, quality and safety of childcare and are aimed at parents and individual carers rather than businesses. It is not believed that there are any competition concerns at present, as the measures will stimulate demand for approved childcare across the country.

The Welsh Assembly Government does not expect these proposals to have any direct effect on small business other than nanny agencies which may expect an increase in business. Benefits from the increasing number of approved nannies will be a matter for market competition on a level playing field.

The Welsh Assembly Government has considered the impact of this scheme on childminders. The market for childminding is very different from the market for home childcarers and it is generally considerably more costly to employ a home childcarer than to leave a child with a childminder. Childminders will often be mothers experienced in raising children, while home childcarers, while often well qualified, may not be as experienced. Initially, it is expected that the main candidates for approval will be existing home childcarers, and approval will simply mean that the parents using them are better able to afford their services. For this reason, it is not believed that there will be a great impact on the demand for childminding.

6. Consultation

The principle of extending access to the childcare tax credit and associated tax benefits for parents who use childcare workers within their own home is established in the Assembly Government's Childcare Strategy for Wales. In addition, the details of this approval scheme were discussed with the Childcare Working Group (Chaired by the then Deputy Minister Brian Gibbons) as well as the national childcare organisations operating in Wales.

Subject to Ministerial approval, the scheme will now be consulted on more broadly (see frontispiece of the draft consultation document for a list of proposed consultees) and this Regulatory appraisal amended to take responses into account.

7. Monitoring and review

The proposal being recommended will require secondary legislation under the Tax Credit Act to enable WTC to be based on approvals made by the approval body. The resulting tax credit claims will be monitored by the Inland Revenue.

It is also proposed to evaluate the scheme during its first two years of operation to ensure that the processes are effective and that the outcomes match the intentions.

8. Summary

Option 1: No change

This is at no additional cost but will not increase the number of parents able to access the childcare element of WTC or other benefits. It disadvantages parents employing childcarers in their own home as compared with those in England, Scotland and, imminently, Northern Ireland. It is also out of step with Ministerial commitments in the Childcare Strategy for Wales.

Option 2: Regulation

This option would have very significant costs associated with the implementation and running of such a scheme. There would also be a long lead-time which would delay parents' access to these tax benefits, has meant that the option has not been costed in detail.

Option 3: Light touch model

9. We recommend this model

This model would increase the number of parents able to access tax credits and tax/NICs exemptions for employer- supported childcare. It would also introduce a level of checks and qualifications which do not exist for home based carers, other than approved home childcarers, at present. It balances the need to extend financial support and access to information in order to offer children more protection, against the imposition of further regulation on sectors of the childcare market which do not warrant it.

The cost to the Welsh Assembly Government will range from nil to a maximum of £92k over four years, depending on the extent to which contractors are able to deliver the scheme on a self-financing basis, which in turn is dependant on numbers of applicants.

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2007 No. (W.)**TAX CREDITS, WALES****Tax Credits (Approval of Child
Care Providers) (Wales)
Scheme 2007****EXPLANATORY NOTE***(This note is not part of the Scheme)*

This Scheme provides for the approval of child care providers for the purposes of section 12(5) of the Tax Credits Act 2002 (“the Act”)(1). The National Assembly for Wales is the “appropriate national authority” in relation to care provided in Wales. Qualifying child care (as defined) provided by a person approved in accordance with this Scheme constitutes care provided by a person of a prescribed description for the purposes of section 12(4) of the Act. Regulations made under section 12(1) of the Act prescribe the circumstances in which entitlement to working tax credit in respect of care provided by a person approved in accordance with this Scheme may arise. (See the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005)(2).

The approval body named in this Scheme is specified by the National Assembly for Wales under section 12(7) of the Act (article 3). Applications for approval are determined by the approval body in accordance with criteria set out in this Scheme (article 7).

The Scheme further provides:

- (a) for the approval body to operate a system for the determination of applications for approval (article 8);

(1) Tax Credits Act 2002

(2) Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002 (S.I. 2002/2005)

- (b) for the approval body to provide information to the Commissioners of Inland Revenue in order to enable them to discharge their functions relating to working tax credit (article 9);
- (c) for the period of validity of an approval (article 10);
- (d) for the right to appeal against the refusal or withdrawal of approval (article 11);
- (e) for the charging of fees by the approval body (article 12).

This Scheme applies only in relation to Wales.

 STATUTORY INSTRUMENTS

2007 No. (W.)

TAX CREDITS, WALES

**Tax Credits (Approval of Child
Care Providers) (Wales)
Scheme 2007**

Made []

Coming into force []

The National Assembly for Wales, being the appropriate national authority under section 12(6) of the Tax Credits Act 2002⁽¹⁾ and in exercise of the powers conferred on the National Assembly for Wales by sections 12(5), (7) (8) and 65(3) and (9) of that Act, and after consultation with the Council of Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992⁽²⁾, hereby makes the following Scheme:

Citation, commencement and application

1—(1) This Scheme shall be known as the Tax Credits (Approval of Child Care Providers) (Wales) Scheme 2007 and shall come into force on 1 February 2007.

(2) This Scheme applies in relation to Wales.

Definitions

2. In this Scheme —

“the 1989 Act ” means the children Act 1989⁽³⁾;

“approval body” means the body referred to in article 3;

“approval criteria” has the meaning given to it in article 7;

“child” has the meaning attributed to it by the Child Tax Credit Regulations 2002⁽¹⁾;

⁽¹⁾ Tax Credits Act 2002

⁽²⁾ Tribunals and Enquiries Act 1992

⁽³⁾ Children Act 1989

“domestic premises” means any premises which are wholly or mainly used as a private dwelling and “premises” includes any area and any vehicle;

“parent” includes a person who —

- (a) has parental responsibility for a child;
- (b) is a local authority foster parent in relation to a child;
- (c) is a foster parent with whom a child has been placed by voluntary organisation; or
- (d) fosters a child privately;

“parental responsibility” and “fosters a child privately” have the meanings attributed to those respective expressions by sections 3 and 66 of the 1989 Act;

“qualifying child care” has the meaning ascribed to it in article 5;

“relative” in relation to a child means a grand-parent, brother, sister, uncle or aunt (whether of the full blood or half blood or by affinity) or a step-parent;

“relevant first-aid certificate” means a certificate in respect of a course of first-aid training —

- (a) which is suitable to the care of babies and children;
- (b) which includes training in the following areas; dealing with emergencies; resuscitation; shock; choking; anaphylactic shock; and
- (c) which has been undertaken by the applicant not more than three years before the date upon which the application for approval is made;

“the Tribunal” means the tribunal established by section 9 of the Protection of Children Act 1999⁽²⁾;

“the Tribunal Regulations” means the Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002⁽³⁾.

Specified body

3. The body specified for the purpose of giving approvals under this Scheme is [TO BE DETERMINED].

⁽¹⁾ Child Tax Credit Regulations 2002

⁽²⁾ Protection of Children Act 1999

⁽³⁾ Protection of Children and Vulnerable Adults and Care Standards Tribunal Regulations 2002 (SI 2002/

Requirements of the Scheme

4. For the purposes of regulations made under section 12 of the Tax Credits Act 2002, a person shall be a child care provider approved in accordance with this Scheme only —

- (a) if he is for the time being approved by the approval body; and
- (b) in respect of the provision by him of qualifying child care.

Qualifying Child Care

5.—(1) Qualifying child care means care for a child provided by an individual on domestic premises for reward but does not include care referred to in paragraph (2).

(2) Qualifying child care does not include —

- (a) childminding which is subject to registration pursuant to Part 10A of the 1989 Act;
- (b) child care provided wholly or mainly in the child's own home in respect of a child to whom the provider is a parent or relative; or
- (c) child care provided wholly or mainly in the home of a relative of the child where such care is usually provided solely in respect of one or more child to whom the provider is a parent or relative.

Approved person

6.—(1) A person shall be given approval as a child care provider under this Scheme if the approval body is satisfied that the approval criteria are met in relation to that person.

(2) A person who has been given approval under paragraph (1) shall cease to be so approved if that approval is withdrawn by the approval body.

(3) The approval body may withdraw an approval if satisfied that the approved criteria are no longer met in relation to that person.

Approval criteria

7. In relation to an application for approval as a child care provider the approval criteria are —

- (a) that the applicant is 18 years of age or over;
- (b) that the applicant has obtained one of the qualifications from time to time specified in a list maintained by the National Assembly for Wales for the purpose of this article,

- (c) that the applicant has obtained a relevant first-aid certificate; and
- (d) that the applicant is not considered unsuitable to work with or have unsupervised access to children.

Approval system

8.—(1) The approval body shall operate a system for the determination of applications for approval made to it under this scheme and shall make adequate arrangements to publicise the details of that system.

(2) Without prejudice to the generality of paragraph (1), the approval system referred to in that paragraph shall in particular —

- (a) provide for a procedure by which an applicant may apply for approval;
- (b) set out requirements relating to the provision by an applicant of documentary or other evidence necessary to demonstrate that the approval criteria are met;
- (c) provide for a procedure whereby approvals may be withdrawn;
- (d) provide for the applicant to be given notice in writing in respect of a determination to grant, refuse or withdraw an approval;
- (e) provide for a procedure whereby it may be ascertained whether an individual is for the time being approved under the scheme; and
- (f) provide for the keeping of appropriate records relating to applications for approvals and to the grant, refusal or withdrawal of such approvals.

(3) The approval body shall maintain a record of those persons to whom an approval is granted for the time being under this Scheme.

(4) The records referred to in paragraphs (2) and 3) may be kept by means of a computer.

Provision of information by approval body

9. The approval body shall supply to the commissioners of Inland Revenue such information as they may require for the discharge of any of their functions relating to working tax credit and which is information relating to the approval, or the refusal or withdrawal of approval, of persons under this Scheme.

Period of approval

10.—(1) An approval given under this Scheme shall state the period of its validity which shall not exceed a period of 12 months.

(2) Nothing in this article shall prejudice the application of article 6(2).

Appeals

11.—(1) Where the approval body refuses an application for the grant of an approval or withdraws an approval previously granted, an appeal shall lie to the Tribunal against that decision.

(2) The provisions of the Tribunal Regulations shall apply to an appeal under paragraph (1) as they apply to an appeal under section 79M of the 1989 Act and as if those provisions were set out in this scheme, but with the modifications referred to in paragraph (3).

(3) Schedule 2 to the Tribunal Regulations shall apply as if —

- (a) any reference to an appeal under the 1989 Act were a reference to an appeal under article 11(1) of this Scheme;
- (b) any reference to any registration were a reference to an approval given under this Scheme;
- (c) any reference to the cancellation of registration were a reference to the withdrawal of an approval under this Scheme;
- (d) any reference to the registration body or the respondent were a reference to the approval body; and
- (e) paragraph 3(3)(c) of that Schedule were modified as specified in paragraph (4) of this article and any reference to the said paragraph 3 were a reference to that paragraph as so modified.

(4) The said paragraph 3(3)(c) shall apply as if —

- (a) the decision referred to in sub-paragraph (ii) of that paragraph were to the decision to refuse to grant or to withdraw an approval under this Scheme; and
- (b) sub-paragraph (iii) of that paragraph did not apply.

(5) On an appeal, the Tribunal may —

- (a) confirm the refusal to grant the approval or the withdrawal of the approval;

- (b) direct that the said refusal or withdrawal shall not have, or shall cease to have, effect; or
- (c) direct the approval body to reconsider any decision which is the subject of the appeal.

Fees

12. The approval body may charge any person seeking approval under this Scheme such reasonable fee as it shall, subject to the approval of the National Assembly for Wales, determine.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽¹⁾.

Date

The Presiding Officer of the National Assembly

⁽¹⁾ 1998 c.38.

Welsh Assembly Government Consultation

Childcare approval scheme

Consultation response form

Name:	<input type="text"/>
Organisation:	<input type="text"/>
Address:	<input type="text"/>
Telephone number:	<input type="text"/>

Please select one of the following boxes that best describes you as a respondent:

Voluntary organisation	<input type="checkbox"/>
Parent/carer	<input type="checkbox"/>
Other childcare worker	<input type="checkbox"/>
Provider of group-based childcare	<input type="checkbox"/>
Union/professional body	<input type="checkbox"/>
Childcare voucher provider	<input type="checkbox"/>
Provider of childcare on domestic premises	<input type="checkbox"/>
Agency providing childcare on domestic premises	<input type="checkbox"/>
Other (please specify):	<input type="checkbox"/>

Responses to the consultation will be made public. Normally, the name and address (or part of the address) of the author are published along with the response unless you indicate otherwise. Would you prefer that your response is kept confidential?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Please comment as fully as possible to help us with the guidance. Responses should be submitted by **06/10/06**.

Questions

Approval of an individual carer

Q1. Do you consider it correct to proceed on the basis of approval, rather than full registration?

Yes ☐ No ☐

Comments:

Q2. Do you agree that the proposed criteria for the approval of an individual carer are appropriate?

Yes ☐ No ☐

Comments:

Q3. Do you think that parents would need guidance on how to employ an approved carer? If so, what should this cover?

Yes ☐ No ☐

Comments:

Renewal of approval

Q4. Do you agree that approval should be renewed every year?

Yes ☐ No ☐

Comments:

Cancellation of approval

Q5. Do you agree with the proposed provisions for the cancellation of approval?

Yes ☐ No ☐

Comments:

Right of appeal

Q6. Do you agree with the proposed provisions for providing a right of appeal?

Yes ☐ No ☐

Comments:

Cost

Q7. Do you agree that the proposed level of fee (£99) is appropriate?

Yes ☐ No ☐

Comments:

Private contractor to approve nannies

Q8. Do you agree with the proposals to contract with a private contractor to approve nannies?

Yes ☐ No ☐

Comments:

Regulatory appraisal

Q9. Do you agree that the information given in the Regulatory Appraisal adequately describes the costs and benefits of each option?

Yes ☐ No ☐

Comments:

Further information

Q10. We would be interested in any other comments that you may have about the proposals, and welcome your further views.

Comments: