



Tax credits Adjournment Debate 16.5.07
Briefing for MPs

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Introduction

The Child and Working Tax Credits are key to the Government's agenda on eradicating child poverty by:

- raising poorer families' income (primarily through the child tax credit); and
- improving in work incomes (primarily working tax credit and the child care element within it).

CPAG is strongly supportive of the resources which have been invested in children and families under the tax credit regime, though this does not mean we support each aspect of the mechanism through which this has been achieved. The effective delivery of the tax credits is of great importance.

Context

Tax credits have been associated with real falls in child poverty: there are 600,000 fewer children in income poverty in 2005/06 than in 1998/99. This has been delivered by a combination of tax credits and greater employment (which the tax credits have supported).

Since their introduction in April 2003, there have been widespread problems of both official and claimant error (caused by poor and complex systems) and problems with the extent to which the system could cope with fluctuating incomes, leading to widespread over and underpayments of tax credit. Such over and underpayments are integral to the scheme, set up as it was on an annual principle. But the extent of the over and underpayments is larger than the Government predicted and the manner in which the system (initially at least) sought to recover overpayments placed many families in hardship.

The well publicised problems of the tax credits led to a package of administrative reform (announced in May 2005) and policy reform (announced in December 2005). CPAG is supportive of the overall thrust of these reforms, though we have criticised some of the detail¹. We also appreciate that much of the analysis currently provided on tax credits, for instance that reviewed by the recent Public Accounts Committee inquiry into tax credits,² predates the implementation of the December 2005.³

What else needs doing?

Although the real impact of the December 2005 changes on the ability of the tax credit system to deliver a responsive system to families that does not make their income insecure or unstable, there are some clear proposals which would help families in poverty in realizing their rights to financial support:

- **A pause before recovery.** Currently HM Customs and Revenue pause before the recovery of an overpayment *once it is disputed* but not if no dispute is made. The Department has signalled agreement in principle to an automatic pause before overpayment recovery but has not provided a timetable for implementation. Recovery rates are a lottery and HMRC should publish clear criteria for rates of recovery. **As a matter of urgency HMRC should institute an automatic pause before recovery commences and should write to claimants explaining the reason for recovery so they can dispute this if appropriate.**

¹ particularly about the holding back of underpaid tax credit to the year end

² Committee of Public Accounts, Tax credits, HC 487, 2007

³ overpayment statistics due for publication in May will cover 2005/06, pre-dating changes announced in December 2005

- **Appeal rights.** Currently a statutory right of appeal exists *for the level of an award only* not for the existence and recovery of an overpayment. HMRC argue this is in line with the Department for Work and Pensions practice, CPAG disagrees with this parallel because legally, in our view, such overpayments are simply not recoverable at all. The only DWP overpayments which the DWP has a right to recover are those arising because of claimant error – that is, where there has been a failure to disclose, or misrepresentation by the claimant (per section 71 Social Security Administration Act 1992) – and disputes about whether there has been such claimant error do carry a right of appeal. There is no right of appeal needed in respect of any other DWP overpayments (i.e. official error overpayments) precisely because they are not recoverable and so legally cannot be recovered. HMRC has been investigating a fast track dispute process to the Adjudicator, but this progress has been very slow. **Greater statutory appeal rights are needed.**
- **Full independent oversight of appeals by Tribunals service.** Where statutory appeal rights do exist (this is a separate issue to that of appeal rights in relation to overpayments) currently HMRC administer the process, deciding what appeals are valid and forwarding these on to the Tribunals services. We argue that, **in law, appeals are owned by the Tribunals service and so it should have end to end oversight of this process, even if HMRC provide the initial, administrative, portal.** Without such oversight, there is no independence to the appeals process – it is not clear, for instance, on what grounds an appeal has been settled. The Tribunals service needs a record of all appeals so that it is able to check HMRC has dealt with these properly (for instance where HMRC settles).
- **Statutory duties for HMRC to consult the Social Security Advisory Committee (SSAC).** SSAC has a formal, statutory, relationship with the Department for Work and Pensions which allows SSAC to consult outside bodies (including CPAG) as to the ramifications of possible regulations which helps to improve its advice to the Department. However, HMRC has no equivalent requirement to send regulations proposing changes to tax credits to SSAC for them to consult outside bodies. A non-statutory relationship exists between SSAC and HMRC, with HMRC sharing proposed regulations with SSAC on a confidential basis. Formalising this relationship could improve integration of tax credits and benefits and may have avoided problems such as the loss of entitlement to benefits resulting from the 4-week run-on of WTC. **We believe the lack of a formal relationship between SSAC and the HMRC is inconsistent and weakens the ability for constructive input in the development of regulations.**
- **Better administration.** Efforts have been made here, but the system remains complex with forms and guidance still impenetrable for many. Additional investment has been made in greater call centre capacity but we still hear that **claimants encounter difficulties getting through to call centres and ensuring changes of circumstances are properly acted on** (with issues around staff training, language and the limitations of a script based approach). We continue to hear reports of **wrong information on award notices**, and their complexity inhibits claimants spotting problems and resolving them. We have also had examples of **written communication not being acknowledged or being lost by HMRC meaning that changes were not acted on.** Advisers report problems in dealing with HMRC as intermediaries with it being difficult to arrange permissions with HMRC to act on behalf of a claimant. Given the inherent complexity of tax credits it is often not reasonable to assume people will be able to understand them fully, implying the need for better quality advice through multiple channels including in particular there is a **need for accessible face to face advice.**

Further there are areas of the tax credit scheme which need further and evaluation and discussion:

- **Holding back lump sums from underpayments.** Under the initial system underpayments, once discovered would be put right with an increased tax credit award and lump sum payment of outstanding tax credit. After the December 2005 proposals, once an underpayment is discovered the award will be amended, but the lump sum held back to off set future overpayments. Whereas we understand the importance of reducing the need to reduce future claimants incomes from a further overpayment recovery, previously claimants might have been able to use a lump sum to pay off debts incurred whilst they were being paid less than their proper entitlement. **We would like to see the impact of withholding underpaid lump sums to year end closely evaluated for its effect on poverty and debt.**
- **Recovery of overpayments where couples split up.** There is a lack of clarity over what criteria are used to determine from whom the overpayment recovered. HMRC may be inclined to pursue the resident parent due greater opportunity to do so. Overpayments resulting from termination of a couples claim are supposed to be offset against a new claim from the resident parent. However, HMRC are failing to implement this policy and the help line frequently fails to advise the resident parent that a new claim is necessary. Advisers report having to threaten legal action to get the offsetting process used. **We would like consideration given to extending the circumstances in which there may be a deemed date of claim under section 4 of the Act or new the introduction of new linking rules.**
- **Fluctuating incomes.** The significantly increased income disregard (from £2,500 to £25,000) will reduce overpayments for those seeing their income rise but if income goes down and is reassessed, the claimant is not then covered by it and so the £25,000 disregard provides much less protection for those with fluctuating incomes, who are likely to be a more vulnerable group. **We need to know much more about how children in families with fluctuating income patterns are being treated by the tax credit system.**
- **Childcare.** The child care element within working tax credit pays up to 80 per cent of costs up to certain limits. Though this is a significant support for those families in receipt, there are problems with this mechanism: it does not cover full costs; childcare is not well targeted on the poorest families; amounts are capped for 2 children – so larger families get less; registered child care may not always be available (especially in poorer areas) or chosen (perhaps particularly by lone parents and some black and minority ethnic groups); and given that child care produces both large and often unstable amounts is likely to be a driver of overpayments. **Investigating other mechanisms of supporting childcare to tie better with building sustained local provision, accessible to all families is needed.**

Conclusion

Though reforms have taken place, it will take time to fully assess their impact. This is scarce comfort for families experiencing recent problems with the tax credit system. But that does not imply that an alternative system (say fixed awards over a assessment long period) would be necessarily better. The extent to which serious problems are coming through to CPAG has reduced over the last year, but we are still picking up evidence both of policy problems (for instance the treatment of families with fluctuating income) and

administrative problems (particularly those associated with complicated forms and the ability to communicate changes effectively through the helpline).

About CPAG

CPAG is the leading charity campaigning for the abolition of poverty among children and young people in the UK and for the improvement of the lives of low income families. CPAG aims to: raise awareness of the causes, extent, nature and impact of poverty and strategies for its eradication and prevention; bring about positive policy changes for families with children in poverty; and enable those eligible for income maintenance to have access to their full entitlement.

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