

Tax-Free Childcare Team,
HMRC,
Room 1C/20,
100 Parliament Street,
London
SW1A 2BQ

Head Office

City Reach
5 Greenwich View Place
London E14 9NN

Tel: 020 7512 2112
Fax: 020 7512 2010
info@4Children.org.uk
www.4Children.org.uk

Monday 6th October 2014

Dear Sir/Madam,

Re: Technical consultation on draft secondary legislation for the Childcare Payments Bill

4Children welcomes the opportunity to respond to HMRC's technical consultation on the draft secondary legislation for the Childcare Payments Bill.

4Children is the national charity all about children and families. We have spearheaded a joined-up, integrated approach to children's services and work with a wide range of partners around the country to ensure children and families have access to the services and support they need in their communities. We run Sure Start Children's Centres as well as family and youth services across Britain. We develop, influence and shape national policy on all aspects of the lives of children, young people and families.

In this submission, we will make two main points on the draft statutory instruments which are the subject of the consultation. The first concerns Regulation 9 within the draft *Childcare Payments (Eligibility) Regulations* on the definitions of qualifying paid work, and particularly Sub-section 2(b)(ii). The second concerns Regulation 20 within the draft *Childcare Payments Regulations* on the requirement to make applications and declarations electronically, and focuses on the provisions in Sub-section 2 surrounding definitions of digital exclusion. We will address these issues in turn below.

Childcare Payments (Eligibility) Regulations

Regulation 9: The requirement to be in qualifying paid work

Regulation 9 sets out the requirement that parents will need to be in paid work to make a valid declaration of eligibility for the scheme. Within this, Sub-section 2(b) states that:

- a person is to be regarded as in paid work as an employed person if –
- (i) the person has accepted an offer of work on or before the day on which the declaration of eligibility is made; and
 - (ii) the work is expected to start within 7 days of that day.

With respect to the second of these provisions, we feel that in practical terms a seven day window may be too short a timeframe for parents who are looking to arrange childcare to cover a period of employment. In addition to finding a childcare provider at relatively short notice, parents in this situation may also be required to make upfront payments to cover childcare provision, and therefore be making a significant upfront financial commitment in order to take up an offer of employment – in some cases, without significant financial resources or recourse to borrowing, this may not be possible unless they have access to the additional support provided by the scheme.

Consequently, we feel that from a parents' perspective the seven day window specified in Sub-section 2(b)(ii) should be extended to give them more time to set up their childcare arrangements as well as providing earlier access to Government top-ups to support them with potential upfront costs. We acknowledge that the seven day limit has been chosen in order to align with tax credits, but also note its inconsistency with Universal Credit where official guidance to parents indicates that they can claim the childcare element of Universal Credit up to a month before starting work as long as they have a job offer.¹

In our view, the seven day window specified in Sub-section 2(b)(ii) should therefore be extended to one month, in order to both align with conditions under Universal Credit and provide adequate flexibility for parents in the period before they take up employment.

Childcare Payments Regulations

Regulation 20: Requirement to make applications and declarations electronically

Regulation 20 sets out the need to submit applications and declarations for Tax-Free Childcare electronically, in line with the Government's "digital by default" approach to implementing the scheme. Sub-section 2 defines the circumstances in which those claiming support through the scheme will not have to make such submissions electronically, and essentially sets out the conditions in which a user can legitimately claim to be "digitally excluded".

However, we are concerned that as currently drafted these provisions remain limited in terms of the specific named situations in which a claimant will not have to make an electronic submission. These are currently very prescriptive, and state that the only circumstances in which electronic submissions will not be required are where someone:

- Is prevented by court order from sending electronic communications
- Holds beliefs that are incompatible with the use of electronic communications
- Is unable to use electronic communications due to age
- Is unable to use electronic communications due to disability

¹ Department for Work and Pensions (2014) [Universal Credit and your family](#), p. 1

- Is unable to use electronic communications due to an inability to operate a computer effectively that cannot be remedied by use of assisted services
- Lives in “a remote location so that it is not reasonably practical” to send electronic communications

We have three main concerns with respect to these definitions. First, there may be circumstances which mean that someone is quite legitimately unable to engage with the scheme electronically that are not captured within this set of provisions. Indeed, some issues (for instance, potential educational or financial barriers) may not become apparent until the scheme is up and running. The addition of a further “catch all” within Sub-section 2 may help resolve this – for example, an additional Sub-section 2(d) could be added stating:

“there are other reasonable circumstances which prevent the person’s use of electronic communications.”

Second, we are also concerned about a lack of clarity in certain aspects of the definitions. For example, it is unclear what will represent a sufficiently “remote” location for the purposes of the regulations, or how old a claimant would need to be for age to constitute a barrier to their ability to use electronic communications. It may be that these provisions are being left deliberately open, in order to enable people to self-define as digitally excluded based on their circumstances, which is an element of flexibility that we would welcome. However, we feel that further clarity is required, in order to reduce the scope for confusion and ensure that claimants who are looking to prove that they meet these definitions do not encounter difficulty in doing so.

Finally, there are situations in which the issue of digital exclusion could affect claimants in ways beyond making an application or declaration, which do not seem to be recognised within the regulations at present. For example, those who cannot use a computer will be unable to receive electronic versions of reconfirmation reminders, warning notices or disqualification notices, and HMRC will need to find alternative methods of communicating with them. Equally, parents’ ability to send certain pieces of information to HMRC, such as a copy of a birth certificate to confirm a child’s eligibility in the absence of a Child Benefit Number, may be complicated if they do not have access to emails and scanning facilities. We do not feel that these broader consequences of digital exclusion, and how they are to be dealt with, are covered within the regulations as drafted at present (which focus only on a parent’s inability to make an application or declaration by electronic means).

Therefore, we believe that HMRC must undertake further work to ensure that the existing provisions reflect the reality and full implications of digital exclusion, either through amendments to the draft secondary legislation itself or the development of appropriately robust statutory guidance to underpin the regulations in this area. If HMRC takes the latter approach, any such guidance has to offer a clear and fair interpretation of what constitutes

digital exclusion to resolve any potential for confusion, and take full account of the needs of those affected by this issue.

We would be happy to discuss any of the points raised in this submission in further detail, so please do not hesitate to get in touch if this would be helpful.

Yours sincerely,



Anne Longfield
Chief Executive, 4Children

Tel: 020 7522 6929

Email: anne.longfield@4Children.org.uk