

Tax-Free Childcare Team  
HMRC  
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### **HMRC Tax-Free Childcare: Draft guidance**

1. The Social Security Advisory Committee (SSAC) welcomes the opportunity to comment on HMRC's draft guidance for the Tax-Free Childcare (TFC) scheme. The Committee recognises that Childcare costs can represent a significant expenditure for families with young children, and that the availability and cost of childcare is often cited as a barrier to people entering into work or increasing their working hours. It also acknowledges the Government's commitment to provide support for families with children.
2. The Committee were briefed on the introduction of the TFC scheme in October 2013. Following publication of the scheme details and the subsequent Childcare Payments Bill, the Committee identified a number of potential issues that were explored further in a workshop led by SSAC with officials from HMRC and DWP as well as interested external organisations. One of the Committee's key issues is how the TFC scheme interacts with other childcare provision and in particular how these interactions will be explained to claimants in a way that allows them to understand the range of support available, the eligibility criteria and to make properly informed decisions on what support to apply for. It is with these issues in mind that we comment on the proposed draft guidance.

### General communication principles

3. In September 2013, SSAC published an Occasional Paper<sup>1</sup> which examined communications in the benefits system and the specific challenges that face the Department for Work and Pensions (DWP). We noted in that paper that the social security system is going through a period of unprecedented change which underlines the continuing need for the DWP and other departments,

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<sup>1</sup> Communications in the benefits system – A study by the Social Security Advisory Committee Occasional Paper No.11

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/324005/ssac\\_occasional\\_paper\\_11\\_summary.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324005/ssac_occasional_paper_11_summary.pdf)

including HMRC, to deliver the highest quality communications. This period of change continues with the roll-out of universal credit and the complex landscape that will exist for claimants for a number of years.

4. Many of the points put forward in that paper can also be applied to the draft guidance in relation to TFC and we urge HMRC to consider these points fully in developing their communications for the scheme. In particular:
  - Through the provision of clear and timely information to claimants and potential claimants, HMRC can minimise the risk of confusion arising and facilitate the understanding of when changes are occurring, why they are being made and how individuals will be affected.
  - SSAC recommended that the proposed DWP claimant Communications Unit should be established as a matter of urgency in order to forge links with other DWP teams developing communications. Similar principles apply for TFC and ensuring that there is a joined up approach between communications for TFC with those for universal credit, tax credits and other childcare schemes where claimants will need to make choices as to which scheme they join (or remain part of).
  - Communications need to be flexible so that they can be tailored, changed and enhanced quickly.
  - Communications need to strike the right balance between being clear and engaging and providing information that is complete and legally accurate.
  - Some stakeholders, in particular those providing advice to claimants, will need information for planning their own service provision and also for providing advice to other people to enable them to prepare for the future. Careful thought needs to be given to the communication needs of these stakeholders and the content of tailored communications.

#### Comments on the draft guidance

5. For the majority of TFC claimants, the decision to join the scheme and their journey through the scheme will be relatively simple and straightforward. However for a significant minority of people, including many vulnerable and lower income families, the decision on whether to join the TFC scheme by giving up existing support or by choosing not to apply for other support, will be extremely complex. There will also be many people who fall somewhere between these two groups in terms of communication needs.
6. It is not entirely clear from the accompanying explanatory document<sup>2</sup> how this guidance will be presented and whether it will be a series of separate pages in the main content section of GOV.UK or whether this guidance will be additional detailed guidance to supplement the TFC pages. The Committee strongly recommends that GOV.UK should provide a coherent, integrated set

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<sup>2</sup> <https://www.gov.uk/government/publications/draft-legislation-tax-free-childcare-draft-guidance>

of guidance for claimants covering all options for support with childcare costs (including TFC, childcare vouchers, Universal Credit, etc). It is important that thought is given to the customer journey, particularly for those with more complex circumstances, and how they will navigate between pages or move between main content and this more detailed guidance. Whilst we applaud the attempts to create detailed guidance, not everyone will need this level of detail and those that do will need to be signposted to it clearly.

7. One topic that is notably absent from the structure is how the TFC scheme interacts with other schemes such as tax credits, universal credit and employer-supported childcare. The draft guidance simply tells people they will need to decide whether to keep getting those payments or get a TFC account instead. It then suggests they use a childcare support questionnaire to find out how much TFC they might get along with reading information 'to help you decide when to apply for Tax-Free Childcare'. The Committee is extremely concerned that this guidance fails to properly explain the factors that people need to consider in making that decision. Unless there is a 'better-off calculator' that covers both the financial consequences and differences in rules between the schemes, there is a real risk that some claimants will be unable to make a correct decision for their circumstances. . We would emphasise the need for HMRC to work with their internal colleagues as well as other Government departments to ensure potential claimants will have access to the guidance and tools (including real examples) that will help them make a decision as well as making clear where they can obtain further advice (and for this level of complexity face to face advice may be required).
8. In several places in the guidance, the opportunity has been missed to give people warnings that they may need to think carefully about their position. For example on Page 20 when talking about nil tax credit awards, no warning is given that if you claim TFC in this scenario you may miss out on backdated tax credits if your circumstances change because you have left the tax credits system thus losing your 'protective claim'.
9. Some claimants may fall into groups that need more information that is not needed by the general population. For example, the draft guidance gives no explanation of what counts as a 'receipt' or 'expense' for a self-employed person or what counts as a 'fixed asset' for the purposes of capital expenditure. The rules for the self-employed and how they calculate income are very specific therefore we would suggest that a leaflet is produced for the self-employed covering these issues in more detail. A similar approach could be taken for other groups with particular needs.
10. We noted above that one of the general principles that should be followed is finding the right balance between material that is legally accurate versus material that is simple to understand. We have found several places in the

guidance where in order to keep things simple, technical accuracy has been lost. Depending on how this guidance is to be displayed (whether across several web pages or in one document), this could lead to people making decisions that are financially detrimental to them. For example, on page 7 the guidance states you can get TFC support for each child if they're 'Under 12 years old'. In fact, the legislation states that a child is eligible until 'the last day of the week in which falls the 1<sup>st</sup> September following the child's eleventh birthday'. For some people, this could be a difference of just under a year.

11. A further example is contained on the same page where it says a person must 'not get financial help with childcare costs through another government childcare scheme'. Someone who is getting tax credits but who is not eligible for help with the childcare element of tax credits may well apply for TFC after reading this statement only to find their tax credits are automatically terminated as a result. In both cases, the correct answers are buried further in the guidance, but someone who believes that they have had their question answered by the headline description may well not read on. It is crucial that in pursuing guidance which is simple, technical accuracy is not lost or compromised.
12. Finally, we understand that most people will be expected to apply for TFC accounts online however the legislation allows for people to apply using other methods where the online route is not possible. The guidance appears to be silent on these options. As well as providing an application route for people who are unable to use the online facility, guidance needs to be available to all potential users of the scheme including those who do not have online access.
13. In summary, and in addition to the general points regarding communications as set out in paragraph 4 above, the Committee's response to HMRC's draft guidance is as follows:
  - (i) The relationship with other benefits is crucial: there is a need to provide enough information for people to make an informed choice on the financial consequences of moving to TFC.
  - (ii) More thought should be given to the customer journey on GOV.UK, to ensure that the guidance can be easily accessed by those who need it, without confusing those who do not.
  - (iii) There is a need to provide warnings that people may need to think carefully about their position.
  - (iv) A leaflet may need to be produced for the self-employed and other groups with particular needs.

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- (v) There is a need for a balance between simplicity and detail. Specific places have been highlighted where important details have been omitted.
  - (vi) The guidance needs to be available to users who do not have online access.
13. The Committee recommends that HMRC should continue working with stakeholders and their colleagues in other Government departments to ensure that this guidance is considered as part of a total communications package for childcare that not only deals with the TFC scheme but provides full and detailed guidance to claimants who may have to deal with interactions between the schemes. The Committee would be pleased to review and comment on further materials as they develop.

**Social Security Advisory Committee**  
**15 December 2014**

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