



Department
for Work &
Pensions

Minister for Employment
4th Floor
Caxton House
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SW1H 9DA

Paul Gray CB
Chair
Social Security Advisory Committee
5th floor
Caxton House

1st March 2017

Dear Paul,

The Social Security (Restrictions on Amounts for Children and Qualifying Young persons) Amendment Regulations 2017

Thank you for your letter of 31 January and your comments and observations on the Regulations that provide for exceptions to the policy to limit payment of Universal Credit and Child Tax Credit to two children.

I have addressed your specific points below and sought comments from HMT and HMRC where there are implications for Child Tax Credit.

Non-consensual conception

Privacy

I fully appreciate the sensitivities in this area. We have been thorough in taking data protection issues into account and the Departments' lawyers are satisfied that the process does not breach the Data Protection Act in any way. Award notices will not state the reason for the exception and although I do accept that an inference may be drawn as to the reason for an exception being in place, this risk is unavoidable, given the limited range of exceptions in place. I believe that this risk is outweighed by the financial benefit to the claimant in being granted the exception.

The Department is familiar with holding sensitive data securely, including for example, information about domestic violence, transgender status or instances where we hold sensitive health information on one partner in a joint claim. The same approach on privacy is being followed by HMRC.

Separation from the perpetrator

The Government recognises that victims' circumstances differ and our intention is to minimise the risk of harm to the victim. Whilst we acknowledge that not all victims will feel able to leave the perpetrator, and that victims may return to the perpetrator later in time we are concerned about paying the Child Element to claimants for third and subsequent children born in these circumstances. Rather than financial support through benefits for those who do remain with the perpetrator, we think other forms of victim support are more appropriate.

Over the current spending review period, we are providing £80m of dedicated Violence Against Women and Girls (VAWG) funding to continue to provide a bedrock of critical services for VAWG, and to support a transformation in local service delivery to support local areas to build coherent pathways of support for victims at every stage. We have also announced that money from the Tampon Tax will go to support victims of domestic violence.

Decision Making

You are right in that the final decision on whether an exception should apply will be made by a departmental decision maker but in practice, in the case of the non-consensual conception exception, this will be based on information provided by the third party. The third party will not be required to attest to the credibility of the claimant, just the consistency of the claimant's account with their circumstances. The procedures for the third party model are still being finalised, however as things stand we envisage that we shall use a form with boxes for the third party to tick/not tick to indicate if the reported circumstances are consistent with statements on the form. These tick boxes will act as qualifying criteria; therefore the evidence (a completed and returned form) will provide a yes or no determination on qualification for the exception, providing it was completed by an authorised third party. No details of the incident(s) will be asked for or required and guidance to the third party will be available to assist them understand these statements.

Third Party professionals

In order to retain flexibility to adjust the list in future the list of third party professionals will be set out in guidance, rather than in regulation. DWP, HMRC and HMT are in the process of setting up this list of approved professionals by communicating and consulting with relevant officials in Government and external bodies. Securing this list and developing guidance is being treated as a priority.

Adoption and formal long-term care arrangements

The circumstances you describe regarding ordering of adoptions and qualification for exceptions has been considered.

The policy is based on the decision of a parent/parents who are already caring for two children, to ensure that the welfare system is fair and that those households supported by Child Tax Credit or Universal Credit think carefully about whether they are financially prepared to support a new child in the same way as any family which supports itself solely through work.

Claimants receiving child elements will be reliant on the welfare system for their first two children and the Government believes non adopted children should be treated equally to adopted children in these circumstances.

Once a parent/parents are in care of two children or QYPs, whether any of these children or QYPs are adopted or not should not influence the decision about whether to care for additional children. This decision should be based on whether the parent/parents can afford to support additional children.

If a parent/parents in care of two children or QYPs wish to have an additional child by adopting from a local authority, the Government does not wish to dissuade this from happening in the interest of the adopted child.

Responsibilities of the Claimant

Claimants adding a third or subsequent child on UC Live Service are required to telephone UC to report the change. During this phone call the claimant will be informed that third and subsequent children will not qualify for a child element unless they qualify for an exception. The UC agent will read out the list of exceptions and ask claimants to tell us if they think any of these circumstances might apply to them.

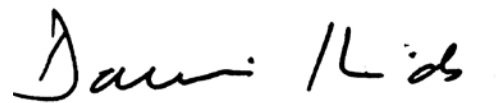
The process for new claimants on UC Full Service surrounding exceptions for third and subsequent children or QYPs is currently being developed. We are therefore not able to specify the exact process at this moment. However DWP appreciates the need for claimants to be aware of the exceptions in a clear and timely way.

As HMRC officials explained at the meeting on 25 January, although it was not possible to make changes to the tax credits claim form for April 2017, as an interim measure, HMRC proposes to insert a flyer into the claim pack which will contain information about the exceptions and advise claimants where they can find more information and how to claim an exception. As they do now, claimants will need to consider the guidance and, if they have a third or subsequent child on or after 6 April, notify HMRC of that child, including in cases where an exception may be due. There will be a dedicated HMRC operational team to handle all the exceptions. That team

will make the necessary enquiries and consider the supporting evidence in light of the circumstances of each case in order to determine entitlement correctly.

Detail about the exceptions will be made available online on gov.uk in addition to general information about the policy itself.

I am copying this letter to Chief Secretary to the Treasury, Lord Henley, Jon Thompson, Robert Devereux, Jeremy Moore and James Wolfe.

A handwritten signature in black ink, reading "Damian Hinds". The signature is written in a cursive style with a large initial 'D' and 'H'.

Damian Hinds MP

MINISTER FOR EMPLOYMENT