Families with disabled children and poverty

Tax Credits

Families with disabled children are likely to be poor. These families have higher expenses and lower incomes. Around half of disabled children grow up in, or on the margins of poverty. This has been confirmed in a number of studies and is widely accepted. (Dobson and Middleton `Paying to Care' 1998; DSS `Households Below Average Incomes' July 2001). This is especially true of minority ethnic families who are less likely to claim benefits and when they do, are refused more often and are given lower rates, routinely, than white families (Chamba `On the Edge' 1999).

Government policy recognises that the route out of poverty is work. At present only 3% of mothers of disabled children work full time and only 13% work part time, compared to over 60% of mothers generally who are in work.

Over half of households with disabled children lack some of life's basic necessities because they are unable to afford them (Gordon et al 2000 Disabled Children in Britain) and three quarters of families with a disabled child live in an unsuitable home (Oldman & Beresford 1998 `Homes Unfit for Children).

Contact a Family and the Family Fund surveyed over 1,800 families with disabled children in 2004 about their experiences of debt (`Debt and Disability' Harrison and Woolley 2004). Only 6.0% of families reported that they were 'comfortably off' with, 92.8% reporting some form of financial difficulty. Most worryingly, 14% had mortgage or rent arrears, and 15.7% had Council Tax or utility bill arrears.

Contact a Family supports the introduction of Tax Credits, which have substantially improved incomes for families, notwithstanding the well publicised administrative problems and overpayments which are almost inevitably a by-product of whole scale reform. Although overpayment cases only represent a very small proportion of the six million families currently receiving tax credits, it is nevertheless clear that a significant number of families have been affected and that the level of financial hardship and distress being caused to some is considerable. It is our belief that many of the problems which have caught media attention, such as the huge overpayment cases and draconian recovery procedures, will be largely resolved by HMRC's latest reforms.

It is now more difficult (although not impossible) for families to become trapped on benefits and unable to take work because of a potential drop in income, which had in the past been a major problem. However, sometimes, the gains from working are marginal, when fares and other incidental expenses are taken into account due to an insufficient earnings disregard on Housing and Council Tax Benefits.

The remainder of this paper looks in more detail at changes still needed to the tax credits system.

Tax Credits – proposed changes

1) Suggested improvements to the childcare element of Working Tax Credit.

The childcare element of tax credits can be complex for parents to understand, particularly where childcare costs fluctuate. Parents are required to calculate their average childcare costs and to inform HMRC when this increases or reduces by more than £10. Some parents appear to find it difficult to understand what is required of them in practice, and how to actually carry out the calculations needed in order to average costs. However, to an extent, this increased complexity has to be traded off against the fact that the childcare element is more responsive to changes in costs than the help previously available under Working Families Tax Credit. A solution may be for the HMRC to pay families every month/4 weeks for their actual costs rather than averaging out over a year although this may be seen as administratively burdensome.

Apart from the complexity of the calculations there are some other changes we would like to see to the rules governing the childcare element.

Extending the childcare element to families where one partner works and the other cares for a disabled child and other siblings.
The childcare element of working tax credit is available to single parents, couples who both work, and to people with a partner who is working full-time or is incapacitated. We believe it should also be extended to families where one partner works and the other cares for both a disabled child and other siblings. It is often very difficult for a parent at home to meet the extra care needs of a severely disabled child while also caring for other children at the same time. In such cases the family may need to access childcare to ensure all the children's needs are met. We also believe that the childcare element should be extended to couples where one parent works and the other parent cares for a disabled adult.

Increasing the amount childcare costs that can be met
The costs of childcare for a disabled child are often substantially higher due to the need for higher staff ratios or more specialised care. For instance, an agency providing a home childcare worker with experience of disabilities would charge at the very least £8 per hour (although enquiries suggest the average charge is closer to £11 per hour). So for a basic 35 hour working week, even with no travelling time, childcare costs of at least £280 would be incurred. Yet under the current childcare element rules the maximum help available towards these costs would be £140 per week (80% of £175). We would therefore like to see an increase in the upper limit of eligible costs for families with a disabled child.

In addition the fact that less money is available via the childcare element of working tax credit for second and subsequent children adversely affects families with disabled children. This rule is presumably based on the assumption that the second and subsequent children can be cared for by the same childminder and the costs will not double. However the reality for many families is that their disabled child may need a very different form of childcare from their siblings. Given this, we would like to see a change to the rules so that where there is a disabled child in the family, there is separate consideration of the childcare costs incurred for the remaining children.

Taking childcare costs into account where the care is provided by a close relative.

The reality for many parents is that there is insufficient appropriate childcare in their area. For some families, particularly those in rural areas or where a child has very complex needs, the only option is to rely on childcare provided by a close relative. Unfortunately care provided by a relative cannot always be provided free, particularly where a substantial amount of care is required. Even where a relative is a registered or approved childcarer, the current rules state that any care they provide cannot be counted where the care is provided in the child's home. Where the care is provided in the relative's home any costs will only be counted if that relative is also providing childcare to other children they are not related to. We would like to see a situation where these rules are relaxed to allow the costs of care provided by a relative to be taken into account, so long as this was the most appropriate way of the child's care needs being met. This would be in line with the rules applied to the use of social services direct payments and care provided by a close relative.

A childcare run on when employment is lost

There also needs to be a run on for some time to enable a parent who has lost work to look for another job before they have to abandon a hard-won childcare place. We do appreciate the problem of only 80% of costs being covered – however, this cannot be insurmountable. If tax credits for childcare were to increase to 100% for a temporary period to enable a concerted job search, this would be most beneficial. Most of our parents say that it is much easier to find work than to find childcare.

Relaxing the number of hours

We would like to see a greater flexibility in helping families with disabled children back into work – for example by having a relaxation of the working hours rule, to allow parents to start to qualify at lower hours – for example at 10 hours a week. This would help those whose caring responsibilities are particularly demanding.

2) Introducing an additional 'carer credit' to Working Tax Credit

Many carers experience additional costs associated with caring, as well as problems in saving or providing for a pension in later life. A caring role may also prevent them from advancing in their career (caring responsibilities may restrict carers to jobs that do not involve travel, overnight stays, evening work or overtime).In order to reflect these labour market disadvantages we would like to see an additional carer element introduced to working tax credit calculations, where the person working also provides regular and substantial care to a disabled child or adult.

3) Overpayments

The most common source of discontent among the parents we speak to has been the system for recovering tax credit overpayments.

Notification of overpayments.
Some parents only become aware an overpayment was being recovered when payments suddenly reduce. Rather than receiving a decision explicitly stating that they have been overpaid, parents simply receive a new tax credit award notice. This will mention the fact that an overpayment has been made but not in an explicit way. We would also like to see the HMRC issue decision letters which specifically inform the claimant of the fact that an overpayment is to be recovered. Such letters should make clear the fact that an overpayment has occurred; the amount of the overpayment; the cause of the overpayment; the fact that the HMRC intend to recover this money; and the effect of the recovery on the claimant's ongoing payments. The claimant's rights to challenge recovery should also be outlined.

Recovery of overpayments caused by official error.
Many parents have expressed dismay by the fact that HMRC reserves the right to recover overpayments despite the fact that they were caused by an official error. In the administration of most other state benefits an overpayment can only be recovered if the claimant was at fault i.e. he or she has misrepresented or failed to disclose relevant information. In contrast Tax Credit Office still recovers overpayments caused by official error so long as they believe that the parent could 'reasonably' have been expected to know they were being overpaid'. In our experience the HMRC apply an unduly strict test of 'reasonableness' which assumes a high level of understanding on the part of claimants and takes no account of individual capabilities.

The suspension of automatic recovery of tax credit overpayments.
At the end of 2005, HMRC implemented a new and very welcome policy whereby they suspend automatic recovery of disputed overpayments. However it appears this suspension only applies up to the date that the Tax Credit Office makes an initial decision on the request not to recover (which it aims to do within 4 weeks). Many claimants whose initial request not to recover is unsuccessful are likely to wish to pursue their request via the Revenue's complaints procedure. We believe that suspension of recovery should apply pending a final decision on the issue of recovery (i.e. until the claimant has exhausted the complaints procedure) and not simply while they are awaiting an initial decision from the Revenue. This would bring the situation into line with appeals against recovery of other state benefits where recovery is suspended pending the decision of an appeal tribunal.

The lack of any independent right of appeal against a decision to recover an overpayment.
There is currently no right of appeal against a decision on whether or not to recover an overpayment. This in stark contrast to other state benefits where decisions on overpayment recovery can be appealed to an independent Appeal Tribunal. Instead tax credit claimants must challenge a decision to recover via HMRC's complaints procedure. This means that HMRC are being left to judge the fairness of its own decisions, a situation about which many parents are naturally very sceptical.

Severe financial hardship being caused by the recovery of in-year overpayments.
A major cause of distress for many low income families has been the fact that there is currently no limit on the amount by which their weekly payments can be reduced where there is an in-year overpayment. We welcome the government's proposal to limit the amount by which tax credit payments can be reduced but are concerned that this change is not planned to take effect until November 2006.

Apart from specific issues around overpayment recovery, parents have also reported a number of other practical problems with the tax credits system:

4) Revenue delay in taking action that will benefit claimants.
Some parents have complained about the length of time taken by the Revenue to act on information they have provided or specific requests they have made for assistance. This has included:

- Delays of several months in acting to increase a CTC award to include the disability element where children have been awarded DLA. Parents have reported TC Helpline staff blaming the computer system for not allowing them to process the extra payments sooner;
- Parents having to wait several months for a decision to be made where they have asked for recovery to be waived on the grounds on hardship;
- Delays of over three months in processing a new claim for tax credits where a couple have separated.

5) The Tax Credit (TC) Helpline and written enquiry service.
Many parents have complained that TC Helpline staff appeared unable to appreciate the very real difficulties that tax credits decisions are causing their family. TC Helpline staff often also appear unwilling to take on responsibility to help sort out difficulties. In addition some parents have been frustrated at the inability of TC Helpline staff to be able to tell them what is actually happening with their claim when they call.

We would like to see the Tax Credit Helpline adopt a caseworker approach so that individual Helpline staff become responsible for specific cases. This would mean that parents calling the TC Helpline repeatedly regarding a particular issue would have some consistency in who they spoke to. Such a system already exists within both the Carers Allowance and DLA Units where cases are allocated to specific teams' dependant on claimant surname. It is likely that such a system would encourage Helpline staff to take on 'ownership' for helping resolve any problems in specific cases.

Dealing with written correspondence from claimants.
Some of the claimants opt to write to the Tax Credits Office rather than use the TC Helpline. However parents have complained to us that it can take several months to receive any response at all from HMRC. This has included cases where families have made a written request that recovery be waived on the grounds of severe hardship. In some cases parents wrote to the Revenue regarding a specific issue and received no response other than the issuing of a new decision notice.

We believe that HMRC needs to take immediate steps to cut waiting times for replying to correspondence and to develop performance standards that are made publicly available. They should also introduce letters acknowledging receipt of correspondence so that claimants at least know their letter is being dealt with. We also believe that fast track decision making procedures should be introduced in order to expedite decisions in those cases where a family is facing financial hardship. This should apply regardless of whether contact has been made by telephone or in writing. HMRC should adopt clear timescales for dealing with complaints by claimants and for requests that they use their discretion not to recover.

6) Limits on backdating of the disability and severe disability elements of child tax credit.

It is not unusual to come across families who are receiving less tax credits than they are entitled to. The vast majority of underpayments we come across, result from the family not receiving any disability element for a child in their family on DLA. Many parents are unaware of the existence of specific disability elements and consequently see no reason to notify the Tax Credit Office about a child's DLA award. Until DLA decision notices are amended to include a clear reference to the disability element of child tax credit this is likely to remain a continuing problem.

Backdating of additional tax credits payments following a change of circumstances is normally limited to 3 months. However in many cases it will take considerably longer than this for a final decision to be made on a child's DLA review. The current regulations do allow for the disability elements to be backdated beyond 3 months, but only where the parent had notified the HMRC at the point that review request was made. Unless a parent had sought specialist advice at this point it is unlikely that they would have been aware of this requirement. Consequently some families are losing out on full backdating of these additional tax credit payments.

7) Reducing the timescale for reporting changes of circumstances
As part of a raft of measures to minimise overpayments, the deadline for reporting certain specific changes of circumstances will be reduced from three months to one month in April 2007. Failure to report a relevant change can

lead to a financial penalty of £300. We are concerned that many busy parents coping with the demands of meeting a disabled child's needs will fail to report changes within this new 1 month period. We would therefore like to see provisions to protect parents from any penalty where their circumstances mitigated against them reporting a change within the proposed one month deadline.

8) Working with other departments

Some of the issues that we mention above can only be resolved by working together with other departments – whether it is with the DWP to resolve the issue of DLA decision notices needing to include information relevant to tax credit claims, or to look at increased earnings disregards for Housing Benefit. The Treasury review offers us unparalleled opportunities for joined up thinking and working to improve the lives of families with disable children.

Jill Harrison and Derek Sinclair on behalf of Contact a Family, Council for Disabled Children, Mencap and Special Education Consortium, July 2006