

Tax-Free Childcare: Advice NI Consultation Response October 2013

Advice NI welcomes the opportunity to respond to the Government's consultation on the design and operation of the proposed scheme of Tax-Free Childcare.

The Government's acknowledgement that the high cost of childcare prevents people from entering and remaining in the labour market is reassuring, as this issue is one which urgently needs addressed.

The steps being taken to provide increased support to families in this regard – and in particular in ensuring that *'it always pays to work'* – should be seen as a very positive move forward for Government.

Tax-Free Childcare: Voucher Accounts

It is understood that the Tax-Free Childcare scheme will operate in a similar way to the existing Employer Supported Childcare scheme, which will be gradually phased out after the introduction of the new scheme in 2015.

The Employer Supported Childcare scheme involves the use of 'voucher accounts'. The consultation document states that *"half a million families already manage their childcare costs through these accounts, which are easy to set up and use."* The priorities when using this type of account to deliver this benefit to parents must be ease of use, flexibility and reliability. The system must be flexible and adaptable enough to enable parents to manage payments as they see fit. Like many existing Employer Supported Childcare accounts, there should be mechanisms in place to enable parents to set up automatic payments to and from their Tax-Free Childcare account if they wish to operate their account in this way. Equally, the accounts should facilitate parents who wish to make non-automated, less regular, or ad-hoc payments. Parents and childcare providers also need to have assurances from Government that the voucher accounts being offered on the market are safe, secure and reliable, with some form of regulation.

The consultation document states that *"The Government anticipates that most or all voucher accounts will be available online."* A vast array of issues in relation to digital exclusion have been identified and addressed through the introduction of Universal Credit and the Government should take into consideration the fact that a substantial number of people still have limited access to the internet. Advice NI recommends

that consideration is given to these groups of people and that provision is made for those who do not have online access.

The Government has pledged to provide childcare support of £1,200 per child, per year, to eligible families. The consultation document seeks to establish the most appropriate form of 'capping' this amount. A monthly cap would spread the maximum support provided through Tax-Free Childcare throughout the year, which may work well for parents who are fortunate enough to remain in meaningful employment throughout the entire year and who are in a position to contribute the maximum amount into their childcare voucher account every month.

However, a monthly cap may not cater for parents whose childcare costs vary, who may accrue higher childcare costs at certain times of year, eg. outside of school term time, and who want or need to contribute a higher proportion of their salary at certain points throughout the year. Some parents may wish to pay into their childcare account quarterly or even annually, and a monthly cap would not provide this level of flexibility. Some parents may be unable to contribute to their childcare account on some months and would therefore miss out on valuable support as a result of not being in a position to contribute monthly.

Some parents may be in casual or temporary employment yet still have to pay for childcare all year round. This may be due to the lack of availability of high quality childcare which results in parents needing to pay to retain childcare places, or it may be because parents need to be available for work at short notice. Even parents who find themselves temporarily unemployed may need to retain a childcare place in order to facilitate job-seeking requirements.

The current system of Employer Supported Childcare operates with an annual cap, giving parents flexibility in terms of how much of their salary to contribute and at what point of the year. Most parents tend to sacrifice the same amount every month, however the annual cap does facilitate flexibility over the year.

The amount of support pledged by the Government is £1,200 per child, per annum. As such, we feel that an annual cap of £1,200 is preferable to a monthly cap of £100. As has been identified in the consultation document, parents may have changes of circumstances and perhaps short periods of ineligibility throughout the year. Rather than limiting the amount of support provided during periods of meaningful employment to £100 per month, we believe that where the £1,200 is legitimately claimed during any eligible period(s) throughout the year, this should be payable. An annual cap would ensure that as many parents as possible are eligible for the £1,200 Tax-Free Childcare support, in line with the annual pledge made by the Government.

In terms of parents being able to spend saved-up vouchers after becoming ineligible, we believe that, provided the parent was eligible at the time of obtaining the vouchers, they should be provided with the flexibility to accrue and spend vouchers on qualifying childcare as they wish.

In line with the Government's commitment to giving employers the opportunity to remain involved in the provision of support for childcare, Advice NI suggests that the

Government continues to support and promote the provision of family friendly work practices amongst employers, and continues to offer Employers' National Insurance exemptions for existing users of the Employer Supported Childcare scheme.

We believe that the advice sector will play a crucial role in helping parents to understand and access the Tax-Free Childcare scheme. As the umbrella body for the independent advice sector in Northern Ireland, Advice NI's vision is of a society of *confident, informed, and active citizens who can access their rights and entitlements*.

Advice NI offers a specific Tax & Benefits service which offers advice specifically on HMRC products and services. Through this service, people in Northern Ireland can avail of free, independent and confidential advice. The service can be accessed through a freephone helpline which is open beyond typical working hours, facilitating enquiries from working parents at a time that suits them, and face to face through a range of outreach venues.

Advice NI would expect to promote the Tax-Free Childcare scheme through this service, as well as through our extensive membership of independent advice agencies throughout Northern Ireland, ensuring that parents are aware of and able to avail of the most appropriate form of childcare support for their circumstances.

Online calculators and comparison tools may also assist some customers, although these have been introduced for similar schemes in the past with variable degrees of success. Perhaps consideration could be given to the introduction of an online calculator or software application specifically for advisers, whose knowledge of the issue would most likely exceed that of the general public.

Tax-Free Childcare: Eligibility

The consultation document defines a 'parent' as an individual who has responsibility for a child and with whom the child has its primary residence. It is unclear from the consultation document whether this applies only to those who have parental responsibility in legal terms, or whether it would also apply to those who are living with a child but do not have legal parental responsibility. It should be made more explicit in the final terms of the scheme whether eligibility extends only to those who have legal parental responsibility.

We understand from the consultation document that, in cases of shared parental responsibility, where the child has two residences, only one parent will be able to open a Tax-Free Childcare account for that child. Advice NI has some concerns about how this will be monitored and regulated. Having experienced cases of 'rival claims' in relation to Child Tax Credit, we would be eager to learn what procedures will be in place to ensure that two separated parents cannot (unwittingly or otherwise) claim separately through the Tax-Free Childcare scheme for the same child or children. Systems need to be in place to swiftly and effectively resolve such 'rival claims' issues.

In addition, in the case of a separated couple who both contribute towards childcare costs for the same child, we would be interested to learn what mechanisms will be in place to ensure that one parent cannot claim the Childcare Element of Working Tax Credit or Universal Credit and the other claim Tax-Free Childcare, for the same child.

The consultation document defines 'the household' as two individuals aged 16 or over who are living together as a couple with a child for whom one or both of the individuals has responsibility. We believe that this definition is fair and workable.

The consultation document seeks respondents' views on the introduction of a minimum hours or income rule, and the definition of employment.

Given the current state of the economy, many people are not in the fortunate position of being in long-term, 'meaningful employment', yet may still genuinely incur childcare costs. Such claimants are likely to be in even greater need of financial support than those whose employment is permanent and 'meaningful'.

Childcare can be a major issue for parents who are actively seeking employment and have job-seeking requirements that they are unable to fulfil because of the cost of childcare. These parents are being prevented from entering the labour market as a result. Therefore, we believe that there should be some provision through this scheme for parents who are not yet in meaningful employment but who are taking steps to secure employment.

The Tax-Free Childcare scheme is being introduced in response to the recognition that childcare is a labour market issue which can prevent parents from remaining in employment. This is a positive step towards addressing an issue which has long been overlooked by Government. However, the limiting of this support to parents who are already in long-term, meaningful employment does not fully address the issue. By introducing a minimum income or hours rule in defining qualifying employment, a number of parents who genuinely incur relevant childcare costs may be excluded from the scheme.

One of the major advantages of this scheme over the previous system of Employer Supported Childcare is its availability to those who are self-employed. Introducing a minimum hours and, in particular, a minimum income rule is likely to disadvantage this group of people. Self-employment often yields low income, at least in the early stages. If eligibility were to extend only to people earning above a certain threshold, self-employed people who were previously ineligible for the Employer Supported Childcare scheme will also be ineligible for the Tax-Free Childcare scheme.

Moreover, with vast fluctuations in self-employment income common and the difficulties this brings in terms of estimating this type of income, the introduction of a minimum income rule and annual checks may result in 'overpayments'. How the Government intends to deal with such overpayments would influence the gravity of our concerns on this matter.

The main risk if a minimum hours or income rule is not introduced is that some people may abuse the system whilst not in employment. However, since the funds

can only be spent on qualifying childcare in respect of a named child, we feel that the benefits of extending the scheme to more parents far outweighs the risk of abuse.

As it stands, we do not feel that the suggested definitions of employment are fair and reasonable, or that minimum hours and/or income rules would be helpful.

Advice NI believes that the state of the labour market will be a key factor in fluctuating eligibility, with claimants' eligibility likely to change often in many cases. It is for this reason that Advice NI would prefer to see an annual cap introduced, rather than a monthly cap, so that parents can access the pledged support when they need it. A 'run on period' – as currently exists with the Childcare Element of Working Tax Credit – might also help to lessen the effects of regular periods of eligibility and ineligibility throughout the year.

In terms of the proposed operation of the age cut-off rule, our interpretation of the age cut-off rule is that all children who are eligible in year one will remain eligible until the end of the school year in which they turn 11.

Tax-Free Childcare: Information and Validation

The objectives set out in paragraph 4.3 of the consultation document are:

- To ensure that Tax-Free Childcare is simple and flexible for parents to use;
- To balance the need to minimise the risk of fraud, error and debt while ensuring Tax-Free Childcare operates efficiently;
- To balance checks across the system to prevent support being paid to parents who are ineligible for support; and
- To consider the various roles for the Government, voucher providers, parents and third parties in ensuring a simple, secure and responsive system.

There will be numerous information requirements from each party during the registration process.

Upon registering for the scheme, parents may need to provide their child's birth certificate and details of their childcare provider.

Given the January 2013 changes to Child Benefit entitlement, it may not be possible to confirm a child's identity in terms of whether Child Benefit is in payment for that child. It may therefore be necessary for the parents to supply the child's birth certificate in order to verify the child's identity. Parents may be reluctant to send the original version of the birth certificate so it would need to be made clear whether a copy would suffice, and whether the short or long version is required, bearing in mind that parents may have to pay a fee to access the long version of their child's birth certificate. Also consideration could be given to presenting such documentation at a local government office for verification, for example to a local Jobs & Benefits or Jobcentre Plus office.

The childcare provider's registration details would also need to be supplied by the parent. The registration details could then be checked by the Government or the voucher provider by arrangement with the registering bodies (the Health & Social Care Trusts in Northern Ireland or Ofsted in Great Britain). This would prevent the parent from having to obtain and supply a copy of the provider's registration certificate before registering, and would offer the Government and the voucher provider an additional assurance that the provider's registration is current, valid and up to date.

The provision of these two pieces of information would confirm that there is a qualifying child and a qualifying childcare provider. Provided the systems in place are secure, we believe that it would be fair and reasonable to expect parents to provide this information.

It is worth noting that the registration details provided by parents in the current tax credits system do not appear to be validated by HMRC before awarding the Childcare Element of Working Tax Credit, yet this could be a crucial step in identifying and preventing error and fraud. Advice NI suggests that this step is added in to the process of awarding the Childcare Element of Working Tax Credit, which will exist alongside the Tax-Free Childcare scheme for a period.

Further consideration may need to be given into what verification processes can be put in place in relation to ensuring that only one account is opened for each eligible child, and ensuring that those who apply for the scheme have responsibility for the child in line with the definition of responsibility within the regulations of the scheme.

We feel that more consideration needs to be given into defining eligibility in relation to employment status, therefore we are unable to comment at this time as to how this could be validated.

Once registered on the scheme, any monies paid in can only be used to pay for childcare. There is no scope for using the money for any other purpose; therefore, the risk of misusing the money is minimal.

The Government should confirm eligibility as quickly as possible. This is particularly important if the Government decides to implement a monthly cap rather than an annual cap. With a monthly cap, parents are likely to lose out if there is a delay in confirming their registration for the scheme. With an annual cap, if there is a delay to the parent's registration in the first month, they can still avail of their full annual entitlement at any subsequent point of the year and therefore will not suffer financial loss as a result of the delay.

Where a parent is deemed to be ineligible for Tax-Free Childcare, the parent should be notified as quickly as possible, provided with a full explanation and advised how they can proceed with any dispute or new registration application.

In line with the tax credits system, it would be reasonable to require parents to report changes of circumstance within one month of the change happening. Voucher

providers' systems can be automated to display a reminder of the parents' responsibilities upon accessing the voucher account.

Advice NI would hope that efficient verification processes will ensure that payments will only be made to parents who have verified that they have both a qualifying childcare provider and a qualifying child. Where a parent becomes ineligible after a legitimate payment has been made, then we feel that HMRC should not seek to recover that payment. Provided the parent was eligible at the time of the payment being made, the payment should remain in the voucher account to be used to pay for qualifying childcare in the future. If at some point in the future the voucher 'expires' or the parent has grounds to request a cash refund of the amount of money in the account, then the Government's unused payment(s) should be repaid to the Government. This could be repaid directly from the parent's account, through the voucher provider.

When payments are made into the voucher account by parents, Advice NI would suggest an automated system for alerting the Government where a top-up payment is due. The Government's system should preferably operate in real time so that parents' payments are topped up almost immediately, enabling parents to meet their childcare costs in a timely manner.

Tax-Free Childcare: The Market for Vouchers

Advice NI believes that the Data Protection Act 1998 will go some way towards protecting the personal data of parents and children. However, given the nature of the data held, its sensitivity and the fact that it relates to children, Advice NI recommends adding further protection. Advice NI suggests that all users working with this data are subject to a Criminal Records Bureau (CRB) check or equivalent. Advice NI believes that further standards such as ISO/IEC 27000, and/or a recognised Code of Practice to which voucher providers must adhere, would help to protect the data, safeguard those to whom the data relates, and reassure parents.

In addition, given the volatile nature of the market in which voucher providers operate, Advice NI would hope that some degree of assurance would be given to parents in terms of the security of their funds. This may be in the form of ring-fencing funds, an insurance-type arrangement, or authorisation or regulation by an appropriate authoritative body. For the Tax-Free Childcare scheme to be of value, it is vital that parents have confidence that the funds they are investing are safe, secure and guaranteed.

Childcare support through Universal Credit

Advice NI welcomes the Government's proposal to provide 85% of childcare costs to some parents through Universal Credit.

Whilst this support will be invaluable to many parents, some may be financially better off remaining on the existing Employer Supported Childcare scheme or using the Tax-Free Childcare scheme. Advice NI recommends that the government invests in appropriate tools and guidance to enable parents to make informed decisions as to

which method of childcare support is most appropriate for their circumstances. We believe that parents should have the flexibility to switch between systems as they deem appropriate, and that the process should be as straightforward as possible.

Parents who incur relevant childcare costs whilst on Statutory Sick Pay, Statutory Maternity Pay, Statutory Paternity Pay, Statutory Adoption Pay or Maternity Allowance should be eligible for the childcare support if they continue to incur childcare costs during their absence from work.

Advice NI recognises the value of the consultation process and the importance of stakeholder engagement in these important issues.

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