

The background of the slide features a large, light blue outline of the Seal of the State of Alaska. The seal consists of a shield divided into four quadrants. The top-left quadrant shows a sailing ship on the water. The top-right quadrant shows a moose head with large antlers. The bottom-left quadrant shows a ship's mast and sails. The bottom-right quadrant shows an eagle with spread wings. Above the shield is a crown with four stars. Below the shield is a banner with the text "ANNE FOR A".

Agenda Item 12

Child Tax, Universal Credit

Falkirk Council

Title: Child Tax, Universal Credit
Meeting: Education Executive
Date: 26 March 2019
Submitted By: Director of Children's Service

1. Purpose of Report

- 1.1 The purpose of this report is to update Members on guidance being provided to Social Workers, Housing and Finance staff who may receive a request to validate a benefit support application for a child conceived without consent.

2. Recommendation

2.1 The Education Executive is asked to:

- (i) note the guidance being provided to Social Work and relevant Housing and Finance staff.**

3. Background

- 3.1 The Education Executive considered a report related to a motion on 29 May 2018 and requested a report on staff training needs, appropriate referral routes and any additional resources.
- 3.2 From 6 April 2017, Child Tax Credit, Universal Credit or Income Support is only available to support the first two children a claimant is responsible for.
- 3.3 Exceptions to the two-child limit apply for a third or more children, who are
- born before 6 April 2017;
 - born as part of a multiple birth (will get child element for all but one of the children born at the multiple birth);
 - adopted from local authority care;
 - under a kinship carer arrangement;
 - a parent to a child of their own;
 - conceived without consent.
- 3.4 The two child cap limit had been planned to apply to children born before 6 April 2017 from February this year. But in January the Secretary of State announced that the UK Government would not proceed with this extension.

- 3.5 The final exception in section 3.3 has proved to be controversial. A parent may receive the additional child benefit if
- the child was conceived as a result of a sexual action the parent did not or could not consent to (including rape); or
 - the parent was in a controlling or coercive relationship with the other biological parent of the child at the time of the conception.
- 3.6 To be eligible, a parent must not be living with the other biological parent.
- 3.7 The financial impact of this change in benefit entitlement is a loss of £2,780 a year for each child.
- 3.8 To apply, a woman has to complete a 'Support for a child conceived without your consent' form 'with the help of an approved third-party professional'. The UK Government consider this to be either a healthcare professional (likely to be doctors, health visitors, midwives, and nurses), a registered social worker or a specialist third sector support agency, such as Rape Crisis in Scotland.
- 3.9 The Scottish Government guidance dated 5 October 2018 from the Chief Medical Officer, Chief Nursing Officer and Chief Social Work Officer (in consultation with a range of professional bodies and COSLA) for staff who may be approached to assist with a claim, forms the basis of guidance being issued to Falkirk Council staff (Appendix 1 to this report).

4. Implications for Falkirk Council

- 4.1 Consideration has been given to the training, advice, guidance and support needed for frontline staff. Social Workers will be expected to support women in the verification process. Their actions will be based on following the Scottish Social Services Council Code of Practice. Their focus will be on respecting and maintaining the dignity of people using services; respecting confidentiality and protecting and promoting the rights and interests of people accessing services. Frontline staff in Housing Services and Finance Services that deal with benefits and who might be approached for assistance also need to know how to refer an individual on to Social Work for assistance.
- 4.2 Guidance provided has been developed to ensure that staff will
- know how to respond to potential claimants, including signposting to the right people and services;
 - take the necessary actions that support people on low income to access benefits they are entitled to.
- 4.3 Whilst we expect the number of occasions where our staff are asked to provide verification to be extremely low, the emotional implication for the claimant in having to disclose details of non consensual sex are likely to be significant. Consequently, this may have an emotional impact on staff when support may be required.

- 4.4 Falkirk Council currently commissions services to provide support for people who have experienced trauma; this includes sexual violence and domestic abuse. The commissioned services may be a referral point for people who require emotional and practical support following disclosure. These services will not be involved in the verification process.
- 4.5 Supplementary to the Scottish Government Guidance, the Council is briefing staff, as set out in Appendix 2 to this report, to ensure
- if an individual approaches Falkirk Council for support, she will be directed to an appropriate professional to assist her;
 - information on specialist agencies can be provided, along with signposting or referring people for further support;
 - support is available for staff who themselves may be affected by their involvement in this process.

5. Consultation

In preparing this report, the issues were discussed with staff from other Council services, the Integration Joint Board, other Councils, NHS and COSLA.

6. Implications

Financial

- 6.1 This is not expected to have significant financial implications for the Council.

Resources

- 6.2 It is unlikely that providing validation to claimants will have significant resource implications due to the low number of expected requests. Social Workers will, however, have to record their involvement and provide justification for their decision regarding validation.

Risk

- 6.3 There is a risk that failure to prepare staff to respond to requests for confirmation results in people being unable to claim benefits that they are entitled to, further increasing child poverty in the Falkirk area.

Equalities

- 6.4 There are some possible equalities issues with the two-child limit to benefits, particularly around the impact on families who hold a particular religion or belief.

Sustainability/Environmental Impact

6.5 Nil.

7. Conclusions

7.1 Falkirk Council has developed guidance for staff in Housing, Finance and Social Work Services to ensure that staff are aware of the process of obtaining benefits for children conceived without consent and understand the process of verification. This guidance also highlights the specialist support services that are available to help people affected by these issues.

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Director of Children's Services

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Date - 18 February 2019

Appendices

Appendix 1: Child Tax/Universal Credit – Two child cap exemption, Statement for Health and Social Work professionals in Scotland, Scottish Government 5th October 2018

Appendix 2: Staff Guidance – Child Tax/Universal Credit – Two child cap ex



T: 0131-244 2818

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Dear Colleague

Child Tax/Universal Credit – Two child cap exemption Statement for Health and Social Work professionals in Scotland

In April 2017 the UK Government introduced a 2 child cap for on child tax credit, universal credit and income support. These measures included an exemption for children 'born as a result of non-consensual conception' (the so-called 'rape clause').

The Scottish Government has made its position clear, that the cap is punitive and unethical, and that there are no circumstances under which a woman should have to disclose she has been raped or subject to coercion and control in order to access welfare benefits.

The UK Government has made provision for claims for exemptions to be certified by certain people including healthcare workers and social workers. We have not been able to ascertain that the UK Government has consulted with any professional body.

We understand that any professional approached to assist with a claim may feel that they are put in a very difficult position and we have been asked to offer some guidance.

Consequently, the guidance in this letter was developed in consultation with BMA, RCM, RCN, SASW, SWS, SSSC, GMC, COSLA and NHS Health Scotland.

The guidance has been endorsed by COSLA who are also fundamentally opposed to the UK Government's policy.

Please distribute this advice to those members of staff who may find themselves being approached to assist with a claim for an exemption to the two child cap.

Yours sincerely

Catherine Calderwood
Chief Medical Officer

Fiona McQueen
Chief Nursing Officer

Iona Colvin
Chief Social Work Adviser

**From the Chief Medical
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12 October 2018

CMO (2018) 13

Addresses

For action

NHS Board Chief Executives
 Directors of Nursing and Midwifery,
 NHS Boards
 Medical Directors, NHS Boards
 Directors of Public Health
 General Practitioners
 Practice Nurses
 Chief Officers of Social Work

For information

Chief Executive, NHS Health
 Scotland
 NHS 24
 Scottish General Practitioners
 Committee

Further Enquiries

Roderick Duncan

Scottish Government
Child Tax/Universal Credit – Two child cap exemption
Statement for Health and Social Work professionals in Scotland

The Scottish Government consider the UK Government policy of imposing a two child cap on child tax credit, universal credit and income support with 'dependants allowance' to be punitive and unethical. It is our view that there are no circumstances under which a woman should have to disclose she has been raped or subject to coercion and control in order to access welfare benefits for her child. We will continue to oppose the UK Government's position in principle and are committed to seeking change to the policy. Professional bodies have also been united in condemning this provision which puts health and social work practitioners in an invidious position.

Whilst it is in effect, however, our position is underpinned by 2 key principles:

- the rights and safety of survivors of rape and their families are prioritised at all times;
- local authorities and the NHS are committed to protecting members of their workforce who may be asked to support a woman's claim.

Background

As of 6 April 2017 the UK Government introduced a cap on Child Tax Credit, Universal Credit and Income Support providing payment only for two children of a claimant, although Child Tax Credit will continue to be paid for all children born before that date. A number of exceptions to the cap are included, one of which allows women to claim for children 'born as a result of non-consensual conception' (the so-called 'rape clause'). This is defined as a child '*likely to have been conceived either*':

- as a result of a sexual act to which the woman didn't or couldn't consent, or
- at a time when the woman was in an abusive relationship, under ongoing control or coercion by the other biological parent of the child

A woman can qualify for the exception whether or not there has been a criminal conviction or court case. However, she cannot be currently living with the child's other biological parent.

To apply, a woman has to complete a 'Support for a child conceived without your consent' form **'with the help of an approved third-party professional'**. The UK Government consider this to be either a healthcare professional (likely to be doctors, health visitors, midwives, and nurses), a registered social worker or a specialist third sector support agency, such as Rape Crisis in Scotland.

Full [details](#) of the policy can be found on the HMRC website.

Responding to a request

Despite our opposition to the policy, we support a woman's right to apply for exemption if she wishes. Although UK Government guidance identifies health and social work practitioners as having a role in supporting claimants to complete this form, neither the relevant underpinning tax credit and social security legislation nor the supporting UK Government guidance create any legal obligation to do so. You continue to be bound primarily by your own professional code of practice when deciding whether or not to support an application

(and therefore would need to be able to justify a decision to support or not to support that application).

DWP has produced [guidance](#) on completing the form for both claimants and those approving a claim.

Please be aware, if asked to complete a '*Support for a child conceived without your consent*' form with a survivor of rape or abuse:

- **Your role is not to investigate whether rape or coercion have occurred**

For the purposes of a claim you are not expected to determine whether or not the woman has experienced sexual violence or coercion. Nor is it appropriate for you to ask for details of the abuse – this may cause further distress to the woman. According to DWP guidance:

'Please note that ticking a box only confirms that the claimant's circumstances, as described by them, are consistent with the statement next to the box. There is no requirement on the approved agencies or workers to seek any further evidence to confirm the circumstances'.

This means you are not required to assess the woman's account, you are expected to note whether what she says happened is consistent with either of the two criteria noted above.

- **Disclosure of sexual violence or coercion can be traumatic or distressing.**

This exemption requires women to disclose sexual violence or coercion, and identify one or more of their children as conceived as a result of abuse. Disclosure is difficult in most circumstances. However, the need to do this to access welfare benefits may additionally be painful for survivors. How you respond may therefore be crucial both in avoiding re-traumatising the woman and in helping to improve her longer term health and well-being. It may also allow you the opportunity to help her access other sources of support.

If asked for assistance, ensure you have time to listen and respond sensitively to the request. Offer further referral to other services if needed and if required (for example referral to Protection of Vulnerable groups processes).

Common questions

- *My colleagues in England say the third sector will fill in the form, isn't this the case in Scotland too?*

Rape Crisis Scotland and Scottish Women's Aid have indicated that their members do not feel able to act as third party assessors in these circumstances. They will, however, provide support to any woman referred to them.

- *What if I don't feel able to respond to, or support, a woman's request?*

Neither the relevant underpinning tax credit and social security legislation nor the supporting UK Government guidance create any legal obligation on an approved person to support a claim being made. However, you need to be mindful of the potential harm to the relationship between you and the woman that may result from a refusal. If you cannot respond, please ensure that the woman understands why this is the case, and refer her on to other sources of support. You continue to be bound

primarily by your own professional code of practice when deciding whether or not to support an application.

- *If I am approached to complete the form with a survivor of rape, should I inform the police that a crime has been committed?*

No. There is no requirement in Scotland to report any disclosure of abuse made by a woman. If, however, you have child or adult protection concerns then you should follow your usual local procedures.

As noted above professional bodies have been united in condemning this provision which puts health and social work practitioners in an invidious position. The following organisations have issued statements on the policy:

Royal College of Midwives: <https://www.rcm.org.uk/sites/default/files/RCM%20Briefing%20-%20The%20child%20tax%20credit%20cap%20and%20the%20%E2%80%98rape%20clause%E2%80%99%20A4%20pp%202.pdf>

Royal College of Nursing: <https://www.rcn.org.uk/about-us/policy-briefings/br-0317>

British Medical Association: <https://www.bma.org.uk/-/media/files/pdfs/collective%20voice/influence/uk%20governments/westminster/bma-briefing-child-tax-and-universal-credit-two-child-limit-policy-march2018.pdf?la=en>

British Association of Social Workers: <https://www.basw.co.uk/news/article/?id=1626>

Professional codes of practice can be found at:

The Code-Professional Standards of Practice and Behaviour for nurses and midwives: <https://www.nmc.org.uk/standards/code>

General Medical Council : <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice>

British Association of Social Workers: <https://basw.co.uk/codeofethics/>

Guidance

Guidance on responding to victims of domestic abuse and rape and sexual assault is available at:

What health workers need to know about rape and sexual assault: <http://www.healthscotland.scot/publications/rape-and-sexual-assault-guidance>

What health workers need to know about domestic abuse: <http://www.healthscotland.scot/publications/domestic-abuse-guidance>

Links to the Policy and Guidance

UK Government Guidance, 'Child Tax Credit: exceptions to the 2 child limit': <https://www.gov.uk/guidance/child-tax-credit-exceptions-to-the-2-child-limit>

Form: 'Support for a child conceived without your consent':

<https://www.gov.uk/government/publications/support-for-a-child-conceived-without-your-consent>

‘Guidance for third parties’:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/621426/ncc1-guidance.pdf

Help and information

Rape Crisis Scotland

Information about rape and sexual assault and main contact for network of local centres

www.rapecrisisscotland.org.uk

Rape Crisis Helpline 08088 01 03 02 (daily, 6pm-midnight)

General enquiries:

0141 331 4180 (Mon-Fri, 9.30am-4.30pm)

Scottish Women’s Aid

Information and training on domestic abuse and main contact for the network of local

Women’s Aid groups: 0131 226 6606

www.scottishwomensaid.org.uk

Scottish Domestic Abuse and Forced Marriage Helpline

0800 027 1234 (24 hours) www.domesticabuse.co.uk

Scottish Women’s Rights Centre

Free legal advice and information service available for women aged 16+ who have been affected by violence.

Helpline: 08088 010 789

Tuesdays 6-9pm; Wednesdays 1.30-4.30pm; Fridays 10am-1pm

Book an appointment in Glasgow: 0141 552 3201

Book an appointment in Hamilton: 01698 527 003

<https://www.scottishwomensrightscentre.org.uk/>

1. Background – UK Government Policy

From 6 April 2017, Child Tax Credit, Universal Credit or Income Support is only available to support the first two children a claimant is responsible for.

Exemptions to the two child limit apply for third or more children

- born before 6 April 2017;
- born as part of a multiple birth (will get child element for all but one of the children born at the multiple birth);
- adopted from Local Authority care;
- under a kinship carer arrangement.
 - who are a parent to a child of their own
- conceived without consent

2. Scottish Government Guidance October 2018

Guidance

Endorsed by COSLA and developed in consultation with a number of key Health and Social Services bodies, including Scottish Social Services Council.

The two child cap is described as punitive and unethical and strongly opposed.

Third child conceived without consent – process for exemption strongly criticised however recognition that whilst the policy is in force, women will require support to access benefits.

3. Application for Exemption for children born as a result of non consensual conception

A woman has to complete a “support for a child conceived without your consent form” with the help of an “**approved third party professional**”.

DWP has produced [Guidance](#) on completing the form for both claimants and those supporting a claim.

4. Approved third party professionals

- A healthcare professional (likely to be a Dr, Health Visitor, Nurse or Midwife)
- A registered social worker
- Or a specialist third sector support agency.

Despite opposition to the policy, a woman’s right to apply for exemption should be supported.

Third sector specialist support agencies may be the first point of contact and they will require to signpost women to social work or healthcare professionals.

7. Help and Information

Rape Crisis Scotland and Scottish Woman’s Aid have said they will not comply with UK Government policy and act in the role of an approved third party professional.

They will however provide a range of advice and support to victims and survivors of trauma and abuse.

Falkirk Council has also commissioned services for survivors of trauma.

See appendix 1 for list of National and Local support agencies

6. Support for Council staff

It is recognised that staff may be emotionally impacted through their involvement in this process and require support.

Managers are expected to ensure staff needs are considered and responded to in these circumstances, including signposting to services where appropriate.

5. Role of Council Staff

- To provide information and support where appropriate regarding who to contact for support with form completion – **Contact Duty Social Worker on Tel: 01324 506400/ provide details of the relevant social work office for the woman’s address or signposting to Health Care Professional**
- To provide information on support available to a woman impacted by having to disclose details of non consensual sex when seeking access to Universal Credit benefits – **See appendix 1.**
- To provide information, where appropriate, on services available to provide support for people who have experienced trauma, including sexual and domestic abuse – **See appendix 1.**

Child Tax, Universal Credit Two Child Cap Exemption



Rape Crisis Scotland

Information about rape and sexual assault and main contact for network of local centres www.rapecrisisscotland.org.uk

Rape Crisis Helpline 08088 01 03 02 (daily, 6pm-midnight)

General enquiries:

0141 331 4180 (Mon-Fri, 9.30am-4.30pm)

Scottish Women's Aid

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<https://www.scottishwomensrightscentre.org.uk/>

Committed to Ending Abuse - Falkirk

An inclusive service committed to ending all forms of abuse. Support and advice provided to anyone regardless of age, beliefs, ethnicity, faith, gender, sexual orientation and race.

<http://cea.uk.com/contact-us/>

General enquiries:

01324 635661

21 Wellside Place, Falkirk FK1 5RL (Monday to Friday 9am – 5pm)

NB CEA plan to pilot acting in the role of specialist third sector support agency

Help and information – Appendix 1

for the purposes of assisting women who access their services and require support to complete a 'Support for a child conceived without your consent' form and will provide verification when required.. They aim to do this for 12 months March 2019- February 2020 and then review.

Falkirk and District Association of Mental Health

Working with people and families experiencing the impact of mental illness

<https://www.fdamh.org.uk/contact-fdamh/>

General Enquiries:

01324 671 600,

Victoria Centre, 173 Victoria Road, Falkirk FK2 7AU

Support for Families – Survivors of trauma

Aberlour Family Support Centre

The key focus of this Service is the provision of practical and emotional support to parents / carers who have been affected by abuse i.e. parent / carer survivors of abuse or non-abusing parents / carers of children who have suffered abuse.

General Enquiries:

T: 01324 638080 | M: 07717535876

Monday – Friday 9.00-5.00pm

26/32 Dunkeld Place

Langlees | Falkirk | FK2 7UD

www.aberlour.org.uk