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Tax relief for childcare

Summary

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Summary

In general the costs of childcare or home help services are not tax deductible, although there has been some debate about whether they should be.

In his 1990 Budget the then Chancellor John Major announced the introduction of a limited tax relief: from April 1990 employees would not be taxed on the benefits they received from using a nursery or playscheme provided by their employer. This tax exemption remains in force.[1]

In its 2004 Budget the Labour Government announced a new tax relief for childcare. From April 2005, employees would be entitled to receive up to £50 a week of childcare free of income tax and National Insurance contributions (NICs) where their employers contracted with an approved childcarer or provided childcare vouchers for the purpose of paying an approved childcarer. Employers would be entitled to a similar relief for the first £50 of this type of childcare for the purposes of both secondary Class 1 NICs and Class 1A NICs.[2] This limit was increased by £5 to £55 from April 2006.[3]

In September 2009 the then Prime Minister, Gordon Brown, proposed that this relief for employer-provided childcare should be withdrawn to fund the extension of free childcare for two year olds. This proved highly contentious and in December 2009 Mr Brown announced that the relief would be retained, but, from April 2011, it would be restricted in value so that all new voucher recipients would get the same amount of tax relief, to ensure that higher rate taxpayers did not benefit disproportionately.[4] In its first Budget in June 2011 the Coalition Government confirmed that it would take this measure forward.[5] The new income tax limit applied to higher rate and additional rate taxpayers who joined employer supported childcare schemes on or after 6 April 2011.[6]

In the 2013 Budget the Coalition Government announced it would introduce a new scheme, Tax-Free Childcare, from autumn 2015. To be eligible, families would have to have both parents in work, with each earning less than £150,000 a year, and not in receipt of support for these costs from tax credits or, when introduced, Universal Credit.[7] Following a consultation exercise,[8] in

1. Statutory provision for this relief is made by s318 of the Income Tax (Earnings and Pensions) Act 2003, as amended. For guidance see, HM Revenue & Customs (HMRC), Expenses and benefits: a tax guide (480), December 2019 – see, Appendix 11: Employer supported childcare
2. Budget 2004, HC 301, March 2004 para 5.26
3. Budget 2006, HC 968, March 2006 para 5.23. This change was made by Order: SI 2006/882.
4. HC Deb 14 December 2009 c846W
5. Budget 2010, HC 61, June 2010 para 2.123. Provision to this effect was made by s35 of the FA 2011.
6. HMRC, Reduced childcare relief for higher earners, 23 March 2011
7. HM Treasury (HMT) press notice 29/13, New scheme to bring tax-free childcare for 2.5 million working families, 19 March 2013. See also, HMT, Tax-free childcare Q&A, 19 March 2013
8. HMT/HMRC, Tax-free childcare – consultation on design and operation, August 2013

March 2014 the Government published further details. Eligible families would be entitled to receive 20% of their yearly childcare costs, up to a maximum of £10,000 for each child: ie, support worth up to £2,000 per child each year.[9] Initially the intention was that the scheme would be rolled out to all eligible families with children under 12 within the first year of its operation. Tax relief on employer-provided childcare would only continue to be given to existing members of employer schemes, though they would be able to move to this new scheme if they wished.

There were considerable delays in the implementation of the new scheme. In November 2017 the Government announced that all eligible parents would be able to apply by the end of March 2018.[10] Initially the Government anticipated that the existing employer-supported childcare schemes will be closed from April 2018,[11] but the month before the Government announced that schemes would be open to new entrants for a further sixth months.[12] No further extensions have been made since then, so that parents who were not already included in an employer's voucher scheme before 4 October 2018 are recommended to register for Tax-Free Childcare.[13]

This briefing looks at the development of these limited tax reliefs for childcare costs, since the introduction of tax relief for workplace nurseries in 1990. A second Commons Library briefing provides an overview of the financial support currently available to parents and carers in England to help with the costs of formal childcare.[14] Detailed guidance on employer-supported childcare, as well as Tax-Free Childcare, is published on Gov.uk,[15] as well as by the Low Incomes Tax Reform Group (LITRG).[16]

9 Prime Minister's Office press notice, Millions of parents to get help with childcare costs, 18 March 2014; Budget 2014, HC1104, March 2014 paras 1.182-3

10 Written Statement HCWS247, 15 November 2017

11 PQ3744, 18 July 2017

12 HC Deb 13 March 2018 c802. For more details of this series of events see, Childcare Vouchers and Tax-Free Childcare - Frequently Asked Questions, Commons Library briefing CBP8055, 20 April 2018.

13 Since the closure of the voucher scheme to new entrants, the issue is occasionally raised in Parliament (for example, PQ62485, 26 June 2020).

14 Childcare: support with costs (England), CBP8054, 13 August 2021

15 Gov.uk, Childcare you can get help paying for, ret'd August 2021; HMRC, How can you help your employees with childcare (E18), April 2018

16 LITRG, Employer Supported Childcare, & Who can claim vouchers?, updated 10 May 2021; and, Tax-free Childcare, updated 2 June 2021.

1 Tax relief for workplace nurseries

Generally an employer's provision of help with employees' childcare costs has been treated as part of an employee's remuneration for income tax purposes, whether that help comes in the form of a cash allowance or a benefit in kind – that is, a benefit that cannot be converted into cash. In the case of childcare, benefits in kind would include vouchers that were only redeemable for childcare services, or the benefit of a childminder or nanny directly engaged and paid for by someone's employer. An individual is taxed on their benefits in kind at the same rate as the rest of their income.[17]

The introduction of a new tax relief to encourage the provision of workplace nurseries was announced by John Major, when Chancellor, in his Budget speech in March 1990:

> I have a small supply side measure to announce that will help the labour market to work better. We have always made it clear that it is not for the Government to encourage or discourage women with children to go out to work. That is rightly a decision for them to take, and one in which the Government would be wise not to interfere.
>
> However, it is undeniable that an increasing number of mothers do want to return to work, and many employers, in private industry and in public services such as health and education, are keen to encourage them to do so … I have decided to exempt the value of workplace nurseries and playgroups from taxation as a benefit in kind.[18]

Legislation to this effect was introduced under section 21 of the Finance Act 1990 and came into effect from 6 April that year.[19]

Employees are not liable to tax on the benefits they receive from using a nursery or playscheme provided by their employer. Care facilities must comply with Ofsted registration requirements in England or those of the relevant devolved authority. The employer must be "wholly or partly responsible for financing or managing the provision of the care." This means that child care provision can be sub-contracted by an employer without losing its tax exempt status, and a workplace nursery may located anywhere

[17] Some basic guidance is given in, HMRC, Expenses and benefits for employers, ret'd August 2021

[18] HC Deb 20 March 1990 cc 1020-1021. At the time no precise estimates of the number of taxpayers paying tax on workplace nursery provision were available, though it was thought that the annual cost of the exemption would be in the region of £10 million (Inland Revenue press release, 20 March 1990).

[19] This provision is now consoliated in s318 of the Income Tax (Earnings and Pensions) Act (ITEPA) 2003, as amended.

to suit those who use it, though care will not qualify for relief if it is given in a private house. [20]

In general, employers are entitled to set the day-to-day costs in providing or subsidising childcare for employees against their profits in calculating their tax bill (if any). Deductible costs would include giving an employee a cash allowance for childcare, paying the fees - on behalf of an employee - for a nursery, child minder or nanny, and the running costs of a workplace nursery or playscheme for employees' children. In addition, HMRC have advised that expenditure on equipment for a nursery or play scheme – such as furniture, equipment used as heating, washing & cooking, and more durable items of play equipment – **may** qualify as expenditure on machinery & plant for the purposes of capital allowances. [21]

[20] For guidance see, HMRC, Expenses and benefits: a tax guide (480), December 2019 – see, Appendix 11: Employer supported childcare; HMRC, Employment Income Manual, from para 21900.

[21] HMRC, How can you help your employees with childcare (E18), April 2018 pp13-14

2 Debates about extending tax relief

Following its introduction, the tax relief for workplace nursery provision was criticised on the grounds that it was unfair and unduly restrictive. So, employees might find it hard to transport their children to their own workplace where a nursery has been set up; for example, if the parent commuted into London. Small businesses with widely dispersed workforces might consider it impractical to set up a nursery, and much prefer to subsidise childcare costs by supporting playschemes in a private house, or by paying employees with vouchers for childcare, though neither practice attracted tax relief at this point. These other types of employer benefit would not prevent parents choosing a local nursery - rather than one located at their place of work – and local nurseries could be preferable for those who wish to use a nursery in the local community, and for the fact that their use would not be dependent on working for the same employer.

The Employment Select Committee examined this issue in 1995, and a number of witnesses raised all of these criticisms, while some argued that the costs of employing a nanny or childminder should be tax deductible.[22] Others were less enthusiastic, on the grounds of efficiency. Howard Davies, then Director General of the CBI, commented "there is potential for creating a lot of deadweight cost in this area. If you extend tax relief for all kinds of childcare you would end up giving it to me for my au pair which I would not regard as a good use of public money." The Committee sided with Mr Davies, noting that a general relief provided no help to the significant numbers of women whose incomes were too low to be charged income tax or National Insurance contributions. Instead, it recommended that tax relief should be extended to all forms of employer-provided childcare:

> The Treasury estimated the costs of extending tax relief on workplace nurseries to all forms of employer-provided childcare at about £5 million. However, this figure does not take into account the likelihood that employers will take advantage of this tax incentive to offer childcare support to employees currently making their own arrangements or to employers moving their provision of childcare to the most tax-efficient option, which could increase the cost significantly; although neither does it take into account the increased return to the Treasury resulting from an increase in the number of mothers at work and paying tax …

[22] Employment Select Committee, Mothers In Employment, 14 February 1995 HC 227 1994-95. In March 1990 Teresa Gorman MP introduced a Ten Minute Rule Bill to this effect - the Tax Relief for Household Employers Bill – though it made no further progress (HC Deb 6 March 1990 cc732-735). The issue was the subject of a short debate in the Lords in July 1994 (HL Deb 19 July 1994 cc132-133).

> The major advantage of allowing tax relief on employer provision is that the benefit is more likely to be targeted at those employees who otherwise would not be able to afford childcare costs without employer assistance. Employees who choose to pay for their own childcare by employing a nanny, a mother's help, or an au pair would be free to continue to make that choice. At worst their position would remain unchanged; at best they would be offered an additional option of employer-provided assistance …
>
> Extending the tax relief currently available to employers on workplace nurseries, to other forms of employer-assisted childcare would help a number of women immediately. In increasing the amount of overall provision that exists, it may help others as well. The Committee recommends that the tax relief currently available to employers on workplace nurseries be extended to cover all forms of employer-assisted childcare in order to provide the necessary flexibility to suit a greater variety of circumstances. [23]

In its response to the Committee's report the then Conservative Government firmly refused to extend tax relief, suggesting it would be far too expensive.[24] It is worth noting that the estimate cited in the Government's response - £300 million - referred to the revenue loss from allowing all employees to write off against tax any costs of childcare purchased, something the Committee itself had ruled out as being both inefficient and expensive:

> Wider tax reliefs for employees for the benefit of employer-provided childcare would be: potentially expensive (up to £300 million); difficult to defend as fair to those who pay for their own childcare out of taxed income; give most help to those who can afford childcare, and do so now, and no help to those who do not pay tax. The 1990 exemption for workplace nurseries was never intended as a step towards more general relief for childcare costs.[25]

Subsequently the case for making childcare costs more widely tax deductible was raised on a number of occasions. In 2001 the Childcare Commission, a working group set up by the Kids Club Network charity, argued that tax relief for both employees and employers should be extended:

> We propose that we should retain a mixed economy of childcare with both public and private provision. We propose that governments should continue to support both the supply side of childcare … and the demand side. It has to be recognised that childcare is a major expense for working parents and we therefore suggest that there

[23] HC 227 1994-95 pp xxiv-xxvi

[24] The Government reiterated its opposition to introducing tax relief on home help in answer to a PQ at this time (HC Deb 2 March 1995 c665W).

[25] Mothers In Employment : Government Reply to the First Report of the Committee in Session, 23 May 1995, HC 457 of 1994-95 pvii

> should be tax relief at the basic rate on up to £2,000 of childcare expenses …
>
> For some employers, the business need for childcare is particularly strong. For these employers, the availability of more affordable and accessible childcare within the community may not be sufficient to meet their needs. If an employer has a particular skills shortage, it may be necessary for him or her to provide additional childcare support as part of a range of wider employee support programmes. Good examples of employers providing childcare already exist and can be replicated and built upon.
>
> However, currently there are few incentives to employers for providing childcare — either at their own site or in the community. Many employers are deterred by the very complicated tax arrangements for help with childcare; employees are liable to be taxed on any employer support for childcare that is not managed directly by the employer. This restricts options for employers wishing to provide a tax-free option for staff and means that any payment of childcare allowance or voucher will be taxable.
>
> Employers are currently able to offset some of their spending on childcare provision against corporation tax. However, this has no benefits for the public sector or for charities. The principle of being able to offset employer's spend on childcare as an incentive for new developments is one that the Childcare Commission would like to see develop. We believe therefore that the costs for childcare should be set against employer National Insurance contributions rather than against corporation tax. Another useful and cost-effective way to encourage employers to develop their own provision would be to provide direct start-up grants to employers wishing to develop childcare.[26]

A report published by the Demos think tank, and a lobby group Genderquake, in 2002 also argued that tax relief should be used to expand the childcare sector.[27] At this time the Association of Certified Chartered Accountants suggested relief should be given for all childcare costs because the relief for workplace nurseries was too complex:

> Businesses which want to help employees with child care costs are discouraged from doing so by complicated tax rules, says the Association of Chartered Certified Accountants (ACCA). Payments towards staff childcare costs are fully taxable on the employee. There are exceptions – for example, where the employer provides the

[26] Kids' Clubs Network/The Childcare Commission, Looking to the future for children and families, January 2001 pp 6, 68-69. See also, "Tax relief proposal to boost childcare profession", Financial Times, 30 January 2001. Prior to this the issue was the subject of a short campaign in the Independent ("Tax breaks for working mothers: our campaign begins", Independent, 18 February 1998).

[27] Helen Wilkinson, Crèche barriers, Demos/Genderquake 2002 p12. See also, "Tax allowance urged to boost childcare industry", Financial Times, 21 January 2002.

> accommodation for the nursery, or takes an active part in its financing and management. But many employers, which understandably feel that the management of nurseries is best left to commercial childcare providers, find that the rules place bureaucratic obstacles in their way.
>
> Chas Roy-Chowdhury, ACCA's Head of Taxation, said: “There are too many onerous and unnecessary hoops for businesses to jump through in order to ensure that there are no tax charges on their employees and that the costs of providing child care facilities are tax deductible for the business. If the Government is serious about providing help for childcare costs, it needs to look seriously at reforming the present problematic rules. The way forward is for tax relief to be given for all child care costs which are paid directly by an employer to a ‘carer’, be it to an individual, a day care centre, or a nursery. Eventually the tax relief should be expanded so that, where employers do not pay child care costs, at least the parents obtain some help.”[28]

Despite these calls, Ministers continued to rule out making childcare costs fully tax deductible, on the grounds that it would be relatively expensive and that it would be poorly targeted, as it would be of no value to parents whose incomes were too low to be paying tax. The Coalition Government gave its position in answer to a PQ in 2012:

> **Glenda Jackson**: To ask the Chancellor of the Exchequer if he will consider making child care fully tax deductible; and if he will make a statement.
>
> **Miss Chloe Smith**: The Government currently have no plans to make child care fully tax deductible.
>
> The Government realises that the cost of child care is one of the most important factors for parents when considering returning to, or progressing in, work. However, providing universal free or subsidised child care is unaffordable. Allowing tax exemptions for child care would result in a shortfall of revenue, and mean either further reductions in spending or raising revenue elsewhere, for example through increasing overall tax limits to account for the loss. In a world with limited resources, the Government have to prioritise support for child care on those who need it most.[29]

[28] ACCA press notice, 21 February 2002

[29] HC Deb 18 January 2012 c833W

3 Exemption for employer supported childcare (2003-2006)

In January 2003 HM Treasury and the Department of Trade and Industry published a joint paper on the Government's strategy to help parents balance work and family life, prior to the introduction of a number of initiatives in April that year (primarily, the launch of the child tax credit and working tax credit, and increases in the level and duration of maternity pay). The paper noted that the Government were considering "improving the tax and NICs exemptions on employer-supported childcare, including how they could offer a better incentive to employers to support childcare provision."[30] In February 2003 the Inland Revenue published a consultation document on this,[31] and the Labour Government announced the new relief in the Budget the next year, in March 2004:

> Currently where an employee receives the provision of childcare or childcare vouchers as a benefit-in-kind a tax charge arises on the benefit, except in limited circumstances where the employer provides a nursery or crèche on the employer's premises, or one that is wholly or partially managed and financed by the employer. No employers' Class 1A National Insurance charge currently arises on the provision of childcare and childcare vouchers are currently exempt from Class 1 National Insurance.
>
> The Government announced in the Pre-Budget Report in December 2003 that from April 2005 a new tax exemption will apply to employer-contracted childcare and childcare vouchers. The tax exemption will be limited to the first £50 a week of contracted childcare or vouchers and the National Insurance exemption will be aligned with this.
>
> The main conditions for the exemption will be:
>
> - that the childcare benefit is made available to all employees where a scheme operates; and
> - the childcare is registered childcare or approved home-childcare.[32]

[30] HMT & DTI, Balancing work and family life: enhancing choice and support for parents, January 2003 p3

[31] Inland Revenue press notice 05/03, 25 February 2003. The Inland Revenue merged with HM Customs & Excise to form HM Revenue & Customs in April 2005.

[32] Inland Revenue Budget Notice REV BN 16, 17 March 2004

In a summary of the responses to the consultation, the Inland Revenue reported that overall "an overwhelming majority of respondents supported the proposal to extend the current workplace nurseries exemption to cover all forms of registered and approved childcare":

> Some commented that it would make it easier for employers to support childcare, others felt that it would widen access to childcare and some felt that it would help with recruitment and retention.
>
> On the proposed financial limit to the exemptions, the majority of respondents would prefer to see it set at a higher rate. Some suggested alternatives, varying from £75 to £150 per week. Others thought that it should be a variable limit, related to a percentage of childcare costs or that it should be related to the actual cost of childcare. Some suggested that it should mirror the childcare element of the working tax credit. There were also concerns about how fairly targeted the proposals were, particularly for lone parents and the extra costs for families with more than one child, while some respondents felt that the financial limit did not reflect regional variations in the costs of childcare.[33]

Legislation to effect this change was included in the Finance Act 2004: specifically, section 78 and schedule 13. At the Committee stage of the Finance Bill the then Paymaster General, Dawn Primarolo, set out the rationale for this measure:

> The proposals are not a panacea for working parents seeking child care in order to return to part-time or full-time work. They are part of a series of provisions put in place by the Government to expand child care facilities—through child care payments and tax credits, direct investment in nursery education, Sure Start and child trust funds. Time and again, and especially now, with employment being so high and recruitment therefore being so difficult, employers need to plan and develop their businesses to take account of the child care responsibilities of their staff—both to retain staff and to recruit them.
>
> The consultation [which foreshadowed the Budget 2004 announcement] specifically engaged employers on the basis that, although many provisions are made under the tax system, we wanted to know what else would encourage them to provide more child care support for their staff—balanced, of course, by the cost to the taxpayer, by value for money and by issues such as those raised by my hon. Friend the Member for Wolverhampton, South-West (Rob Marris) of whether salary would be sacrificed or fairness in the work force compromised …

[33] Employer supported childcare: responses to the consultation document, 17 September 2003 p4

> We believe that the whole point of the arrangements is that employers have an important role to play in helping their staff to balance their work and family lives. The measure provides the incentive to encourage employers to support their employees with child care. The Daycare Trust estimates that only one in 10 large employers currently help their staff with child care. We believe that the measure is targeted at employers, and it is right that it should be …
>
> [This measure] is a ring-fenced exemption for child care benefits in kind meant to encourage employers to engage with the issue of child care and to offer some help to those employees who want it … How do we encourage employers, while ensuring that that encouragement is fair and equitable, as simple as possible and cash-limited in terms of the exposure of the Exchequer? After consultation on the issue, I contend that the clause and the schedule offer the best way forward: cautious but helpful, in broadening the amount of money and the child care facilities available.[34]

On this occasion the Paymaster General noted that the relief would be worth more to higher rate taxpayers, but that limiting relief to basic rate taxpayers would be "too complicated":

> I was asked how much national insurance employed parents would save with the £50 a week exemption. It is important to remember that it is a voucher that goes to the child care provider, and nowhere else. The situation is simple: it involves the employer and the child care provider. The answer depends on the employee's earnings and the value of the qualifying child care that the employee uses, but let us take a couple of examples. A higher-paid employee, paying income tax at the highest marginal rate, would save up to £20.50 a week on his or her child care costs. That relates to 40 per cent. tax and 1 per cent. national insurance. An employee paying the basic rate may save up to £16.50 a week. That relates to 22 per cent. tax and 11 per cent. national insurance.
>
> I considered providing the relief only for the basic rate, but to be honest that would be too complicated. It would cause a problem for employers and I am seeking to encourage employers to make the provision, not to put more obstacles in their way. Higher rate taxpayers benefit by a greater amount, but of course they are unlikely to have access to tax credits.[35]

These provisions also extended the scope of the existing tax relief for workplace nurseries, to include staff working on an employer's premises and using the nursery, but employed by someone else.[36]

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[34] SC Deb (A) 13 May 2004 c204, c209, c212

[35] SC Deb (A) 13 May 2004 c208

[36] "Changes to employer-supported childcare", Inland Revenue Tax Bulletin issue 75, February 2005 p1178

The Labour Government's approach to this issue was set out in answer to a PQ on whether the scheme might be extended to the self-employed (**emphasis added**):

> **Mrs. May**: To ask the Chancellor of the Exchequer what discussions he has had concerning extending eligibility for childcare vouchers to the self-employed; and what estimates he has made of the costs of doing so.
>
> **Dawn Primarolo**: It is a general principle of the tax system that relief is not given for private expenditure incurred to enable an employee to go out to work, but only for expenses incurred in the performance of his or her duties of employment. This means that the expense must be one that any other employee doing the same job would have to incur whatever his or her personal circumstances. **Allowing a tax deduction for the cost of childcare for all working parents, rather than through a targeted exemption, would be expensive and poorly targeted.** We believe that financial help for parents towards childcare costs should be provided through the tax credits system. Self-employed people can receive help with the cost of formal childcare through the childcare element of the working tax credit.[37]

A small increase in the value of this exemption was announced in Budget 2006: "to engage employers and help working families with childcare costs, the Government offers an income tax and national insurance contributions exemption for good quality formal childcare contracted by the employer or paid for with childcare vouchers provided by the employer. To enhance this support … from April 2006 the value of the exemption will be increased from £50 to £55 per week."[38] The impact of the new exemption was raised in a PQ at this time:

> **Mrs. Curtis-Thomas**: To ask the Chancellor of the Exchequer what assessment he has made of the effectiveness of the tax and national insurance incentives for employer-supported child care since April 2005; and if he will make a statement.
>
> **Dawn Primarolo**: The tax and national insurance contributions exemption for employer-supported child care is designed to engage employers on the issue of child care and help parents pay for child care. Her Majesty's Revenue and Customs are currently assessing and monitoring the effectiveness of the tax and national insurance contributions exemptions for employer-supported child care. However, informal qualitative evidence suggests that the scheme is working well and that the numbers benefiting may be higher than estimated.[39]

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[37] HC Deb 6 July 2005 c431W

[38] Budget 2006, HC 968, March 2006 para 5.23

[39] HC Deb 30 March 2006 c1112W

Since the introduction of this exemption, employers and employees have not been required to report tax-free employer-supported child care vouchers provided to employees. As a consequence, information on the marginal tax rate of participants, overall numbers participating, or cost to the Exchequer has not been published regularly.[40] In its latest estimates of the cost of tax reliefs HMRC put cost of all three forms of employer supported childcare - workplace nurseries, childcare vouchers and directly contracted childcare – at £950m a year in 2018/19, with 870,000 claimants.[41]

In 2006 HMRC published a survey of employer perception of employer-supported child care commissioned from the National Centre of Social Research (NatCen). It found that "around 2.5 per cent of organisations were offering an employer supported childcare scheme to their employees in late 2005" though "these employers were predominantly large organisations and it is therefore estimated that around a third of all employees (including those without children aged under 16 years) in the UK had access to a childcare scheme (consisting mainly of childcare vouchers)." However, "very few small to medium-sized organisations were providing any form of employer-supported childcare scheme" and, "in organisations where employer supported childcare was offered it was estimated that on average only around a third of employees with children (aged 16 or under) were participating in that scheme."[42]

The survey also found that "the majority of organisations providing childcare vouchers started their schemes after the exemptions changed in April 2005, and of these, two-thirds of organisations would not have started a childcare vouchers scheme if the rules had not changed." Among those offering childcare there was a clear consensus, especially in large organisations, that, "offering a childcare scheme had had a positive effect on their relationships with their employees, as well as the employees' work-life balance. If only organisations with well established schemes are considered, then almost two-thirds identified a positive effect on employee motivation and commitment." Employers felt that the main barriers to their providing support "were having too few employees wanting support or, in the case of small to medium-sized workforces, having too few employees in the organisation in general. Smaller employers, in particular, did not see providing help with childcare as their responsibility."[43] The authors went on to make a number of points for consideration:

> Overall, the evidence indicates that employer-supported childcare schemes are being successfully implemented by larger organisations. The research has highlighted that the level of awareness of employers could be raised, particularly among small organisations. The evidence on perceived benefits of offering a

[40] HC Deb 29 November 2006 c717W

[41] HMRC, Bulletin: estimated cost of tax reliefs, October 2020 p26. The cost is estimated to have dropped to £750m in 2019/20 (with 700,000 claimants) with the introduction of Tax Free Childcare.

[42] HMRC, Monitoring of the Reform of the Income Tax and National Insurance Rules for Employer-Supported Childcare: Research report 23, December 2006 para 9.1

[43] op.cit. para 9.2-4

> scheme may help increase the provision of support by smaller organisations as well as larger employers who currently don't offer a scheme to their employees. However, the findings suggest that the provision of employer supported childcare is an area of potential growth in the future, and that the changes to the exemption rules have made a positive difference to employers' decisions to offer an employer-supported childcare scheme in a relatively short space of time.[44]

The study also found that, as two PQs have noted, first, that an estimated 174,000 employees were using vouchers in late 2005, and that "30% of child care voucher recipients were higher rate taxpayers, who account for 6% of parents. This group also receive a proportionally higher amount of the relief that goes to parents through Employer Supported Childcare due to their higher marginal tax rates."[45]

[44] op.cit. para 9.5
[45] HC Deb 9 November 2009 c66W; HC Deb 4 November 2009 c1005W

4 Restricting relief for higher rate taxpayers (2009-2010)

In his speech to the Labour party conference on 29 September 2009, the then Prime Minister, Gordon Brown said, "And for all those mums and dads who struggle to juggle work and home, I am proud to announce today that by reforming tax relief we will by the end of the next Parliament be able to give the parents of a quarter of a million two year olds free childcare for the first time."[46] The Labour Government's ambitions to extend free childcare to two year olds were long-standing, but this appears to be the first mention of funding this commitment in this way. In their report on the speech, the *Guardian* commented, "In what his aides cited as a classic example of the tough choices being taken by the government, he also announced he was phasing out badly targeted tax relief on employer-supported childcare, costing £500m, in order to fund 10 hours' free childcare a week for 250,000 two-year-olds in poorer communities."[47]

The Institute for Fiscal Studies published a response to this change in policy at the time:

> Gordon Brown's speech to the Labour party conference gave more detail about an existing ambition of this government to provide free early education and childcare places for 2 year old children in England. The Prime Minister has now promised that this would be provided to young children in "modest and middle income" families by 2015, and would be paid for by "reforming tax relief" on childcare. This is widely reported as meaning that the Government intends to scrap the existing tax break on employer-provided childcare vouchers, something which it introduced in April 2005. If it is scrapped outright, the losers will be relatively well-off families in work and using formal childcare: low- to middle-income working families using childcare will continue to be able to get help with childcare costs from the tax credit system.
>
> However, there is, we presume, more to this reform than just redistributing income by removing state support for well-off families with children and increasing it for the poorest, because the two policies also have different objectives. The tax break on employer-provided childcare vouchers is mainly intended to reduce the cost of childcare for working parents, and so encourage them to work. The vouchers are flexible, in that they can be used to buy any form of

46 "Gordon Brown's speech to Labour Party conference", Guardian, 29 September 2009

47 "Last throw of the dice", Guardian, 29 September 2009

childcare provided it is registered with Ofsted or otherwise approved, including day nurseries, playgroups, out-of-school clubs, childminders or nannies.

On the other hand, if the free places for two year olds are like the existing entitlement for three and four year-olds in England, then they will be limited to centre-based care, such as state-run Children's Centres, and private or voluntary sector nurseries or playgroups. These free places will, presumably, make it a little easier for the parents of these two year-olds to work if they want, but the Government may also be hoping that this policy might improve developmental outcomes for the children from low-income families. Recent work[48] based on the Millennium Cohort Study, and currently the subject of further research at the IFS and the CMPO, has shown that children aged three from families in poverty have lower cognitive skills, lower achievement scores and more behavioural problems than those that do not, and it is argued by some[49] that education and child care for such children can help to reduce these differences, especially if it is of sufficiently high quality.[50]

The charity Employers for Childcare, launched a campaign to reverse this decision, on the grounds that families on middle incomes would lose the most, and that it was unlikely that employers would provide an alternative to voucher schemes, without some form of tax incentive. 88 Members signed an EDM put down by Mark Durkan MP supporting the campaign,[51] and a petition posted on No.10 Downing Street's web site opposed to the withdrawal of tax relief received over 93,000 signatures. The Low Incomes Tax Reform Group argued that there would be "many families … who will lose out financial if [the relief] is abolished", though the charity went on to suggest the more serious problem was that parents were still poorly informed about the impact that vouchers could have on their entitlement to tax credits: in particular, the fact that tax credits on childcare costs would be **withdrawn** if those costs were paid for by vouchers.[52]

On 20 October Downing Street published a response to the petition from the Prime Minister which pointed out that it was not intended to withdraw relief for current recipients for five years, and that although tax relief would be withdrawn, "companies will still be able to offer childcare vouchers to the people they employ and in fact, we expect many of them will continue to provide support for childcare."[53] However, the controversy continued and in

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[48] K. Hansen & H. Joshi eds., Millennium Cohort Study - Third Survey: A User's Guide to Initial Findings, Centre for Longitudinal Studies October 2008

[49] K.Sylva et al., Effective Provision of Pre-School Education (EPPE) Project: Final Report SSU/SF/2004/01, Dept for Children, Schools & Families, November 2004

[50] "What can we learn from Labour's shift in childcare policy?", IFS Observations, 30 September 2009

[51] EDM 1978 of 2008-09, 12 October 2009. Mr Durkan put down an identical EDM at the start of the 2009-10 Session which 64 Members signed (EDM 161 of 2009-10, 23 November 2009).

[52] Low Incomes Tax Reform Group press notice, Tax relief on childcare vouches to go – a blessing or a curse?, 13 November 2009.

[53] Prime Minister's Office, Keepvouchers - epetition response, 20 October 2009

early November the Guardian reported that nine former Labour Ministers had written to the Prime Minister, protesting the measure.[54] A few days later the Sunday Times reported that the Government had decided to maintain this relief for basic rate taxpayers.[55]

Finally, on 4 December 2009, 10 Downing Street published an extract from a letter the Prime Minister had written to two Labour MPs, stating first, that no changes would be made until April 2011, and second, that only the **extra** benefit enjoyed by higher rate taxpayers would be withdrawn:

> "I have already made clear that no family currently in receipt of tax relief for their childcare vouchers will see any change in the support they receive. But following our discussions I can now also say that we will retain tax relief for new childcare vouchers issued in the future. However, there still remains a concern that a disproportionate benefit is accruing to higher rate taxpayers. So in order to ensure that this tax relief is given on a fairer basis to all families, we will ensure that all taxpayers get the same income tax relief as basic rate taxpayers do currently. This will take place from April 2011 and will not affect those receiving vouchers issued before that date."[56]

On 9 December 2009 the Pre-Budget Report was published, and this simply confirmed that all the receipts from the Government's "employer supported childcare tax relief measure", to be implemented from 2011/12, would be "used to fund expansion of free childcare for 2 year olds."[57] A written answer at this time set out the position:

> **Caroline Flint**: To ask the Chancellor of the Exchequer pursuant to the statement of 9 December 2009, Official Report, columns 359-86, on the pre-Budget report, what his policy is on the future of tax relief for employer-supported child care.
>
> **Mr. Timms**: On 4 December the Prime Minister announced Government's policy in relation to employer supported child care. The Prime Minister confirmed that all families who currently receive vouchers will continue to get the same support in the future. He also set out that tax relief will be retained for any new child care vouchers that are issued in the future and that, from April 2011, all new recipients of child care vouchers will get the same income tax relief as basic rate taxpayers do currently. This will ensure that the system does not disproportionately benefit higher rate taxpayers.[58]

[54] "Gordon Brown warned: axing childcare vouchers will cost Labour seats", Guardian, 10 November 2009

[55] "Brown does U-turn over childcare", Sunday Times, 15 November 2009

[56] Prime Minister's Office press notice, PM outlines plans for childcare vouchers, 4 December 2009

[57] Pre-Budget Report, Cm 7747 December 2009 p173 (Table B4 – footnote 3)

[58] HC Deb 14 December 2009 c846W

In February 2010 HM Revenue & Customs published a note on how relief would be restricted from April 2011; an extract is given below:

> From 6 April 2011, employers who provide employer-supported childcare (ESC) will be required at the beginning of the relevant tax year to estimate the level of basic employment earnings that their employee is likely to receive during that year, ignoring potential bonus and overtime payments, but including other known taxable benefits.
>
> If the level of estimated earnings and taxable benefits is equal to or below the equivalent of the sum of personal allowances and the basic rate limit for the year, the employee will be entitled to relief on £55 exempt income for each qualifying week.
>
> If the level of estimated earnings and taxable benefits exceed the equivalent of the sum of personal allowances and the basic rate limit for the year, but falls below the limit at which tax becomes payable at the additional (50%) rate limit for the year, the employee will be entitled to relief on £28 exempt income for each qualifying week.
>
> If the level of estimated earnings and taxable benefits exceed the equivalent of the additional (50%) rate limit for the year, the employee will be entitled to relief on £22 exempt income for each qualifying week.
>
> The figures of £28 for higher rate taxpayers and £22 for additional rate taxpayers have been set to ensure that they receive approximately the same level of income tax relief as basic rate taxpayers, that is £11 per week.
>
> There are no changes in respect of workplace nurseries.[59]

The Labour Government's decision to change its plans resulted in the issue dropping from public attention, though in March 2010 the Tax Faculty of the Institute of Chartered Accountants argued that the approach taken to restricting relief would be "burdensome, disproportionate and open to manipulation and abuse."[60]

[59] HMRC, Reform of the Tax Treatment of Employer-Supported Childcare: Technical Note, 19 February 2010 p5

[60] ICAEW (Tax Faculty) press notice, Childcare basic rate tax proposals, 29 March 2010

5 The approach of the Coalition and Conservative Governments (from 2010)

Restricting tax relief on employer provided childcare

Following the Labour Government's decision to restrict tax relief for higher rate taxpayers, the Coalition Government confirmed it would proceed with this measure in its first Budget in June 2010.[61] On a separate if related issue, the Government also announced a three-year freeze in child benefit. Following this in October 2010 the then Chancellor George Osborne announced that child benefit would be withdrawn from higher rate taxpayers. These plans were subsequently revised, so that from January 2013 child benefit has been gradually withdrawn from households were at least one person earns more than £50,000 a year.[62]

In December 2010 the Government published draft legislation to be included in the following year's Finance Bill, accompanied by a series of notes on the anticipated impact of each of these tax measures. In this case, HMRC noted that the change would create an administrative burden on employers, that would grow over time as employees joined existing schemes:

> This measure creates an administrative burden for businesses by asking them to undertake a basic earnings assessment for employees each year. Most childcare vouchers are delivered by way of flexible benefit schemes or salary sacrifice schemes which means that for any employee who is has voucher eligibility restricted or increased the employer may need to contact the employee to agree amendment of the employment contract, revise the agreed pay for the employees pay up or down, contact the voucher provider with new details, and explain the outcomes to the employee. The scale of the administration will increase as the number of employees who join the schemes from 2011 increases.[63]

When first announced the Labour Government had made an explicit connection between the amount of money this change would raise, and an increase in funding for free childcare places. The Coalition Government decided not to pursue this: "at Spending Review 2010, decisions around free childcare places were set out and funded from alternative sources. Therefore this costing now includes only the tax component, and is based on the OBR's

[61] Budget 2010 HC 61 June 2010 para 2.123

[62] For more background see, The High Income Child Benefit Tax Charge, Commons Library briefing CBP8631, 26 July 2021.

[63] HMRC, Changes to Tax Reliefs for Employer-Supported Childcare, 9 December 2010

June Budget forecast."[64] HMRC's impact assessment also noted that relief would be restricted both from higher rate taxpayers, and on those now liable to pay the 50% 'additional' rate, introduced from April 2010 on those with incomes above £150,000:

> It is estimated that over 600,000 taxpayers currently receive income tax relief on ESC schemes, and about 40 per cent of these are higher or additional rate taxpayers. This change only affects higher or additional rate taxpayers who join ESC schemes on or after 6 April 2011. The number of affected individuals and households will therefore build up over several years.
>
> The tax relief received by these taxpayers will be reduced to be the same as that received by basic rate taxpayers. The reduction in income tax relief for higher rate taxpayers will be £11 per week, and the reduction in income tax relief for additional rate taxpayers will be £16 per week.[65]

The Government also published draft legislation to make a change to the qualifying conditions for employer-supported childcare schemes:

> Legislation will be introduced in Finance Bill 2011 to make a change to the qualifying conditions for employer-supported childcare (ESC) schemes in respect of childcare vouchers (CCVs) and directly-contracted childcare.
>
> The tax exemption and national insurance contributions (NICs) disregard (for CCVs) for ESC schemes only apply if a number of conditions are met. One of these conditions is that the scheme must be open generally to employees (i.e. available to all). Many employers use salary sacrifice or flexible remuneration arrangements to provide access to schemes. These arrangements cannot be applied to workers earning at or near the National Minimum Wage (NMW) because of legislation in that area, which means that the schemes strictly fall outside the conditions for the relief.
>
> The legislation amends the conditions to allow employers to make their ESC schemes unavailable to those employees earning at or near NMW levels, where the schemes are delivered through salary sacrifice or flexible remuneration arrangements. This does not prevent employers from offering ESC schemes to these employees that do not rely on salary sacrifice arrangements.[66]

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[64] ibid. At the time it was estimated the change would raise £50m in 2011/12 rising to £100m in 2012/13.

[65] ibid. For basic rate taxpayers the £55 exemption is worth £11 (ie, £55 x 0.2), whereas it would be worth £22 for someone paying tax at 40%, and £27.50 for someone paying at 50%.

[66] HMRC, Employer-Supported Childcare: Changes to the "Open Generally" Condition, 9 December 2010. This change had been announced initially in the March 2010 Budget (HM Revenue & Customs Budget Note BN36, 24 March 2010).

There was limited comment on these proposals though the Chartered Institute of Taxation published a submission arguing that the method for restricting tax relief "adds complexity whilst providing for some people to receive more or less tax relief than another in a similar role with a similar income for the relevant tax year":

> Under the proposed legislation it will be the estimated earnings from the particular employment that will govern the amount of tax exemption for ESC that is available, be that £55 per week, £28 per week or £22 per week. However, this will mean that individuals who have fragmented earnings from multiple employments will be at an advantage over those having a single source of income. In addition, no account is taken of non-employment income, eg investment income. So in both respects the full £55 per week exemption may be available to individuals who are higher or additional rate taxpayers. This is an example of the unfairness to which we refer to above, and – to emphasise the point - we don't see that there is any quid pro quo in terms of added simplicity.
>
> If the Government's proposals to restrict tax relief proceed in their present format we would suggest that, to ease some of the administrative burdens on employers and make the legislation simpler to operate, the estimate of employment income is based on the previous year's employment income. However, as we say we are still not comfortable that conceptually the approach is the right one.
>
> An alternative to consider would be for employers to return the benefit on Forms P11D – in list form for administrative ease - and then for matters to be dealt with by the individual via Self Assessment, ie with the exemption limited to basic rate. Indeed, the provision of childcare/childcare vouchers is a benefit-in-kind and would therefore ordinarily (ie absent an exemption) be expected to be taxed via Self Assessment/a tax code restriction.[67]

In the 2011 Budget the Government confirmed both of these changes to ESC would go ahead.[68] In the case of reduced relief for higher earners, some technical changes had been made to the draft legislation in light of responses:

> From 6 April 2011, the income tax exemption for CCVs and directly-contracted childcare provided through ESC schemes will be capped at approximately the same monetary level. This will be achieved by introducing new income tax exempt limits of £28 per week for higher rate taxpayers and £22 per week for additional rate taxpayers. This will ensure that the monetary equivalent of the tax relief entitlement for all taxpayers will be based on £11 per week. The national

[67] CIOT, Changes to Tax Reliefs for Employer-Supported Childcare, 9 February 2011 paras 2.5-2.8
[68] Budget 2011, HC 836, March 2011 para 2.43, 2.44

> insurance contributions disregard will be aligned to these levels by secondary legislation …
>
> Since the previous version of this assessment was published, a review of the latest data has led to a reduction in the estimated numbers affected. It is estimated that 450,000 taxpayers receive income tax relief on ESC, and about 40 per cent of these are higher or additional rate taxpayers. This change only affects higher or additional rate taxpayers who join ESC schemes on or after 6 April 2011. The number of affected individuals and households will therefore build up over several years. The tax relief received by these taxpayers will be reduced to be the same as that received by basic rate taxpayers. The reduction in income tax relief for higher rate taxpayers will be £11 per week, and the reduction in income tax relief for additional rate taxpayers will be £16 per week.[69]

The department also revised its estimates of the yield from this change, anticipating that it would raise £15m in 2011/12, rising to £40m in 2012/13 and £65m in 2013/14.

Following the Budget the CIOT reiterated its concerns that this measure would add a significant new burden on employers:

> Colin Ben-Nathan, Chairman of the CIOT's Employment Taxes Sub-Committee, commented: "We are disappointed that the Government has not listened to our concerns that this proposal will complicate matters and introduce a significant additional burden on employers. The mechanism proposed for restricting tax relief on employer-supported childcare is, in our view, impractical and depends on an employer's 'back of the envelope' calculation of 'basic' earnings. The employer is required to estimate whether the employee will be a higher rate/additional rate taxpayer in the coming tax year, and the employee has no right of appeal. We are also concerned that this will put the employer in a difficult situation and impact on their relationship with their employee. Although the change only affects higher/additional rate taxpayers, employers will have to undertake the process of estimating employment income for all employees joining a ESC Scheme from 6 April."[70]

Provision to this effect was made in the Finance Bill 2011 published after the Budget, and was one of the clauses selected for debate at Committee stage on the floor of the House.[71] Speaking for the Opposition David Hanson MP agreed that this relief had been "badly targeted" but argued that the Government should invest "the resultant savings from the proposals … to

[69] HMRC, Reduced childcare relief for higher earners, 23 March 2011. No changes were made to draft legislation or impact assessment regarding the 'open generally' condition for ESC (HMT, Overview of Tax Legislation & Rates, March 2011 para 2.4).

[70] CIOT press notice, Employer burden means childcare proposals warrant further thought, 23 March 2011

[71] HC Deb 4 May 2011 cc717-746. The clause was agreed unamended and without a division.

support issues such as child care for people in our community."[72] In response Treasury Minister David Gauke argued that it was fair to limit tax relief in this way but that the proceeds had to be used to reduce the deficit:

> All parents who join ESC schemes on or after 6 April 2011 will now receive the same amount of income tax relief as basic rate taxpayers. That is achieved by limiting the amount that higher rate taxpayers and additional rate taxpayers can receive each week to £28 and £22 respectively, so that all parents receive the same amount of income tax relief support each week—about £11. To avoid the measure having a retroactive effect, all existing members who joined a scheme before April 2011 will be able to retain their current rates of tax relief. I assure the Committee that the change will not affect the tax and NICs relief available for workplace nurseries … The Opposition's position is … very clear: they would spend this money on child care. That is an additional spending commitment that we will add to their considerable total of spending commitments … We believe that we need to get the deficit down. I am sorry that the Labour party does not accept that, or at least does not have proposals to do it.[73]

The Bill also included provision to change the 'generally open' test for employer-supported childcare – following the consultation exercise launched in December 2010. This was subject to a short debate in Committee. Speaking for the Opposition Kerry McCarthy MP acknowledged that the aim of this measure was to make "vouchers more widely available" but expressed concern that amending this requirement did not result in "the needs of working parents with lower earnings [being] neglected."[74]

The then Economic Secretary, Justine Greening, responded to these concerns by suggesting that correcting this 'anomaly' "should enable some employers to make their child care schemes more available to their employees":

> The clause will allow employers to meet the "available to all" conditions and thereby continue to offer schemes through salary sacrifice or flexible remuneration arrangements. We know that many parents with earnings at or near minimum wage are already excluded from employer child care schemes. That reflects the Low Pay Commission's 2006 report, which "concluded that childcare voucher schemes would benefit few low paid workers; the majority would be better off claiming support for childcare through the Working Tax Credit system." Although this might seem to be a reduction in support for low-income parents, I think the shadow Minister recognised that in practice it corrects an anomaly between the minimum wage legislation and the conditions in place to

[72] HC Deb 4 May 2011 c718

[73] op.cit. c745, c744. A number of technical amendments in response to employer concerns about the implementation of the relief were agreed in Committee: Public Bill Committee, 24 May 2011 cc 329-341.

[74] Public Bill Committee (Finance (No 3) Bill) 24 May 2011 c342

> encourage employers to provide employer-supported child care; it should not have any real effect.[75]

In Budget 2012 the Government announced that the 50% additional rate of income tax would be cut to 45% from 2013/14. As a consequence, the provisions restricting the relief for employer-provided childcare would be amended – by secondary legislation – to ensure the value of tax relief continues to be aligned to the value received by basic rate taxpayers.[76] From April 2013, the tax-exempt amount for employer supported childcare was increased from £22 per week to £25 per week for additional rate taxpayers who joined such a scheme on or after 6 April 2011.[77]

At this time it was estimated that about 500,000 employees received childcare vouchers, and that the average annual tax/NI benefit for recipients was about £900.[78]

A new scheme: Tax-Free Childcare

In its Mid-Term Review published in January 2013, the Government stated that it would "support working families with their childcare costs."[79] There was some speculation that the Government were looking at the case to extend tax relief in this area, though no details were given at the time.[80]

On 19 March 2013 the Government announced that it would phase in a new scheme, Tax-Free Childcare, from autumn 2015. To be eligible, families would have to have all parents in work, with each earning less than £150,000 a year, and not in receipt of support for these costs from tax credits or, when introduced, Universal Credit. Families would receive 20% of their yearly childcare costs, up to a set limit. At this time the Government proposed this cap would be £6,000 per child (ie, a payment worth £1,200). From the start of the new scheme, the current relief for employer-provided childcare would be retained only for existing members. Those in receipt of this tax relief would be able to move over to the new scheme, if they met the qualifying criteria, but could not benefit from both schemes.[81]

In June 2013 the Government made provision for HMRC to begin preliminary work, by means of 'paving legislation', included in the Children & Families Bill 2013-14; without this, HMRC would not have been able to spend any money on

[75] op.cit. c344, c345. These provisions now form ss35-36 of the Finance Act 2011.

[76] HM Treasury/HMRC, Overview of Legislation in Draft, December 2012 para 1.81

[77] The change was made by Order (SI 2013/513). The cost of this measure is thought to be negligible: HMRC, Childcare: changes to the value of the exemption for employer-supported childcare, December 2012.

[78] HC Deb 23 January 2013 c304W. see also, HC Deb 14 November 2011 c638W

[79] HM Government, The Coalition: together in the national interest: Mid-Term Review, January 2013 p6. See also, HL Deb 31 January 2013 cc1644-6

[80] eg,"Parents to get tax breaks on childcare", Sunday Times, 6 January 2013.

[81] HMT press notice 29/13, New scheme to bring tax-free childcare for 2.5 million working families, 19 March 2013. See also, Budget 2013, HC 1033, March 2013 para 1.178-181.

preparations, such as the design of IT systems.[82] This was introduced at the report stage of the Bill, and approved without division.[83] On this occasion Education Minister Elizabeth Truss set out the case for replacing the existing tax relief for employer-provided childcare vouchers:

> Unfortunately, under the current employer-supported child care voucher scheme, which was introduced by the previous Government, the question of who receives support is arbitrary. It is also highly inefficient, with 33% of the total amount being spent on overheads. At present, only 5% of employers offer employer-supported child care, and only a fifth of employees are eligible for it. Those who are self-employed do not have access to it, and whether a parent can or cannot get it is a lottery. Strangely, as more than one parent can claim employer-supported child care, in some cases there are two claimants for one child. That means that the costs for one child could be covered more than for a single parent with several children, and that is neither a sensible nor fair way to continue.
>
> Our new tax-free child care scheme will resolve those anomalies. It will be available to any working family, except where one or both earners pay the additional rate of income tax. It will be on a per-child basis and include the self-employed and those on the national minimum wage. Tax-free child care means that around 2.5 million families will now have access to support. That support will be worth the same as the basic rate of income tax at 20% of costs, making child care costs effectively tax free. It will mean that the average family with two children will receive up to £2,400 each year. Those on lower incomes will continue to have 70% of their child care costs paid through tax credits and, in future, universal credit, and there will be an additional £200 million to help those in receipt of universal credit ensure that work always pays.[84]

The Minister confirmed that formal consultation would begin ‘shortly’, and explained the purpose of the paving provision to be added to the Bill:

> We are not introducing the tax-free child care scheme now. The Government have been in discussions with interested parties since the announcement of the scheme, and will launch a formal consultation document shortly … New clause 10 has been tabled to enable HMRC to start developing the scheme. Although we will consult in full on its details, the basic tenets have been set out. To

[82] The use of paving legislation of this type is not particularly common, though generally it is uncontroversial. Sometimes this is done with provision in the annual Finance Bill, sometimes in separate legislation. Some examples are discussed in the Library paper for the second reading debate on what became the Planning-gain Supplement (Preparations) Act 2007 (Library Research paper 07/4, 10 January 2007 pp30-42). The Act allowed HMRC to spend money on the development of a proposed 'planning gain supplement', although, as it transpired, the Labour Government decided it would not introduce this new charge in October 2007.

[83] HC Deb 11 June 2013 cc222-240

[84] op.cit. c228

> ensure that the scheme is in operation by the autumn 2015 target, work on its foundations must commence now …
>
> This is a short and self-explanatory new clause that merely allows the Government to begin preliminary work ahead of the final design of the tax-free child care scheme. The Bill is similar to those used by previous Governments, and takes no greater powers than in those cases. Furthermore, the Government are clear that any changes required in primary legislation will receive appropriate scrutiny.[85]

In August 2013 the Government launched its formal consultation on the scheme, which would have three important design features:

> While the Tax-free Childcare scheme is being introduced to support only families where all parents are working, there will be some exceptions to this. Parents on paid maternity, paternity and adoption leave will be eligible to continue receiving Tax-Free Childcare for any children they already have; and couples in which one parent works and the other is in receipt of contributory Employment and Support Allowance or Carers' Allowance will also be eligible for the scheme.
>
> The eligibility of children will be aligned to the school year so that children in the same year at school will be treated consistently under the scheme and parents can receive support with their costs for the whole school year. All children born after August 2010 will be eligible.
>
> The government intends to deliver Tax-free Childcare through online voucher accounts run by private sector voucher providers. The government wants parents to have a choice of voucher providers and for them to be able to switch between them with minimal fuss and cost.[86]

Eligibility would be based on four key criteria:

> **1 Children must be under the age of 12.** Support will be focused on those children under 12, as childcare costs for this group are often the highest. In the first year of operation, all children up to age five will be eligible. Scheme eligibility will then increase by one year, each year until all children under 12 are eligible. Over this period, Employer-Supported Childcare will be phased out. Children with disabilities under the age of 17 will be eligible for Tax-Free Childcare, in line with existing rules under Employer-Supported Childcare.
>
> **2 Both parents (or a lone parent) must be in paid work.** Where both parents wish to go out to work, the Government wants to make it easier for them to do so.

[85] op.cit. cc228-9

[86] HMT press notice, Tax-Free Childcare scheme: government asks for parents' views, 5 August 2013

> **3 Both parents (or a lone parent) must not be in receipt of any support through tax credits, Universal Credit, or Employer-Supported Childcare.** Under tax credits or Universal Credit, parents may already be receiving support with up to 70 per cent of their childcare costs through the Childcare Element. The Government is making available an additional £200 million of support for childcare through Universal Credit ... Further, all three- and four-year-olds remain eligible for 15 hours per week of funded early education.
>
> **4 Parents (or a lone parent) must not be additional rate taxpayers.** The additional rate threshold is currently set at £150,000 per year.[87]

The consultation document underlined that current members of employer-supported childcare schemes would be able to remain members "as long as their employer continues to offer it" and that, "as such, there will be no cash losers through this reform."[88]

The Government published the outcome of this consultation in March 2014, just prior to the 2014 Budget. It confirmed that Tax-Free Childcare (TFC) would be introduced in autumn 2015, and that a number of changes were proposed from its original plans:

> The scheme will be introduced far more quickly than previously announced so that all working parents with children under 12 will be covered within the first year from autumn 2015. This is significantly faster than initially proposed, where children under 12 would have gradually qualified for the scheme over a 7-year period. The government will provide 20% support on childcare costs up to £10,000 per year for each child via a new simple online system. The limit had previously been set at £6,000. This now means support of up to £2,000 per child per year.
>
> Tax-Free Childcare will be open to more than twice as many families as currently use Employer Supported Childcare (ESC) vouchers and, unlike ESC, will not depend on employers offering it. In addition to giving support to the self-employed, the scheme has been adjusted to ensure those working part-time, earning £50 per week and above, those on maternity, paternity or adoption leave and those starting their own business who may not meet the minimum earning requirement will be included, giving them government help with childcare costs for the first time.[89]

In its summary of the consultation, the Government argued TFC represented "a significant step forward" for tax-relief on employer-provided childcare:

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[87] Tax-Free Childcare: consultation on design and operation, August 2013 p19

[88] op.cit. p25

[89] Prime Minister's Office press notice, Millions of parents to get help with childcare costs, 18 March 2014

> Tax-Free Childcare will be available to all working families, and will not depend on employers deciding whether or not to offer the scheme. Support is extended to the self-employed and all employees whose employer does not offer Employer-Supported Childcare. In addition, the level of support in Tax Free Childcare will be linked to the child rather than the parent. This is a fairer approach than Employer-Supported Childcare, which pays no regard to the number of children in each family and disadvantages lone-parent families, offering a different level of support to lone-parent and two-parent families where both members of a couple are able to receive support.[90]

As noted, tax relief would **continue** to be given for existing members of employer schemes:

> When Tax-Free Childcare is introduced, Employer-Supported Childcare voucher schemes and directly-contracted childcare will be closed to new entrants, including those transitioning between employers who run such schemes. Current members of these schemes may choose to remain in their current scheme, or move to Tax-Free Childcare, but a household cannot simultaneously be in receipt of support through both schemes.[91]
>
> After Employer-Supported Childcare is closed to new entrants, employers can still choose to change voucher providers. This will not affect their employees' entitlement to Employer-Supported Childcare.
>
> The provision of workplace nurseries by employers will not be affected by the introduction of Tax-Free Childcare. Employees will continue to be able to join workplace nursery schemes offered by their employers. Parents will be able to access a workplace nursery and receive Tax Free Childcare (for example, if the child attends qualifying childcare outside of the time that they are in the workplace nursery).[92]

The response document also gave details of the potential gains or losses for parents in moving to TFC:[93]

> Table 2.A summarises the support available under Tax-Free Childcare and Employer-Supported Childcare for different family groups. It shows the maximum level of support available under Employer-Supported Childcare and maximum support available for families under the new scheme. This increase is shown for both the

[90] Delivering Tax-Free Childcare: the Government's response to the consultation on design and operation, March 2014 p23

[91] Where a child lives in more than one household, a claim to Tax Free Childcare will not affect an Employer-Supported Childcare claim in a separate household.

[92] op.cit. p23

[93] op.cit. p24

£6,000 cap announced at Budget 13 and the new £10,000 cap. The actual level of support in Tax-Free Childcare will depend on a family's childcare costs.

Table 2.A: Comparison of Employer-Supported Childcare and Tax-Free Childcare

	Number of children under 12	Maximum support through Employer-Supported Childcare	Increase in maximum support	
			With £6,000 cap announced at Budget 2013[1]	With £10,000 cap[2]
Single parent or working couple one basic rate taxpayer in receipt of Employer-Supported Childcare	1	£933[3]	£267	£1,067
	2	£933	£1,467	£3,067
	3	£933	£2,667	£5,067
Working couple, both basic rate taxpayers in receipt of Employer-Supported Childcare	1	£1,866	-£666	£134
	2	£1,866	£534	£2,134
	3	£1,866	£1,734	£4,134
Single parent or working couple with one higher rate taxpayer in receipt of Employer-Supported Childcare[4]	1	£625[5]	£575	£1,375
	2	£625	£1,775	£3,375
	3	£625	£2,975	£5,375
Working couple, both higher rate taxpayers in receipt of Employer-Supported Childcare[4]	1	£1,250	-£50	£750
	2	£1,250	£1,150	£2,750
	3	£1,250	£2,350	£4,750
Working couple, one basic rate taxpayer, one higher rate taxpayer in receipt of Employer-Supported Childcare[4]	1	£1,558	-£358	£442
	2	£1,558	£842	£2,442
	3	£1,558	£2,042	£4,442

[1] Based on claiming the maximum available support under Tax-Free Childcare as announced at Budget 2013, equal to £1,200 per child each year for childcare costs of £6,000
[2] Based on claiming the maximum available support under Tax-Free Childcare, equal to £2,000 per child each year for childcare costs of £10,000
[3] Calculated by multiplying the maximum qualifying voucher amount a basic rate taxpayer can receive each year (£2,916) by their marginal rate of tax (20 per cent) plus their marginal NICs (12 per cent): £2,916 X 32% = £933
[4] Where the higher rate earner(s) joined Employer-Supported Childcare after 5 April 2011
[5] Calculated by multiplying the maximum qualifying voucher amount a higher rate taxpayer can receive each year (£1,488) by their marginal rate of tax (40 per cent) plus their marginal NICs (2 per cent): £1,488 X 42% = £625

The Government anticipated that 1.9m working families would be eligible to make a claim for childcare support, around two thirds of whom have qualifying childcare costs. It projected that 90% of these families will take up the scheme in 2015/16, rising to 97% by 2017/18. The total cost to the Exchequer of this reform would be mitigated by families deciding to give up employer-support childcare, as follows: [94]

[94] HM Government, Budget 2014: Policy Costings, March 2014 pp56-57. These figures were subsequently revised: Impact Assessment on its introduction of Tax-Free Childcare, March 2017.

Post-behavioural Exchequer impact (£m)

	2014-15	2015-16	2016-17	2017-18	2018-19
Spend on TFC	0	-245	-745	-840	-895
Reduced spend on ESC	0	+25	+145	+270	+380
Total exchequer impact	0	-220	-600	-570	-515

Following the Government's announcement, the Institute for Fiscal Studies commented "on balance [this suggests] that the Government's priority is to devise a scheme that is simple for parents to understand and access."[95]

The Queen's Speech on 4 June confirmed that a Bill would be introduced for "a new scheme that will support working families by giving support equivalent to basic rate tax relief on money spent on childcare, up to a maximum of £2,000 per year for each child."[96] The Childcare Payments Bill was introduced the following day.[97] HMRC published an impact assessment of the Bill; along with setting out the Government's case for TFC, it reiterated the disadvantages of the **current tax relief** for parents:

> The ability for ESC to provide wide ranging, effective and fair support to working families is limited by a number of drawbacks:
>
> - its coverage is limited: less than 5% of employers currently offer an ESC scheme to their employees; this means that more than half of all employees are unable to receive support;
> - it is not available to self-employed parents;
> - it is generally not available to those paid at the National Minimum Wage;
> - the tax exemption is not available to employees earning below the income tax threshold; and
> - it pays no regard to the number of children in each family and disadvantages lone parent families, offering greater support to two-parent families where both work for employers which offer ESC.[98]

[95] Mike Brewer, Sarah Cattan and Claire Crawford, No new money, yet more generous support for childcare, IFS Observations, 18 March 2014. At this time the authors examined the state's support in England for childcare and early childhood education in the IFS Green Budget 2014, February 2014 (see, Chapter 8)

[96] Cabinet Office, Queen's Speech 2014: background briefing notes, 4 June 2014 pp56-9

[97] HMT press notice, 5 June 2014. Details of the passage of this legislation is on its Parliament page. Library papers were published for the Bill's second reading (RP14-35, 26 June 2014) and on its Committee stage (RP14-59, 6 November 2014).

[98] HMRC, Childcare Payments Bill 2014/15 Impact Assessment, 10 June 2014 p5

It went on to argue that the relief from NICs on Employer Supported Childcare (ESC) delivers “poor value for money for taxpayers”:

> The employer NICs disregard … generates a saving for employers of up to 13.8% of the cost of the childcare vouchers provided. This is Government expenditure in the scheme which is not spent on childcare - effectively an administration cost. Moreover, as the NICs saving generally outweighs the cost to an employer of either administering the scheme itself or paying for a voucher provider to do so, the NICs disregard has a significant deadweight cost.[99]

HMRC underlined that tax relief on ESC would only be closed to new entrants from autumn 2015: “this long lead-in time and 'grandfathering' of the scheme has given employers, voucher providers and others involved in ESC time to make preparations.” Parents in existing schemes would have the option of switching to the new scheme, or remaining in ESC: “as the tax exemption and NICs disregard will remain available to existing members who choose to stay in the scheme, these arrangements will remain open for an extensive period of time.”[100]

Subsequent developments

There proved to be considerable delays to the introduction of TFC. In the 2016 Budget the Government stated the roll-out of TFC would start in early 2017, and that ESC would be closed to new entrants from April 2018:

> From early 2017, the government is introducing Tax-Free Childcare to help working parents with the cost of childcare, ensuring more parents who want to can go out to work or increase the number of hours they work. Tax-Free Childcare will be rolled out in such a way that allows the youngest children to enter the scheme first, with all eligible parents brought in by the end of 2017. The existing scheme Employer-Supported Childcare will remain open to new entrants until April 2018 to support the transition between the schemes.[101]

This remained the Government’s position, as set out in answer to PQs on this specific point,[102] and on its general policy regarding tax free childcare.[103] In March 2017 the Government published an updated impact assessment, which shows the anticipated Exchequer cost of this policy approaching £1 billion a year once fully implemented.[104]

[99] op.cit. p5

[100] op.cit. p6. The impact assessment underlines the fact that “the provision of workplace nurseries will not be directly affected by the introduction of the new scheme; workplace nurseries will continue to be subject to their existing tax exemption and NICs disregard” (ibid.)

[101] Budget 2016, HC 901, March 2016 para 1.138

[102] PQ3744, 18 July 2017

[103] PQ107860, 24 October 2017

[104] HMRC, Impact Assessment on its introduction of Tax-Free Childcare, March 2017

However, over this period many Members called for the Government to postpone the cancellation of ESC for new entrants,[105] and raised queries as to whether any parents would lose out from claiming TFC:

> **Sir Michael Fallon**: To ask Mr Chancellor of the Exchequer, what steps he is taking to ensure that no parents, particularly those on low incomes, will receive less financial support with tax-free childcare than they would with childcare vouchers.
>
> **Elizabeth Truss**: The Government is committed to supporting working families with the cost of childcare. We are doubling the free childcare available to working parents of 3 & 4 year olds to 30 hours a week, saving them around £5,000 a year per child. In 2019/20 we will be spending around £6bn on childcare support – a record amount.
>
> Childcare vouchers are only offered by a minority of employers and are unavailable to self-employed parents, or those who do not earn enough to participate in salary sacrifice schemes.
>
> Tax-Free Childcare is designed to be fairer and better targeted. It will have a far wider reach than vouchers and is expected to benefit over 1 million working households.
>
> The minimum income level of just over £120 a week will support those parents earning the National Living Wage who are unable to use childcare vouchers. Under Tax Free Childcare many self-employed parents can get help with childcare costs for the first time. Parents currently using vouchers will be able to continue using them, if they prefer, while they continue to work for the same employer and that employer continues to offer them.[106]

Treasury Minister John Glen reiterated the Government's case for this reform when this issue was debated in Westminster Hall in January 2018:

> Let me draw Members' attention to the three key reasons why we support the replacement of childcare vouchers with tax-free childcare. First, the Government believe that childcare vouchers are unfair. Tax-free childcare is fairer and better targeted than the voucher scheme. For example, only about 5% of employers offer vouchers, which limits their reach to about half of working parents, not to mention that self-employed parents are completely excluded from the scheme, which pays no regard to the number of children in each family and disadvantages lone-parent families.

[105] 126 Members signed an EDM to this effect (EDM 755 of 2017-18, 9 January 2017).

[106] PQ118344, 18 December 2017. The Government also stated that there wasn't data to provide an estimate of the impact of its decision to close ESC schemes to new entrants on a constituency basis (PQ120037, 21 December 2017).

> Secondly, tax-free childcare has a broader reach. It is open to all working families with children aged under 12 that meet the earnings criteria. That ensures that families who were excluded from childcare vouchers can be brought into tax-free childcare, and benefits families with the highest childcare costs—namely, most of those with young children.
>
> Thirdly, tax-free childcare is simpler to use … Employers usually pay third-party providers to administer childcare voucher schemes. The Government do not believe that paying third-party providers is a good use of taxpayers' money. Some £220 million has gone on such administration since the scheme began. A voucher scheme is therefore an ineffective way of delivering support to families. Under tax-free childcare, parents manage their own accounts online. The case for change is clear, as it was to the Labour party when it announced at its 2009 conference, when it was in government, that the existing system would be shut down.[107]

In January 2018 the Treasury Committee launched an inquiry on childcare policy and its impact on the economy. On 31 January the Committee took evidence from the Chief Secretary to the Treasury, Elizabeth Truss, and during the session Catherine McKinnell MP asked the Minister about this issue; part of their exchange is reproduced below:

> **Catherine McKinnell:** … People are very frustrated by the decision to abolish the childcare vouchers, which is a scheme that is working … You can keep in place a system that is working for so many parents, rather than closing it down for new entrants from April this year, which will in effect create a two-tier system, for those who are very fortunate to have the vouchers and are very grateful to have them, and those who can no longer access them now and have to delve into the myriad of complex systems that the Government are trying to make work at the moment? …
>
> **Elizabeth Truss:** The problem with the voucher scheme is that it is unfair, because it is not offered by all employers. It is only offered by 5% of employers and it is also not offered to the self-employed … It creates a very unlevel playing field. It is also unfair on single parents. You get more money if you are a couple than if you are a single parent. Tax-free childcare pays according to the number of children, and we all know that childcare costs reflect how many children there are in a family. Vouchers do not do that. The whole rationale was that we were replacing an unfair system that was pretty arbitrary about who received it with a system where everybody, regardless of who you worked for, regardless of whether you were self-employed, regardless of whether you were a single

[107] HC Deb 15 January 2018 c240WH

> parent or you were part of a couple, got the same level of support. That is the right decision.
>
> The other issue with the voucher scheme is there is a lot of waste in it. We spend £220 million every year on the administration and bureaucracy, a significant proportion of which goes to the voucher providers. Under our new scheme, all of the money is going directly to pay for childcare, directly to those high-quality nursery staff who we want to see the money going to. We are replacing a system that is inherently unfair and wasteful with one that is much fairer, which allocates money equally as to whether you are a single parent or you are a couple, on the basis of what your childcare actually costs. That is the right approach …
>
> **Catherine McKinnell:** … Has the Treasury undertaken an analysis of households that will receive less support as a result of the vouchers being replaced by tax-free childcare for those parents who are coming into the system? …
>
> **Elizabeth Truss:** On the question about distribution analysis … we conduct an overall distribution analysis of all Treasury policies, as part of the Budget. That covers all areas like tax, including this area of tax-free childcare and employer-supported childcare. What we do not do is break it down to individual policies, because the analysis is not sufficiently robust. It tends to reflect a fairly small sample size. The overall analysis is produced on the basis of distribution. As we have talked about here, there are a lot of policies that interact with each other. Universal credit interacts with tax-free childcare, so it is not possible to split out tax-free childcare into a robust analysis.
>
> Going back on employer-supported childcare and the issues of people on that, we do not have the data about which employers support employer-supported childcare. We do not know which parents in the income distribution are eligible for that. We could make the assumption that the 50% of parents who currently get employer-supported childcare are more likely to work for big corporates. They might be less likely to work for small businesses, but we do not actually know that, so we are not able to produce a robust analysis of that.[108]

However, on 13 March 2018 the House debated a number of statutory instruments, one of which makes provision to align the NICs treatment of ESC vouchers with its tax treatment.[109] On this occasion the Security of State for Education, Damian Hinds, confirmed that the Government would keep the voucher scheme open to new entrants for a further sixth months.[110] Treasury

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[108] Treasury Committee, Oral Evidence: Childcare, HC 757, 31 January 2018 Qs53-63

[109] For details see, Social Security (Contributions) (Amendment) Regulations SI 2018/120, Commons Briefing paper CBP8250, 4 May 2018.

[110] HC Deb 13 March 2018 c802 see also, "Childcare scheme gets six-month reprieve after DUP intervention", BBC News, 13 March 2018.

Minister Elizabeth Truss gave further details in a written statement on 28 March, reproduced in full below:

> This government is providing more help with the cost of childcare to working parents than ever before. As well as introducing Tax-Free Childcare in April 2017, the government has doubled the free childcare available to working parents of 3 and 4 year olds in England to 30 hours a week, and increased the support available through Universal Credit to cover up to 85% of childcare costs. In 2019/20 the government will spend around £6 billion on childcare support – a record amount.
>
> Since opening the Childcare Choices service through which parents apply for 30 hours free childcare and Tax-Free Childcare more than 370,000 customers have successfully applied and are now using the service. Of these, more than 335,000 parents are eligible for 30 hours free childcare. Over 210,000 have a Tax-Free Childcare account. The government will encourage more parents to take up the offer they are entitled to. Parents can apply via the Childcare Choices service for both 30 hours free childcare and Tax-Free Childcare. The application is straightforward and can be accessed via: https://www.childcarechoices.gov.uk/.
>
> Tax-Free Childcare is a fairer and better targeted system than childcare vouchers. Through Tax-Free Childcare all families who are eligible can get support regardless of who their employer is, or whether they are self-employed, and support is based on the number of children in a family, rather than the number of parents. Tax-Free Childcare is targeted at a similar income population as childcare vouchers but will provide support to nearly 1 million more families compared to the number currently using vouchers. The decision to phase out childcare vouchers and directly contracted childcare, and replace this support with Tax-Free Childcare was made in 2013, and received parliamentary approval through the Childcare Payments Act 2014.
>
> Today the government has made The Income Tax (Limited Exemptions for Qualifying Childcare Vouchers and other Childcare) (Relevant Day) Regulations 2018 (SI 2018/462). These Regulations set 4th October 2018 as the date when childcare vouchers and directly contracted childcare, part of Employer Supported Childcare, will close to new entrants. After that date, parents who are already using vouchers can continue to do so for as long as they remain with their employer, and their employer continues to offer the scheme.
>
> To reflect concerns about the timing of the closure of childcare vouchers and the transition to Tax-Free Childcare, the government has decided to keep childcare vouchers open for a further six months until October. This will allow more time for Tax-Free Childcare to bed in, for awareness to increase and for families to understand the support they can receive under the scheme. Now that Tax-Free

> Childcare is fully rolled out, the government will keep it under review to ensure it is delivering the support needed for working families.[111]

The Treasury Committee published its report on childcare on 25 March; it recommended that the Government should consider keeping ESC open until it had carried out an assessment of the winners and losers from this reform, although there were 'compelling reasons' to reform childcare vouchers if the scheme was retained:

> Announcing a six-month extension of the childcare voucher scheme two weeks before it was due to be discontinued for new applicants is no way to manage childcare policy … The eleventh-hour U-turn underlines the Committee's concerns about the difficulties parents face in making the right choice about which schemes to use …
>
> The Government has committed to carrying out post-legislative scrutiny of Tax-Free Childcare. This commitment must be adhered to and should occur before the scheme closes to new applicants in October. Only once such scrutiny has taken place and the level of take up of Tax-Free Childcare is known will it be possible to understand the extent to which parents have been made better or worse off by the transition from childcare vouchers to Tax-Free Childcare. The Government should therefore consider keeping the childcare voucher scheme open, at least until this information is available.
>
> The Committee acknowledges that the childcare vouchers scheme as currently designed only supports parents whose employers provide such vouchers, does not take account of the number of children in a household, excludes self-employed parents, and favours two-parent households over single-parent households. If the vouchers are kept in the long term, these would be compelling reasons to reform the scheme.[112]

The Government published its response to the report in June 2018, and part of its reply on this section of the Committee's report is reproduced below:

> The government has always been clear that TFC was being introduced to replace childcare vouchers. The decision to phase out childcare vouchers and directly contracted childcare, and replace this support with TFC, was made in 2013 and received parliamentary approval through the Childcare Payments Act 2014.
>
> To reflect concerns about the timing of the closure of childcare vouchers and the transition to Tax-Free Childcare, the government took the decision to keep childcare vouchers open for a further six months until October. This will allow more time for Tax-Free Childcare to bed in, for awareness to increase and for families to

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111 HCWS616, 29 March 2018

112 Childcare, HC 757 of 2017-19, 25 March 2018 paras 127, 130-1

> understand the support they can receive under the scheme. Through TFC all families who are eligible can get support, regardless of who their employer is or whether they are self-employed, and support is based on the number of children in a family rather than the number of parents. TFC is targeted at a similar income population as childcare vouchers but will provide support to nearly 1 million more families compared to the number currently using vouchers.
>
> Analysis of the impact of TFC on working parents will need to take place once the scheme has had time to bed in, parental awareness has increased, and families have had more time to understand the support they can receive under the scheme. This is why the government has committed to carry out a post-implementation review of TFC two years after it was implemented.
>
> Parents currently using vouchers will see no change when the scheme is closed to new entrants in October—they will continue to be able to claim vouchers providing they remain with the same employer. If they move to a different employer they will no longer be eligible for vouchers but they may be eligible for TFC. Robust estimates for the number of employees that will change employer after October, and details of their characteristics and whether their employer would have offered vouchers, are not available. Therefore it is not possible to make an estimate of the number of parents who may be worse off if they are no longer able to access vouchers as a result of the transition to Tax-Free Childcare.[113]

It is worth noting that the post-implementation review of TFC, mentioned by the Government in its response, was published in February 2021. This looked at the period since TFC's launch up to March 2020, prior to the Covid-19 pandemic, as this "impacted access to and delivery of childcare across the UK" and also "had a significant impact on parent take up of the scheme." A short extract from the conclusion is reproduced below:

> The analysis from April 2017 – March 2020 has demonstrated that the policy has achieved its objectives over time and that these remain appropriate. It also shows that take up of the scheme, although below original forecast levels, has steadily increased over the period covered by this review …
>
> An estimated 1.3 million families have qualifying childcare and are eligible for TFC. Although take up of the scheme has not been as high as anticipated it continues be on an upward trend. 218,000 families used TFC for 258,000 children in March 2020. This compares with 125,000 families for 151,000 children in March 2019. Take-up in Northern Ireland, Scotland and Wales has been lower than hoped

113 Treasury Committee, Fifth Special Report of Session 2017–19, HC 1196, 20 June 2018 pp9-10. The financial impact of closing the voucher scheme has come up in subsequent PQs (for example, PQ155282, 25 June 2018; PQ176348, 16 October 2018).

> but has doubled year on year in all three countries from 2017/18 to 2018/19, and to 2019/20 …
>
> However, improvements to the operational delivery of the scheme, further action to improve parental awareness and understanding of TFC, action to address barriers affecting take up and the overall complexity of Government support for the costs of childcare could further enhance delivery of TFC. HMRC are looking at ways to reduce costs per transaction as they continue to work with their delivery partners. Each performance indicator below gives further insight into what extent this policy is meeting its objectives.[114]

With the closure of employer supported childcare for new entrants, the issue has been raised far less in Parliament, although Ministers have reiterated on a number of occasions that there are no plans to re-open the scheme.[115] One other issue that has come up in the context of the Covid-19 pandemic is the position of parents who have unspent vouchers because the nursery premises they have used have been closed:

> **Kate Green :** To ask the Chancellor of the Exchequer, what discussions he has had with (a) employers and (b) HMRC on refunding childcare voucher payments to families who have not been able to use them as a result of the covid-19 outbreak.
>
> **Steve Barclay** : The availability of a refund on childcare vouchers will depend on the precise terms and conditions of the employer's childcare voucher scheme, which is a contractual arrangement between the parent, the employer and the childcare voucher provider. Some schemes allow for refunds on the value of childcare vouchers in certain circumstances but there is no legal requirement to do so. Where a refund is provided, the refund is treated as income from the employee's employment and should be subject to deductions of tax and National Insurance Contributions in the normal way.
>
> Due to coronavirus restrictions, employees may not be using all of their childcare vouchers. Users of the childcare voucher scheme can continue to receive childcare vouchers, but may wish to temporarily reduce their contributions so that they don't accumulate a stockpile.
>
> Contributions can then be increased as and when required. Varying the amount will not affect continuing eligibility, providing that the normal conditions of the scheme are met.[116]

[114] HMG, Post Implementation Review Tax-Free Childcare (TFC) policy, Commons Library Deposited Paper DEP2021-0095, February 2021 p49

[115] For example, PQ245640, 29 April 2019; PQ284435, 9 September 2019

[116] PQ172075, 24 March 2021; see also, PQ161669, 8 March 2021