



## A report on the two-child limit

This report will consider what cases from the Early Warning System are telling us about the impact of the 'two-child limit' since its introduction last year.

The Early Warning System was developed by Child Poverty Action Group (CPAG) in Scotland to collect and analyse case evidence about how social security changes are affecting the wellbeing of children, their families, and the communities and services that support them.

### What is the two-child limit?

The two-child limit restricts additional amounts paid to support children in tax credits, housing benefit or universal credit, to the first two children in a family, unless an exception applies. Up until 6 April 2017 additional amounts could be included in awards of these benefits for every child in the family. The limit can represent a loss of up to £2780 per additional child per year.

In child tax credit claims the two-child limit only applies to third or subsequent children who are born on or after 6 April 2017.

People with three or more children have not been able to make a new claim for universal credit since this date, but instead have been directed to claim tax credits.

The two-child limit has applied to universal credit since 6 April 2017, with some transitional protection in place. Since then claimants already on universal credit who then have a third or subsequent child are subject to the limit, unless an exception applies.

The introduction of the two-child limit is expected to have reduced social security spending in 2017/18 by £19 million increasing to £98 million by 2020/21.<sup>i</sup>

### What are the exceptions to the two-child limit?

There are a number of exceptions from the two-child limit. You will find more information about each exception on the [CPAG website](#)<sup>ii</sup>. In short, the exceptions are:

- multiple births – for example twins or triplets (an additional amount will not be payable for one of the children born as part of a multiple birth)
- adopted children – adopted from the local authority or placed with you for adoption, but not for children adopted from abroad
- children likely to have been conceived as the result of rape or a coercive/controlling relationship
- children living with family/friends who would otherwise be at risk of going into care

Additional amounts for disability are still payable for third or subsequent children.

### Who is affected?

On 2<sup>nd</sup> April 2018 3780 households in Scotland were affected by the two-child limit and a further 200 hundred would have been if they had not been granted an exception.<sup>iii</sup> 85% of exemptions were granted due to a multiple birth, 10% due to children living with family or friends who would otherwise be at risk of going into care and 5% due to the child having been conceived as the result of rape or a coercive/controlling relationship.

Case studies gathered by the Early Warning System go beyond the statistics to tell us who is being affected by different social security reforms. In relation to the two-child limit we have collected examples of:

- People who could 'afford' to have another baby when the third or subsequent child was conceived but who experienced a change of circumstances before the baby was born which led to the family claiming tax credits or universal credit, for example redundancy and relationship breakdown
- People who are already claiming universal credit who do not receive additional amounts for new babies born after 6 April 2017. Many people did not know about the two-child limit when the child was conceived, as there was very little official information provided.
- People who have children that were conceived without consent who do not fall with the relevant exception

A client was made redundant shortly before his partner stopped work to give birth to their son. She has two children from a previous relationship so child tax credit is not payable for the new baby. #14126

When client claimed UC she had two children, but she recently gave birth to a third child. Because the third child was born after 6 April 2017, the two-child limit applies and the client is not entitled to any additional money in her universal credit award for the new baby as none of the exceptions apply. #16779

A parent thought that she would be exempt from the two-child limit because her first child was conceived without consent when she was a teenager. She currently has two children but would like to start a family with her new partner. She will not receive additional money for the new baby because the 'rape clause' only applies to third and subsequent children who were conceived without consent and not to first and second children, limiting the number of children a mother may plan to have following the birth of a child conceived without consent. #13538

## Confusion about when the two-child limit applies

Case studies indicate that claimants and staff administering benefits are sometimes confused as to how the two child limit should be applied. We have a number of examples of families in full service areas, with three or more children being advised that they must claim universal credit thus delaying their claim for tax credits.

DWP told a family with three children, all of whom were born before 6 April 2017, that they had to claim universal credit and that support would be limited to the first two children. As all the children in this case were born before the two child limit was introduced, support will be available for all three in tax credits. #12582

A client with four children, who is escaping domestic abuse, was incorrectly advised that she could not claim tax credits because she is in a universal credit full service area. #15801

Housing benefit departments in different local authorities have sometimes been incorrectly limiting housing benefit awards to two children, when in fact child elements are in place for all the children in the tax credits award.

A couple have five children, but have been mistakenly advised by the local authority that they can only be paid housing benefit for two of the children because of the change in law. The family receive child tax credit for all five children and therefore housing benefit should be payable for five children. Legislation and housing benefit guidance states that local authorities should follow HMRC's lead on the application of the two-child limit.<sup>iv</sup> #16035

Cases also highlight that some staff are confused about which benefits the two-child limit applies to.

HMRC advised a Mum who is pregnant with her fourth child that she will not be entitled to tax credits for the new baby (correct) and that she will also not be entitled to health start vouchers either (incorrect) #12985

In one case, confused by the two-child limit, a lone parent did not report the birth of her fourth child to HMRC. The child was born prior to April 2017 and would not have been affected, but the family lost out on a significant amount of child benefit and tax credits as a result of the delay in notifying the birth of the baby.

## Looking ahead

From 1 February 2019 families with three or more children who wish to make a new claim for benefit will be directed to claim universal credit rather than tax credits. Some of the cases gathered by the Early Warning System highlight families who will be affected by the two-child limit in UC in the future:

Currently, the two child limit will not affect a family with more than two children, all born before 6 April 2017, who until recently had no recourse to public funds, but have recently

been granted leave to remain. This is because they will be directed to claim tax credits, for which the two-child limit can only apply regarding a child born on after 6 April 2017. However if this occurred on or after 1 February 2019, they would be directed to claim universal credit (where the two-child limit applies even to children born before 6 April 2017), and the child element would only be payable for the first two children, unless exceptions apply. #12922

Client's current universal credit claim includes two children and he is about to have his other three children, all born before 6 April 2017, returned to him from foster care. Currently, he will then receive universal credit for all five children because he is already on UC and they are returning to him during the interim period covered by transitional protection. However if they were to return on or after 1 February 2019, he would not get UC for all five children.

### Challenging the two-child limit

CPAG challenged the two-child limit on behalf of two lone parents and a couple who have been affected. You can find more information about this challenge on the [CPAG website](#).<sup>v</sup> If you work directly with families affected by the two-child limit, there is a template that can be used to ask for the decision to limit benefits to be looked at again and instructions for asking for a decision to be delayed until there is a judgement in the CPAG case.

## Recommendations

### For UK Government

CPAG is opposed to the two-child limit in principle because it breaks the link between the assessment of children's needs and the support they receive. Further information about our policy concerns regarding the introduction of the two child limit can be found in [CPAG's policy briefing on the two-child limit](#).

While the two-child limit continues to be applied, we recommend the following:

Conduct an urgent review of the impact of the two-child limit on the well-being of children in affected families, with a view to taking any necessary steps to protect children from hardship

Provide exemptions or grace periods for the following groups:

- All children born before 6 April 2017 (who may be subject to the limit in UC from February 2017)
- Families in unforeseeable financial hardship due to the death, ill-health, new caring responsibilities, involuntary reduction in hours/earnings, redundancy or separation of parents or responsible carers
- Families with a conscientious or religious objection to the use of contraception or abortion
- Those recently granted leave to remain

- Children born to women with a learning disability or mental health condition
- Persons who have been victims or are at risk of domestic abuse
- Children who move from the household of one parent to another
- Children whose parents have made a new claim as a result of separation
- Children who move into a new household following the death of the parent they were living with
- Children who join a household as part of a blended family
- Families with a disabled family member
- Third children whose older sibling is not expected to survive childhood

To refrain from discouraging people who do not already have children of their own from taking in children, children who are adopted or under kinship care should be discounted from the calculation as to whether third or subsequent children should receive an entitlement. Children conceived without consent should also be discounted from the calculation.

Further background to these suggested exceptions can be found in [CPAG's response to the consultation on exceptions](#) to the two-child limit<sup>vi</sup>.

#### For DWP, Jobcentre Plus, HMRC and local authorities

Provide further training and support for staff on the operation and extent of the two-child limit to ensure that claimants are correctly informed and the limit is applied correctly.

Provide staff with specialist training to approach issues around rape, domestic abuse and abortion that have been raised by the two-child limit.

#### For the Scottish Government

Consider using devolved powers to introduce a new benefit or top-up benefit for families affected by the cap

#### For the Scottish Government and local authorities

Consider using discretionary housing payments (DHPs) to mitigate the impacts of the two-child limit on housing benefit awards in full or where there is a housing element in payment in universal credit

#### For services working with and providing support to families

Be prepared to make referrals to advice agencies to ensure that clients are receiving all the benefits that they are entitled to and that the two-child limit has been applied appropriately, or to challenge the decision to impose the two-child limit where it may have been wrongly applied.

Support families to apply to the Scottish Welfare Fund for a crisis grant or community care grant if they are experiencing financial hardship

Look at ways you can help reduce families outgoings, for example does it cost money to phone your service or do your opening hours coincide with public transport?

### Submit cases to the Early Warning System

If you would like to submit case studies to the Early Warning System and you work in Scotland, please email [kmckechne@cpagscotland.org.uk](mailto:kmckechne@cpagscotland.org.uk) , for the rest of the UK, please complete the case study collection form which can be found on the CPAG website, or email Dan Norris at [ews@cpag.org.uk](mailto:ews@cpag.org.uk).<sup>vii</sup>

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<sup>i</sup> <http://www.gov.scot/Publications/2017/06/6808/4>

<sup>ii</sup> <http://www.cpag.org.uk/content/ask-cpag-online-two-child-limit>

<sup>iii</sup> <https://www.gov.uk/government/statistics/child-tax-credit-and-universal-credit-claimants-statistics-related-to-the-policy-to-provide-support-for-a-maximum-of-2-children-april-2018>

<sup>iv</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/606547/a5-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/606547/a5-2017.pdf)

<https://www.legislation.gov.uk/uksi/2017/376/contents/made>

<sup>v</sup> <http://www.cpag.org.uk/content/two-child-limit-challenge>

<sup>vi</sup> [http://www.cpag.org.uk/sites/default/files/Two child limit consultation CPAG response.pdf](http://www.cpag.org.uk/sites/default/files/Two%20child%20limit%20consultation%20CPAG%20response.pdf)

<sup>vii</sup> [http://www.cpag.org.uk/sites/default/files/uploads/CPAG-early-warning-system-case-form-final\\_0.pdf](http://www.cpag.org.uk/sites/default/files/uploads/CPAG-early-warning-system-case-form-final_0.pdf)